

THE SPECIAL COURT FOR SIERRA LEONE

CASE NO. SCSL-2004-15-T  
TRIAL CHAMBER I

THE PROSECUTOR  
OF THE SPECIAL COURT  
V.  
ISSA SESAY  
MORRIS KALLON  
AUGUSTINE GBAO

MONDAY, 11 APRIL 2005  
9.12 A.M.  
TRIAL

Before the Judges:

Benjamin Mutanga Itoe, Presiding  
Bankole Thompson  
Pierre Boutet

For Chambers:

Ms Candice Welsch  
Mr Matteo Crippa

For the Registry:

Ms Maureen Edmonds

For the Prosecution:

Mr Peter Harrison  
Mr Alain Werner  
Ms Sharan Parmar  
Mr Mark Wallbridge (Case Manager)

For the Principal Defender:

NO APPEARANCE

For the accused Issa Sesay:

Mr Wayne Jordash  
Ms Sareta Ashraph  
Ms Eleanor Hutchison

For the accused Morris Kallon:

Mr Shekou Touray  
Mr Melron Nicol-Wilson  
Ms Rachel Irura

For the accused Augustine Gbao:

Mr Andreas O'Shea  
Mr John Cammegh  
Mr Ben Holden

1 Monday, 11 April 2005  
2 [HS110405A - AD]  
3 [The witness entered Court]  
4 [The accused Sesay and Kallon entered court]  
09:00:21 5 [The accused Gbao not present]  
6 [Open session]  
7 [Upon commencing at 9.12 a.m.]  
8 PRESIDING JUDGE: Good morning, learned counsel. I hope you had a  
9 nice weekend. We are resuming the session. We were to start at nine on  
09:14:30 10 the understanding that Mr Nmehielle would be here. Do we understand that  
11 Mr Nmehielle is not here?  
12 MR TOURAY: Your Honours, my learned co-counsel is unavoidably absent  
13 because of his very tight schedule to travel back to South Africa. So he  
14 has asked me to tender his profuse apologies for not being here to continue  
09:15:06 15 his cross-examination. He meant no disrespect to the Court, but it is due  
16 to some countervailing circumstances which are beyond his control.  
17 PRESIDING JUDGE: You are lead counsel, Mr Touray, so you are in  
18 control of your proceedings. If things go wrong, we would first of all  
19 hold you responsible. Fortunately you are here yourself, so I think we are  
09:15:40 20 on the right track. He may proceed please. He has given us the  
21 opportunity of starting much earlier today, anyway.  
22 WITNESS: TF1-263 [Continued]  
23 [The witness answered through interpretation]  
24 CROSS-EXAMINED BY MR TOURAY:  
09:15:51 25 MR TOURAY: As Your Honour pleases.  
26 Q. Mr Witness, good morning.  
27 A. Yes.  
28 Q. Now you remember certain payments were made to you by the Office of  
29 the Prosecution.



1 A. Yes.

2 JUDGE BOUTET: Mr Touray, just for greater certainty, I do understand  
3 there's a system in place where witnesses are not being paid by the Office  
4 of the Prosecution but by the Witness Protection Unit as such. There might  
09:16:39 5 be circumstances where some witnesses have been paid for a period of time  
6 by the Office of the Prosecution. I am just raising that so it is clear on  
7 the record. I am not sure if the witness is able to make those  
8 differences.

9 MR TOURAY: I would just say perhaps "by the Special Court".

09:16:54 10 JUDGE BOUTET: "By the Special Court" is fine.

11 MR TOURAY:

12 Q. By the Special Court.

13 A. Yes, I did receive.

14 Q. And may I ask, you have said already in evidence that you had some  
09:17:16 15 briefings with the Office of the Prosecution in October. Is that correct?

16 A. Yes, we used to meet.

17 JUDGE THOMPSON: Which October?

18 MR TOURAY: October 2004.

19 Q. On the 5th of October 2004 your previous original statements were  
09:18:19 20 read to you and you made some amendments. Is that correct?

21 A. Yes, when we used to meet and I was asked.

22 Q. Were you out of town? Did you travel to meet up with this  
23 appointment? Did you travel to xxxxxx to meet the xxxxx for this  
24 appointment on the 5th of October 2004?

09:19:12 25 A. I was not in xxxxx. They used to go for me.

26 Q. I have not got your answer.

27 JUDGE BOUTET: He said that he was not in xxxxx, they used to go  
28 for him. But I don't think that is an answer to your question.

29 MR TOURAY:



1 Q. May I ask the question again? Did you travel to xxxxxx to meet up  
2 with this appointment on the 5th of October 2004?

3 A. Yes. They used to come for me.

4 Q. Where were you then?

09:20:30 5 MR HARRISON: Well, with respect to protective measures I am not sure  
6 that it is necessary for the witness to answer that.

7 MR TOURAY: Why not?

8 MR HARRISON: Well, if his location is disclosed presumably that  
9 would assist in divulging some of the information that is sought to be  
09:20:48 10 protected.

11 JUDGE THOMPSON: Learned counsel, it would seem that that is right  
12 and that any identifying data or information given in open session would in  
13 fact likely expose this witness to --

14 MR TOURAY: I am entirely in your hands, Your Honour. But there is  
09:21:13 15 already evidence that in fact he was somewhere in --

16 JUDGE THOMPSON: Exactly, he said he travelled to xxxxxx to fulfil  
17 this appointment.

18 MR TOURAY: Yes.

19 JUDGE THOMPSON: But the objection is that if he says where he was  
09:21:29 20 that would be identifying information that could in fact disclose his  
21 identity. And, remember, he is under protective measures.

22 MR TOURAY: I do, Your Honour. But is there not evidence that he  
23 felt he was somewhere when he made his statement?

24 JUDGE THOMPSON: But specifically where. Of course there is evidence  
09:21:41 25 that he was somewhere.

26 MR TOURAY: It is just the town. Where is the town?

27 JUDGE BOUTET: The statement, according to the evidence, was made  
28 somewhere xxxxxx.

29 MR TOURAY: Yes.



1 MR HARRISON: So there is no misunderstanding, the 2003 statement was  
2 made in Kono. Mr Jordash, I believe, elicited the information --  
3 MR TOURAY: I will not press the issue, Your Honour.  
4 MR HARRISON: -- that the 2004 statements were all done in Freetown.  
09:22:11 5 JUDGE THOMPSON: Quite, yes.  
6 MR TOURAY: I will not press the issue.  
7 JUDGE THOMPSON: Thank you. Continue.  
8 MR TOURAY:  
9 Q. Were you given any expenses or allowances whilst you were here on the  
09:22:24 10 5th of October 2004?  
11 A. Yes, they used to give me money.  
12 Q. Now also on the 8th of October 2004 you attended for briefings.  
13 A. Yes.  
14 Q. You also travelled to Freetown for that.  
09:23:11 15 PRESIDING JUDGE: How many briefings did you say?  
16 MR TOURAY: On the 8th of October.  
17 PRESIDING JUDGE: How many briefings?  
18 MR TOURAY: Just one briefing.  
19 JUDGE THOMPSON: What was your subsequent question?  
09:23:36 20 MR TOURAY: He travelled to Freetown for that briefing. Is that  
21 correct?  
22 JUDGE BOUTET: And was given money.  
23 MR TOURAY: Yes, and given money as well.  
24 A. The time they went for me and I came, I was staying with them.  
09:23:57 25 Q. The question is: Were you given any money on the 8th of October  
26 2004?  
27 A. Yes.  
28 Q. Again on the 20th of October 2004 you attended for briefings in  
29 Freetown.





1 A. Yes, I did come.  
2 Q. You were also given money.  
3 JUDGE THOMPSON: What date was that?  
4 MR TOURAY: The 20th of October 2004.  
09:24:51 5 Q. You were also given money.  
6 A. Yes, I received money.  
7 Q. On the 23rd of October 2004 you again travelled to Freetown for  
8 briefings and you were given money.  
9 A. Yes, we met again.  
09:25:28 10 Q. And you were given money.  
11 A. Yes.  
12 Q. On the 28th of October 2004 again you travelled to Freetown for  
13 briefings. You were given money as well.  
14 A. Yes, it happened so.  
09:26:01 15 Q. And on the 14th of January 2005, the same thing happened, you  
16 travelled to Freetown for briefings and you were given money.  
17 A. Yes.  
18 Q. It is therefore not correct to say the last payment made to you by  
19 the Special Court was only on the 28th of September 2004.  
09:27:01 20 JUDGE THOMPSON: Let me get this right; maybe I am getting it wrong.  
21 Is it September or October?  
22 MR TOURAY: September 28.  
23 JUDGE THOMPSON: Not October?  
24 MR TOURAY: No, September 28th, 2004.  
09:27:18 25 Q. That is not correct.  
26 A. I did not get you clear, sir.  
27 MR HARRISON: I apologise for interrupting, Mr Touray. There might  
28 be a confusion. If it is from certain documents that Mr Touray has in  
29 front of him, although he is referring to them as documents of the Special



1 Court, they are in fact documents from the Office of the Prosecution if in  
2 fact he is looking at a document dated September 28th, 2004. That is not a  
3 document that has been produced to the Defence by the witness and victims  
4 protection unit; which is, in fact, the organ of the Court.

09:28:02 5 MR TOURAY: If that is the case I will reply by saying that there has  
6 not been complete, full disclosure of the expenses spent on this witness.

7 MR HARRISON: No, that is not true. Disclosure from witness and  
8 victims protection services is done directly by that unit because it is the  
9 Registry. The Prosecution has no control over production of those  
09:28:28 10 documents.

11 PRESIDING JUDGE: Maybe what Mr Touray is saying is that there has  
12 been no full disclosure by the witness protection unit on the payments  
13 which have been made to this witness, not necessarily the Prosecution.

14 MR TOURAY: Yes, indeed, sir.

09:28:46 15 MR HARRISON: If that is the case and if Mr Touray would like a  
16 five-minute adjournment so that some of us could try and find those  
17 documents and provide them to Mr Touray, I am content with that.

18 PRESIDING JUDGE: I think the information which Mr Touray -- we have  
19 been not been aware of this information. We have it nowhere here that he  
09:29:10 20 was last paid on the 28th of September. That is where the confusion  
21 arises.

22 JUDGE THOMPSON: I wanted that clarified. Where is that information  
23 that you have now put to him? It comes from where?

24 MR TOURAY: The information is the disbursement list for witnesses,  
09:29:27 25 served on the Prosecution -- I mean, on the Defence.

26 JUDGE THOMPSON: I see. By whom?

27 MR TOURAY: By the Prosecution.

28 JUDGE THOMPSON: By the Prosecution?

29 MR TOURAY: Yes.



1 JUDGE THOMPSON: Not the victims and witnesses unit?

2 MR TOURAY: I don't know.

3 JUDGE THOMPSON: Because the distinction has been made.

4 MR TOURAY: By the Special Court?

09:29:46 5 [Microphone not activated]

6 PRESIDING JUDGE: There are many organs and structures in the Special  
7 Court.

8 JUDGE THOMPSON: Quite right.

9 PRESIDING JUDGE: It isn't stated when the Prosecution acts it is the  
09:30:03 10 witness protection unit that acts or vice versa. So, I don't know.

11 JUDGE THOMPSON: I seem to take the view that if that distinction is  
12 constantly made before the Court we do not need to just ignore it, because  
13 whenever questions are asked we get a response from the Prosecution that  
14 that may well come from the victims and witnesses unit. I clearly think  
09:30:28 15 that the best way to proceed is to resolve this by way of a brief. If the  
16 Presiding Judge is so minded we could take a short adjournment so that we  
17 clear it up. Because it could not be that in one sense we ignore the fact  
18 that this Court has several organs --

19 MR TOURAY: Yes.

09:30:47 20 JUDGE THOMPSON: -- and then for another purpose we just say,  
21 "Special Court". Where has your information come from? It is the Special  
22 Court.

23 MR TOURAY: The Special Court.

24 JUDGE THOMPSON: And you are looking for specificity, is it?

09:31:04 25 MR TOURAY: Indeed so; yes.

26 JUDGE BOUTET: If I may. There might be even more confusion because  
27 I have the feeling that what you have is a document -- and I am not  
28 disputing what you have been saying -- that has been provided to you as you  
29 say by the Prosecution, and the Prosecution seems to agree to that. It



1 would appear from that that there has been some disbursement made directly  
2 by OTP to witnesses and there might be disbursement made as well by the  
3 witness protection unit. In my own mind there is certainly confusion as to  
4 who is paying what, where and when. So I would think that as part of the  
09:31:36 5 investigative process they may have paid some expenses but later on the  
6 witness protection unit has paid. When you are quoting that document, Mr  
7 Touray, you are probably accurately saying that the last disbursement made  
8 by the OTP was on the 28th of September. There might be other  
9 disbursements since, but not by OTP for this witness but by another organ  
09:32:02 10 of the Court. That may be the confusion. Do you follow me?

11 MR TOURAY: Indeed, sir, I do.

12 JUDGE BOUTET: So, the suggestion was for an adjournment. However,  
13 Mr Presiding Judge, based on past experience when we have adjourned to ask  
14 the witness protection unit to produce documents -- updated documents -- it  
09:32:22 15 took more than five minutes. In fact, it has taken at times a few days to  
16 do that.

17 PRESIDING JUDGE: But if it will take us a few days, then we may  
18 continue and abandon that aspect of the cross-examination now. Put it in  
19 cold storage for now.

09:32:46 20 MR TOURAY: I will flag that issue, My Lord.

21 PRESIDING JUDGE: Pardon me?

22 MR TOURAY: I will flag it and then perhaps return to produce the  
23 documents.

24 JUDGE BOUTET: But maybe the way to do it is, as suggested, that we  
09:32:53 25 adjourn and find from the witness protection unit --

26 PRESIDING JUDGE: We can adjourn and find out.

27 JUDGE BOUTET: From there we will know when this information will be  
28 available to you. Otherwise we are all speculating.

29 MR TOURAY: As Your Honour pleases.





1           PRESIDING JUDGE: Good. How many minutes? Mr Harrison, please.

2           MR HARRISON: I want to make it 100 per cent clear that the  
3           Prosecution does not produce -- does not disclose information -- that is in  
4           the custody, control and possession of another organ of the Court. The  
09:33:22 5           Prosecution cannot do that even if we wanted to. Defence counsel have the  
6           right, and Mr Jordash and Mr Cammegh, as my memory serves me correctly,  
7           have on a consistent basis ensured that they have that production of  
8           information directly from that unit. And that is what the Prosecution  
9           suggests.

09:33:40 10          PRESIDING JUDGE: Mr Harrison, in support of what you are saying, the  
11          Court has ordered the witness protection unit directly to regularly  
12          disclose the expenditure made to witnesses to Defence teams. The order was  
13          not made to the OTP. About how many minutes do we need to clarify this  
14          issue? We will adjourn for 15 minutes, please. The Court will rise.

09:34:21 15                               [Break taken at 9.32 a.m.]

16                               [On resuming at 10.15 a.m.]

17          PRESIDING JUDGE: Learned counsel, we are resuming this session. Mr  
18          Touray.

19          MR TOURAY: Thank you, Your Honour. We have received the statement  
10:17:43 20          from the witness and prosecution unit -- the witness and victims unit. May  
21          I go ahead with my cross-examination?

22          JUDGE THOMPSON: Yes, you may proceed.

23          PRESIDING JUDGE: This exercise has taken us 45 minutes -- 4-5  
24          minutes. All the time we thought we gained this morning is lost. Let us  
10:18:25 25          continue. As we say, it is all in the interests of justice.

26          MR TOURAY: Indeed sir.

27          Q. Now, Mr Witness, at the time you were seeing the Office of the  
28          Prosecution, you would agree that you received a total amount of Le 65,000  
29          for the period January 4, 2004 to September 28, 2004?



1 A. Yes.

2 PRESIDING JUDGE: January?

3 MR TOURAY: January 4, 2004 to the 28th of September 2004.

4 PRESIDING JUDGE: How many?

10:19:33 5 MR TOURAY: 65,000 Leones.

6 PRESIDING JUDGE: From whom?

7 MR TOURAY: From the Office of the Prosecution -- OTP.

8 Q. Now am I correct to say that from the victims and witnesses unit for

9 the period 28th September 2004 to the 7th of April 2005 you received an

10:20:16 10 amount as witness attendance allowance of Le 1,456,000?

11 PRESIDING JUDGE: Le 1,456,000?

12 MR TOURAY: Le 1,456,000.

13 MR HARRISON: Your Honour.

14 JUDGE THOMPSON: Yes, counsel.

10:20:53 15 MR HARRISON: The Prosecution objects to these questions with respect

16 to payments made by the victim and witness services unit. No objection is

17 taken with respect to payments from the Office of the Prosecution. The

18 basis of the objection is this: Those payments are made pursuant to an

19 order of this Court and a practice direction of this Court. Any questions

10:21:16 20 related to an order of the Court or a practice direction of the Court from

21 which an adverse inference or any kind of inference against the witness can

22 be taken is in effect an attempt to undermine an existing order of the

23 Court and is undermining the authority of the Court. This witness does not

24 ask for the money, he does not stipulate an amount. That is directed by

10:21:47 25 the Court and any inference --

26 JUDGE THOMPSON: Shall we ask the witness to take off his headphones?

27 Court Management would you let him take off the headphone?

28 [Witness's headphones removed]

29 JUDGE THOMPSON: Go ahead, counsel.



1 MR HARRISON: So that any information solicited on this point with  
2 respect to payment from only the witness and victims services unit is in  
3 fact a collateral attack against an existing order of Court and the  
4 practice decision or direction promulgated by the Court as a whole.

10:22:29 5 PRESIDING JUDGE: Learned counsel for the second accused, we will  
6 hear your response.

7 MR TOURAY: I am not here to impugn any Court order made by this  
8 Chamber. The aim of the cross-examination is merely to elicit from the  
9 witness whether he has received this amount, and perhaps from here we can  
10:22:51 10 make an inference as to whether that was an inducement to him in changing  
11 his statement substantially in October. That is the line of the  
12 cross-examination.

13 JUDGE THOMPSON: Just a minute. Do you want to intervene?

14 MR JORDASH: I would like to intervene because this is something that  
10:23:09 15 clearly impacts on the whole of the Defence.

16 JUDGE THOMPSON: In other words, you want to associate with this.

17 MR JORDASH: Yes, please.

18 JUDGE THOMPSON: Right.

19 MR JORDASH: But I would also say this, Your Honour: That there is  
10:23:20 20 no suggestion that there is improper behaviour by the witness and victim  
21 support unit. That is one question; that might involve impugning an order  
22 of the Court. The suggestion is that a witness may have been motivated to  
23 give evidence against an accused by virtue of receiving money. That is  
24 something which clearly falls within Your Honours' remit when deciding the  
10:23:50 25 truth or otherwise of a witness's evidence. Where the money came from is  
26 not really the issue. The money was received. Has it impacted upon the  
27 testimony? My respectful submission is that it is clearly a relevant  
28 consideration for Your Honours.

29 JUDGE THOMPSON: Learned counsel for the Prosecution, your response.



1 MR HARRISON: There are three important words that have been uttered  
2 by the Defence counsel: Inference, motivation and inducement.

3 JUDGE THOMPSON: Slowly. Yes.

4 MR HARRISON: Inference, motivation and inducement. The first and  
10:24:33 5 third words were uttered by Mr Touray and the second word, "motivation", by  
6 Mr Jordash. The purpose of the questioning is clearly to draw to the  
7 Court's attention issues from which an inference can be made against the  
8 witness that he was induced and that his motivation for testifying is based  
9 upon money distributed to him directly as a result of an order of this  
10:25:12 10 Court. The witness has no control whatsoever on the payments made to him  
11 by the witnesses and victims services unit. Any inference against the  
12 witness based upon an order of this Court is an unfair inference which  
13 ought not to be taken and as a result it is a collateral attack on an  
14 existing order of the Court. And questions that make a collateral attack  
10:25:46 15 against a court order are always inadmissible. It is always open to appeal  
16 an order, but you cannot take the subterfuge tactic of trying in a  
17 collateral way to undermine an existing order.

18 JUDGE THOMPSON: In other words, the Court has been invited in an  
19 indirect way to impeach its own very order. Is that what you said?

10:26:11 20 MR HARRISON: You have my point.

21 JUDGE THOMPSON: How do you respond to that? Let me say that that  
22 argument to me, speaking for myself, seems to be convincing. Of course, it  
23 is in a sense that any time the suggestion is made that a witness has come  
24 here to testify because of a pecuniary benefit or inducement there is in my  
10:26:45 25 own judicial opinion some veiled suggestion that justice is being bought --  
26 in my judicial opinion. There is in my own judicial position some veiled  
27 suggestion that the judicial process is -- in fact, in a way the integrity  
28 of the judicial process is being called in question. There is also in  
29 mind, in judicial opinion, some suggestion of prosecutorial impropriety,





1 because if it is true that witnesses are here to testify because of  
2 pecuniary inducement the entire judicial process is called into question as  
3 to its integrity. But, of course, having said that -- and that is just my  
4 view -- you can persuade me to change my viewpoint -- I think also there is  
10:27:52 5 a subtle distinction here which may not be easy to make with eliciting a  
6 factual response from the witness by way of evidence whether he received or  
7 did not receive as a certain amount and that being part of the record. The  
8 question of inference et cetera, et cetera may be a matter for address  
9 later on. That is the way I see it, but I think somehow the Prosecution  
10:28:28 10 seems to have a point, saying that if the whole idea is to impeach an order  
11 of this Court pursuant to which these payments were made then the Court is  
12 being invited to impeach its own very order. But I am open to being  
13 persuaded otherwise.

14 JUDGE BOUTET: But, before, if I may, and supplementary to what my  
10:28:58 15 brother said, I would like to ask the Prosecution before you respond,  
16 Mr Jordash, if your comments -- and I take it they are directed to payments  
17 made by the witness protection unit, not any money disbursed by the OTP --

18 MR HARRISON: Yes, they were the very first words I uttered, I think,  
19 to Mr Justice Thompson.

10:29:20 20 JUDGE BOUTET: In other words, your comments are directed only and  
21 solely to the witness protection unit's disbursement.

22 MR HARRISON: Precisely, you are right.

23 MR JORDASH: May I answer in this way? Firstly, it is not an attack  
24 on the order to provide expenses to witnesses. It is an attack on the  
10:29:42 25 motivation of the witness. The questions are directed to establishing  
26 whether the expenses are the prime motive for why these witnesses, we would  
27 say, are lying against the accused. Nobody has mentioned the order; nobody  
28 has said that the order is unfair to pay expenses; nobody has suggested  
29 that in any way the order of the Court is not a proper order. We have



1 simply gone one step beyond that and said that, "Given that there is an  
2 order, given you do have expenses because of the order, are you giving  
3 evidence because of these expenses?" So the order is not in any way  
4 relevant to the question and answer interrogatives that we have. It is  
10:30:34 5 simply the order which gives rise to the expense. A witness may come and  
6 deal with the expenses and say "I needed the expenses. It didn't motivate  
7 me at all." That is the subject of the cross-examination. In my  
8 respectful submission, it is simply wrong for the Prosecution to suggest it  
9 is an order of the Court which is under challenge. It is the motivation  
10:31:00 10 under challenge. That is my first point.

11 JUDGE BOUTET: I have to admit to you I don't understand what you are  
12 saying. I am honestly trying to make these differences -- I don't follow  
13 the difference. If the law says when you are a witness you are to be paid  
14 so much money a day, if you are appearing in the Court for five days you  
10:31:20 15 are being paid so much money. So there is nothing you have to do. You may  
16 say - you as a witness - "Keep your money, I don't want it." But other  
17 than that, you are entitled to it, and you should be paid. So are you  
18 saying that some individuals are volunteering to be witnesses so they can  
19 be paid that five days? Is it essentially what you are saying?

10:31:45 20 MR JORDASH: In some cases, yes.

21 JUDGE THOMPSON: Would the same argument apply with the same degree  
22 of force to Defence witnesses if they are come before the Court if they are  
23 given allowances?

24 MR JORDASH: It might. In the context of Sierra Leone and the --

10:32:06 25 JUDGE THOMPSON: Yes, as I say, I am open to be persuaded. I am just  
26 trying to understand the thrust of your contention.

27 MR JORDASH: We would submit that in a country where there is so much  
28 poverty --

29 JUDGE THOMPSON: Yes.



1 MR JORDASH: -- and there is, if a witness testifies in this Court --  
2 Prosecution or Defence -- a possibility that the witness would be motivated  
3 to receive those expenses as ordered by the Court. It is a possibility.

4 JUDGE THOMPSON: And what the Prosecution seems to be saying here is  
10:32:40 5 that, if we go down that road and draw that kind of inference, we are  
6 saying that the entire judicial process is tainted. Isn't that what we are  
7 saying? I don't want you to pursue -- I am just saying that if we are  
8 dragged down this road and if it comes out that the inducement to come and  
9 prosecute these cases, or to defend them, is not the search for the truth  
10:33:13 10 but the pecuniary advantages, in a broader philosophical sense are we  
11 saying the process is tainted?

12 MR JORDASH: It is possible.

13 PRESIDING JUDGE: Mr Jordash, just a simple question. These payments  
14 were made -- I would imagine, that they have been made to all those who  
10:33:38 15 have been called upon to give evidence in this case.

16 MR JORDASH: Yes.

17 PRESIDING JUDGE: Are you suggesting that the evidence of all these  
18 witnessed be disregarded because it is tainted on account of these  
19 statements, on account of these payments, which are made in the background  
10:33:59 20 of extreme need and struggle for survival in this society? Are you  
21 suggesting that this is the case?

22 MR JORDASH: Possibly, and the reason for that is clear. It is  
23 because of the extreme need; it is because survival in this country is a  
24 number one priority.

10:34:21 25 PRESIDING JUDGE: You have taken note of what Mr Harrison has said.  
26 These witnesses, or at least this particular one, did not ask for the  
27 payment.

28 MR JORDASH: That is my next point, Your Honour.

29 PRESIDING JUDGE: He did not ask for the payment. The payments were



1 given to him because they are an entitlement under the law. What would you  
2 have to say about this?

3 MR JORDASH: This, Your Honour.

4 PRESIDING JUDGE: Supposing he was coming and he never even knew that  
10:34:52 5 he was going to have a payment and he spontaneously received a package?  
6 This is for this and this is for that.

7 MR JORDASH: If that was how it happened then I think our argument  
8 would hold less water. But that is not how it happened. Witnesses receive  
9 outreach programs; witnesses receive from the Prosecution undoubtedly  
10:35:17 10 education as to what is available vis-a-vis expenses. Moreover, my learned  
11 friend for the Prosecution is wrong when he says that witnesses do not have  
12 any control whatsoever over the expenses. Looking at witness 263, medical  
13 charges, 39,000. Well, if he didn't -- this witness -- have control over  
14 the request for medical charges, how did they arise? Not through an order  
10:35:41 15 of the Court. The Court never ordered that 263 should receive medical  
16 expenses.

17 PRESIDING JUDGE: But supposing he came -- I don't know the  
18 circumstances under which the Le 39,000 -- supposedly he came and he  
19 suddenly fell ill and it became necessary for him to be taken to the  
10:36:02 20 hospital? That was a spontaneous happening which could not have been  
21 envisaged and it was not under control of the witness himself. Would you  
22 say it was? It was not like he is having treated himself and he is giving  
23 a bill thereafter for the OTP or the witness protection unit to take care  
24 of that bill.

10:36:25 25 MR JORDASH: Your Honour is right; it may be that it happened  
26 spontaneously; it may be that the witness said to the witness and victims  
27 unit, "Unless I get x, y and z, I will not testify." But unless these  
28 issues are raised in Court and aired, how are Your Honours to know what the  
29 answers to those questions are?





1 JUDGE BOUTET: Yes, but that is quite different than to say, "Isn't  
2 it true that you have received" - I don't know - "Le 75,000 when the  
3 directive says for you to be paid" - I think it is - "Le 15,000 for living  
4 expenses. If you have been here for five days it means 75,000." What has  
10:37:01 5 the witness to do about that? He has been here five days and this is the  
6 amount you get at the end of that. This is quite different from what you  
7 are saying. What is prescribed he is entitled to and he should get it.  
8 Again, I do understand that we are in Sierra Leone and that the living  
9 conditions in Sierra Leone are difficult. But isn't it at the same time  
10:37:24 10 the normal, standard practice of any tribunal or court to pay expenses of  
11 witnesses that have been called by the State, or in this case by the  
12 Special Court? Isn't it the normal process that witnesses would not have  
13 to support expenses to come and testify?

14 MR JORDASH: Indeed. I agree with you.

10:37:40 15 JUDGE BOUTET: So why is it so different? I accept the fact that  
16 Sierra Leone's living conditions are difficult. But I assume -- none of us  
17 Judges has made the determination that a witness will be paid 5,000, 15,000  
18 or 25,000 a day. But the Special Court, in its own evaluation of the  
19 situation, presumably determined that 15,000 was an acceptable level. They  
10:38:11 20 could have gone 25 or 5, but they decided 15. That is the way it is,  
21 presumably taking into account when they made that determination the living  
22 conditions in Sierra Leone. In this respect, I am trying to see why  
23 witnesses should be treated so differently than the normal process of any  
24 Court.

10:38:30 25 JUDGE THOMPSON: And to reinforce that, I am trying to see also how  
26 the offer of witness allowances to meet expenses can be inducement in that  
27 sense. Because it would be strange to say if you come and give evidence  
28 then you benefit pecuniarily. That would be a very strange thing to do,  
29 and I don't think the Prosecution or the victims and witnesses would want



1 to make that a condition precedent. Because the only thing I can  
2 understand from your kind of argument is that some witnesses might be so  
3 pecuniarily disposed to want to exploit the system, but not that the  
4 prosecuting office or the victims and witnesses unit is offering this as a  
10:39:33 5 kind of inducement to come and testify. I find it so difficult to process  
6 that intellectually, to see the nexus. Of course, I don't find it  
7 difficult to process intellectually the possibility of certain potential  
8 witnesses exploiting a system.

9 MR JORDASH: That really is the point, that -- well if I may just  
10:40:01 10 answer Your Honour Judge Boutet's statement. If it were the fact that the  
11 victims and witness units were handing out standard expenses -- every  
12 witness receives Le 15,000 every day -- then I think it would be difficult,  
13 or certainly it would be more difficult, to argue that a witness had been  
14 motivated so by the expenses. But each witness appears to receive very  
10:40:31 15 different amounts, and not limited to 15,000 a day. 263 received expenses  
16 for provisions, clothes and shoes of Le 145,000. I would bet my last  
17 dollar that that partially came about through requests from the witness.  
18 And this witness --

19 MR HARRISON: No.

10:40:49 20 MR JORDASH: Mr Harrison says, "No." But we --

21 MR HARRISON: I say that is very unfair.

22 MR JORDASH: Would you mind, Mr Harrison?

23 MR HARRISON: In fact, I do mind, because this is the order that we  
24 proceed on: Prosecution made an objection, Mr Touray responded, Mr Jordash  
10:41:02 25 responded. I was entitled to last word by way of reply. Mr Jordash  
26 somehow has been allowed to speak again. That is unfair.

27 JUDGE THOMPSON: You will have the last word. Don't lose your  
28 temper, Mr Harrison. This is a very important debate. We need to clear  
29 our minds on this and we need to give counsel a chance if this is an



1 important aspect of their defence. We haven't resolved the matter yet; we  
2 are hearing a debate on it and discussion. You will have your say.

3 MR JORDASH: I was simply going to say -- -

4 JUDGE THOMPSON: Continue.

10:41:33 5 MR JORDASH: I was simply going to say about 263, Your Honour, that  
6 this witness has received 145,000 for provision, clothes and shoes. That  
7 kind of money, I would respectfully submit, and I would speculate perhaps,  
8 is money that this witness would not see in a lot longer than a few months.  
9 I suspect Le 145,000 is a small fortune for this witness.

10:42:02 10 PRESIDING JUDGE: Mr Jordash, some witnesses have even protested in  
11 open Court here that their integrity is being undermined because what they  
12 earn from their normal resources is nowhere near what they have been paid.  
13 They have said so.

14 MR JORDASH: Yes.

10:42:28 15 PRESIDING JUDGE: I don't know where you want us to place ourselves  
16 with this sort of evidence. I don't know for how long we will continue  
17 with this.

18 MR JORDASH: I will be very brief. But I would say that this is a  
19 20-year-old witness who has received from the 28th of September to the 6th  
10:42:42 20 of November, back again on the 7th of January leaving on the 4th of  
21 February, 2nd of April til the 7th of April, and during those periods  
22 received of Le 1,456,000. A 20-year-old in Sierra Leone receiving Le  
23 1,456,000. My respectful submission is that it quite clearly could be a  
24 motivation. Irrespective of whether there is an underlying order which  
10:43:18 25 says legitimate expenses should be paid, one has to ask how much money  
26 would it take to motivate a 20-year-old in Sierra Leone living on the  
27 poverty line to give evidence in a court.

28 JUDGE THOMPSON: It is highly controversial. Let me hear --

29 MR TOURAY: Your Honour.



1 JUDGE THOMPSON: Associate and then we will hear Mr Harrison and then  
2 close this chapter.

3 MR TOURAY: I wish to add, Your Honours, that taking the period 7  
4 January 2005 to 4th February 2005, this witness appeared only once for  
10:43:57 5 proofing -- that was on the 14th of January 2005. That is it on the  
6 record. Why the extra stay for that period? He only had proofings on the  
7 on the 14th of January 2005.

8 PRESIDING JUDGE: That is a way of contesting the independence of the  
9 prosecuting organ. It is for the Prosecution to run its case. It is the  
10:44:22 10 Prosecution which has the control of its witnesses. It determines when it  
11 is done with a witness or not. We should not go that far; we should not  
12 question the right or the discretion of the Prosecution to keep a witness  
13 two, three, four or five days or one month.

14 JUDGE THOMPSON: Yes, quite.

10:44:40 15 PRESIDING JUDGE: We shouldn't go that far because it would violating  
16 the Statute.

17 MR TOURAY: Your Honours --

18 JUDGE BOUTET: I would like to add to that before you carry on on  
19 this, Mr Touray, that this Court has ordered the Prosecution to always have  
10:44:51 20 at least two witnesses on standby all the time in case one doesn't work.  
21 So it may be that witnesses have been who are never called but yet were  
22 here available because they have been ordered to be the next witness but  
23 for whatever reason we never get to them. Yes, but it has got to be read  
24 to context. The mere fact that you have an amount for a period of time, as  
10:45:13 25 you say, in January 2005, maybe the witness on was on standby as such and  
26 was here but was never called yet he was in Freetown. These are the  
27 questions obviously you can ask the witness as to what he did. As you said  
28 he was doing proofing of one day and he was paid expenses for 25 days,  
29 well, that might be a question to be asked. These are the kind of





1 questions rather than challenging the whole issue of the amount paid.

2 MR TOURAY: As Your Honour pleases.

3 PRESIDING JUDGE: Mr Touray, even in the cause of investigations  
4 during pre-trial proceedings, the Prosecution as a discretion under the  
10:45:53 5 statute to conduct its investigations the way it thinks are fit and it is  
6 for it to determine for how long it can keep a witness. There are no hard  
7 and fast rules to this. If it is prepared to keep a witness for 20 days  
8 then it should be prepared to pay a witness for as long as it keeps him.  
9 So, this is it.

10:46:18 10 JUDGE THOMPSON: Let us ask Mr Harrison for a last word on this  
11 before we take a position on the objection.

12 MR HARRISON: It is with reference to two particular points raised by  
13 Mr Jordash. One is in respect to medical expenses. If you look at the  
14 practice direction you will see under article 12 there is a complete code  
10:46:37 15 that is established by the Court as to what type of medical expenses ought  
16 to be paid, and the authority is, of course, given to the witnesses and  
17 victims services unit to do that. You will also see in the same practice  
18 direction under article 14 that has the heading "Other allowances", and if  
19 you look under subsection 3 you will see that again the practice direction  
10:47:03 20 is specific in stating that for all witnesses "appropriate clothing to  
21 enable witnesses to testify". That again is the authority given by the  
22 Court to the witness and victims services unit to ensure that every witness  
23 is in fact given appropriate clothing to testify.

24 JUDGE THOMPSON: I certainly think -- Mr Jordash, unless there is  
10:47:30 25 something new -- is it anything new?

26 MR JORDASH: It is.

27 JUDGE THOMPSON: What is new?

28 MR JORDASH: I want to make it quite clear for anyone listening to  
29 these proceedings, this is not, as Mr Harrison is attempting to do -- or



1 attempting to suggest, I should say -- an attack on the Court or the  
2 witness and victims unit. They do a good and proper job; there is no  
3 suggestion that they have done anything but that. I think Mr Harrison's  
4 attempt to turn this into the Defence against the witness and victims unit  
10:48:01 5 is in my submission disingenuous, to say the least.

6 JUDGE THOMPSON: Right, we take your assurance. I think the position  
7 as I see it is that the objection will be sustained and learned counsel for  
8 the second accused will put the question in such a way as not to raise any  
9 innuendo or imputation relating to the order of this Court in respect of  
10:48:31 10 protective measures and witness allowances. You are entitled to inquire as  
11 to what expenses or allowances he has received, but not to ask any question  
12 that raises some imputations that you are in fact impeaching the order of  
13 this Court or any statute or practice direction in that regard.

14 PRESIDING JUDGE: You however reserve your right in addresses to  
10:49:07 15 raise this issue. When the time comes, we will be open to hearing  
16 arguments from the Defence on issues of motivation. They are part of what  
17 the statute requires you to do in the defence of the rights of the accused  
18 persons. You may proceed.

19 MR HARRISON: Well, he cannot proceed. The microphone isn't on.

10:49:34 20 PRESIDING JUDGE: I am sorry. Something has fallen down. I am sure  
21 it is the tip.

22 JUDGE THOMPSON: Proceed, learned counsel.

23 MR TOURAY:

24 Q. Mr Witness, as I was saying, you received a total amount of Le  
10:50:18 25 1,456,000 from the witness and victims support unit for the period 28th  
26 September to 7th April 2004 -- 28th September to 7 April 2005. Is that  
27 correct?

28 A. They used to give me money.

29 Q. The question, Mr Witness, is: Did you receive Le 1,456,000 for that



1 period?

2 A. They gave me money, which I did not check.

3 PRESIDING JUDGE: You can understand that he may not -- the global  
4 amount he may not be able to testify to.

10:51:25 5 MR TOURAY:

6 Q. But was it up to that amount? Can you recollect very well?

7 PRESIDING JUDGE: Do you want to put it to him just for him to have  
8 it on record?

9 MR TOURAY: Yes.

10:51:37 10 MR HARRISON: I would not object to the document being admitted as an  
11 exhibit if that is going to shorten the length of the proceeding.

12 PRESIDING JUDGE: We don't want to make the exhibit list too bulky.  
13 Where it is necessary we would, unless counsel want it that way. We do not  
14 want the exhibit list too bulky. Learned counsel it is for you to  
10:52:17 15 determine what to do in the circumstances.

16 MR TOURAY: If he has no objection, My Lord --

17 JUDGE THOMPSON: So far the evidence is that he did receive amount  
18 which he did not check.

19 MR TOURAY: Yes, he did not check.

10:52:32 20 JUDGE THOMPSON: For that period of time.

21 MR TOURAY: Yes, indeed.

22 JUDGE THOMPSON: So you intend to tender the document?

23 MR TOURAY: Yes, I do intend to tender this document.

24 JUDGE THOMPSON: Coming from the custody of?

10:52:49 25 MR TOURAY: The witness and victims support unit.

26 JUDGE THOMPSON: Any objection?

27 MR HARRISON: No, I thought I indicated that there was no objection  
28 by the Prosecution.

29 JUDGE THOMPSON: I take it there no objection on that side.



1 MR JORDASH: No.

2 JUDGE THOMPSON: We will receive the document in evidence and mark it  
3 as Exhibit 22.

4 [Exhibit No. 22 was admitted]

10:53:57 5 JUDGE THOMPSON: What is the title there?

6 MR TOURAY: The title is "Interoffice memorandum", dated 11 April  
7 2005, subject, "Witness payment policy: Payments made to witness TF1-263".

8 JUDGE THOMPSON: Thank you. Has the document been marked? Hand it  
9 over to the Court management. Do they have a copy there? Do they have the  
10:54:46 10 original? Right, thanks.

11 JUDGE THOMPSON: Proceed, counsel.

12 MR TOURAY:

13 Q. Mr Witness, you said in your evidence you were captured by armed men,  
14 or three rebels.

10:55:31 15 A. Yes.

16 PRESIDING JUDGE: Sorry, you said he was captured --

17 MR TOURAY: He was captured by three rebels.

18 Q. And you did say they were xxxx xxxxxxxxxxxx

19 A. Yes.

10:56:00 20 Q. And you said they all spoke Liberian English.

21 A. Yes.

22 Q. Now, when you got to xxxxxxxx you -- that is, you and xxxxxxxx  
23 you were captured together.

24 A. Yes.

10:56:27 25 Q. xxxxxxxx, before their boss came, xxxxxxxx was released by them.

26 A. Yes.

27 Q. And they decided to detain you.

28 A. Yes.

29 Q. So, in fact the decision to release xxxxxxxx and to detain you was





1 purely that of the people who captured you -- the three people who captured  
2 you.

3 A. Yes, those who captured us released him.

4 Q. And detained you.

10:57:19 5 A. Yes.

6 Q. Nobody was consulted in making that decision; that is, releasing xxxx  
7 xxxxxx It was purely that of the rebels that captured you.

8 A. Yes, those who brought us released him because they said he was an  
9 old man.

10:57:56 10 Q. Now, their boss was called xxxxxxxx

11 A. Yes.

12 Q. Who also spoke Liberian English.

13 A. Yes.

14 Q. Now how were you introduced to the boss?

10:58:53 15 A. Well, by the time we arrived there he was not at home. It was right  
16 in the evening when he came, then they introduced him to me.

17 Q. How? How? What did they say?

18 A. They explained to him that they captured me and xxxxx together,  
19 but they released the xxxxx and kept me in custody.

10:57:59 20 [HS110405B 11.00 a.m. - SV]

21 Q. Now what did the boss say?

22 A. The day they introduced me to him, he didn't say anything. It was of  
23 late when he said I should be with them.

24 Q. How late was that? How long -- how many days did it take?

11:00:15 25 A. The day we came was the very day they introduced me to him.

26 Q. You said it took some time before he said you should stay with them,  
27 so how long did it take?

28 A. He didn't state any exact time that I would stay with them. It was  
29 of late I came to learn that we were going for training.



1 Q. The question is, Mr Witness: You said it took some time before the  
2 boss said you should stay with them. How long did it take from the date of  
3 introduction to the time the boss said that? That is the question.

4 A. I said when they introduced me to him he only said that I should be  
11:01:46 5 with him doing some domestic for his wife and within the house.

6 PRESIDING JUDGE: The question is still not answered. Are you  
7 insisting on an answer to that question?

8 MR TOURAY: Indeed, yes.

9 Q. You were introduced to the boss; not so? According to you it was  
11:02:10 10 lately he told you that you could stay with them. What is the period of  
11 interval in between?

12 A. The day they introduced me to him was the day they said so.

13 Q. And you agreed to stay?

14 A. Yes, because at that time I had no way to go anywhere.

11:03:27 15 Q. Now, when did you stop seeingxxxxxx after that?

16 A. I only stopped seeing him at xxxxxxxxx

17 Q. Was he with you at xxxxxxxx near xxxxxxxxxxxxxxxx

18 A. Yes, we are very close.

19 Q. He was with you at xxxxxxxxxx where you people were staying in  
11:04:15 20 xxxxxxxxxxxxxx

21 A. He was not staying with us, he had transferred to somebody else but  
22 we were all together.

23 Q. You were all together?

24 A. Yes, xxxxxxxxxxxxxxxxxxxx. He was under somebody else's roof.

11:04:47 25 Q. And xxxxxxxx you were under the command of xxxxxxxxxxxxxxxxxxxx

26 A. Yes. After we had been distributed into groups I was under his  
27 command.

28 Q. Including xxxxxxxxxxxxxxxx

29 A. Yes, with xxxxxxxxxxxxxxxxxxxx



1 Q. And you knew xxxxxxxxxxxx was -- he belonged to the STF group,  
2 Special Task Force?

3 A. Yes, xxxxxxxxxxxx.

4 Q. Did he ever change to be a Special Task Force commander?

11:06:22 5 A. The only person I knew as commander over them was xxxxxxxx

6 Q. And Wallace was a member of the Special Task Force as well?

7 A. Yes, while we were xxxxxxxxxxxx.

8 Q. He was under the command of xxxxxxxxxxxx

9 A. Yes, while xxxxxxxxxxxx he was under his command.

11:07:45 10 Q. Whilst xxxxxxxxxxxx you are not in a position to say whether  
11 he was receiving instructions from xxxxxxxxxxxx at that level?

12 PRESIDING JUDGE: Whilst who?

13 MR TOURAY: xxxxxxxxxxxx he was not in a position to say  
14 whether he was receiving instructions from xxxxxxxxxxxx in xxxxxxxxxxxx.

11:08:27 15 THE WITNESS: While were in xxxxxxxxxxxx was not xxxxxxxxxxxx, he  
16 xxxxxxxxxxxx. There we met him.

17 MR TOURAY:

18 Q. Well, that's what I'm saying. You are not in a position to say that  
19 xxxxxxxxxxxx was receiving instructions from xxxxxxxxxxxx

11:08:56 20 xxxxxxxxxxxx?

21 A. When we moved they were all under the command xxxxxxxxxxxx as we went  
22 along.

23 Q. I'm not asking that. My question is: You are not in a position to  
24 say whether xxxxxxxxxxxx -- or xxxxxxxxxxxx in xxxxxxxx was receiving instructions from

11:09:16 25 xxxxxxxxxxxx Do you know or you don't know? Do you know that?

26 A. No, I didn't know about that.

27 Q. What about xxxx When did you stop seeing xxxxxx?

28 A. I stopped seeing him at xxxxxx. There we left him.

29 Q. xxxxxxxx



1 A. We went along with xxxxxx  
2 Q. xxxxxxxx?  
3 A. Yes.  
4 Q. And stayed with your people near xxxxxxxx  
11:10:29 5 A. Yes.  
6 Q. xxxxxxxxxxxx  
7 A. Yes.  
8 Q. And all along from the day of your capture you were with xxxxxx and  
9 answerable xxxxxxxxxxxx  
11:11:23 10 A. Yes, since my arrival I've been with him.  
11 Q. And answerable to him?  
12 A. Yes, I was answerable to him.  
13 Q. So even when they wanted to conscript you to go for training you went  
14 and consulted him?  
11:12:12 15 A. I did not go to tell him. They came and announced it in the town.  
16 Q. Didn't you go xxxxxx to tell him that you were asked to go for  
17 training and they said certain words to you?  
18 PRESIDING JUDGE: I wonder whether it is really in dispute that --  
19 has the point not been made?  
11:12:35 20 MR TOURAY: It has.  
21 PRESIDING JUDGE: He has been under control xxxxxx all along and  
22 if we have to go further [inaudible]. The records show that xxxxxx was  
23 not happy that he was going but he said, "You go, if God helps you to  
24 survive the training you'll come back to me". So those are established  
11:12:55 25 facts.  
26 MR TOURAY: Yes, Your Honour.  
27 Q. Now, how many groups of combatants were in xxxxx about the time of  
28 your capture?  
29 A. I know of three towns where they stayed.





1 Q. Groups. Groups of combatants, fighters. Did you know?  
2 A. Those I met were called rebels at that time.  
3 Q. And when you say in your evidence "rebels", you've made no  
4 distinction between the groups of fighters at that time?  
11:14:08 5 A. Yes, while we were in xxxxx  
6 Q. Did you hear of the RUF?  
7 A. At that time they called them RUF and they referred to them again as  
8 rebels.  
9 Q. Did you hear of the AFRC/SLA?  
11:14:47 10 A. I only heard of SLA at xxxx when we entered there.  
11 Q. xxxxx you never heard of AFRC, junta?  
12 A. I heard about them but I cannot make the distinction between them.  
13 Q. Okay, so when you refer to your evidence as rebels you were referring  
14 to the various groups of fighters in xxxxx at the time.  
11:15:26 15 A. Yes, at that time that was the name we used to call them.  
16 Q. Now, you spoke about three camps xxxx at the time. You said xxx  
17 xxxxxxxx and xxxxxx?  
18 A. Yes.  
19 Q. Let me ask you: These rebels you're talking about, how were they  
11:16:43 20 dressed at the time you were xxxxxxxxx?  
21 A. At the time I saw them some had civilian clothing and combat trousers  
22 and some had combat top and civilian trousers underneath.  
23 Q. You saw none purely with civilian clothes?  
24 A. Some dressed in civilian clothing.  
11:17:45 25 Q. So sometimes it would not be easy for you to tell a rebel from a  
26 civilian?  
27 A. Yes, but I used to distinguish at times.  
28 Q. Yes, but not always?  
29 A. Yes, but the town in which I was I was able to distinguish.



1 Q. That is in xxxxxx only?

2 A. Yes.

3 Q. So in xxxxxx you couldn't have been able to distinguish

4 civilians from rebels -- in the other camps?

11:18:49 5 A. Yes, because I was not frequent there.

6 Q. Thank you. Now this incident about Morris Kallon and some others

7 visiting xxxxxxxxxxxx

8 A. Yes.

9 Q. Your evidence states that they were sitting under a mango tree and

11:20:10 10 they were shown to you?

11 A. Yes.

12 Q. How far were you at the time when they showed them to you?

13 A. Superman's house was by the line and we were just a few yards from

14 there towards a village that was not quite a distance from there.

11:20:49 15 Q. Can you give an estimate of the distance within this courtroom?

16 A. It was an open place but the distance wasn't so long. Houses were

17 just in line.

18 Q. Yes, but how far? How many houses in between?

19 A. Just a single house. From there you go to where we are standing.

11:21:26 20 Q. What is the distance roughly in between here?

21 A. The distance wasn't so long but it was a bit longer than this

22 courtroom. Just like from here to the parlour.

23 Q. Which parlour?

24 A. Moving outside.

11:22:34 25 Q. Were there trees in between the houses, other mango trees?

26 A. No, except for the mango tree under which they were just seated.

27 Q. At what time of the day did you see them?

28 A. It was in the evening.

29 Q. Getting towards what time?



1 A. Moving towards night now.

2 Q. Moving towards night?

3 PRESIDING JUDGE: He has never been precise on time. Moving towards

4 the evening.

11:23:20 5 MR TOURAY: He says getting towards the night.

6 PRESIDING JUDGE: Getting towards the evening, the night and so on.

7 MR TOURAY: So it was getting dark.

8 PRESIDING JUDGE: Let's take it for what it is.

9 MR TOURAY:

11:23:32 10 Q. It was getting dark?

11 A. Yes, it was getting dark but let's say around late in the evening

12 now.

13 JUDGE BOUTET: Mr Touray, will you give us an estimate of the --

14 because you've asked the witness by what distance, but --

11:23:50 15 MR TOURAY: Yes. He says outside there, the parlour outside.

16 JUDGE BOUTET: But I don't know what a parlour is, so.

17 MR TOURAY: Well, I don't know which parlour.

18 Q. Do you mean the corridor outside or which parlour?

19 A. When you open the first door, the parlour you meet outside there.

11:24:13 20 MR TOURAY: Maybe about 50 metres.

21 MR HARRISON: No, I don't accept that as being the estimate. My

22 ability to estimate is probably less than most but I would definitely

23 disagree with 50 metres.

24 PRESIDING JUDGE: I too disagree with 50 metres, Mr Touray.

11:24:38 25 MR TOURAY: What can we agree on?

26 MR HARRISON: I'm still not quite sure where we are with the parlour.

27 PRESIDING JUDGE: It is you who always use that corridor. We have

28 never used it. We don't even know what it looks like down there.

29 MY TOURAY: The corridor there. The open space there.



1 MR HARRISON: Just outside the doors?  
2 MR TOURAY: Yes.  
3 PRESIDING JUDGE: The corridor out there, just outside there.  
4 MR HARRISON: Well, my estimate would be 15 to 20 metres.  
11:25:04 5 MR TOURAY: I have a second for that.  
6 PRESIDING JUDGE: Okay.  
7 MR TOURAY:  
8 Q. Now, Mr Witness, have you ever heard of the Cobra Unit?  
9 A. No.  
11:25:32 10 PRESIDING JUDGE: Mr Touray, what did you just --  
11 MR TOURAY: Cobra. Cobra Unit. C-O-B-R-A.  
12 PRESIDING JUDGE: Yes. What did you ask about the cobras?  
13 MR TOURAY: Whether he's heard of that, that unit.  
14 PRESIDING JUDGE: I see, okay. He says no?  
11:25:50 15 MR TOURAY: He says no.  
16 Q. Do you know the names -- the name by which the bodyguards of Superman  
17 were called?  
18 A. I knew only one by name.  
19 Q. No, the group?  
11:26:20 20 A. I did not know their group.  
21 Q. Which one did you know of?  
22 A. I knew only one person by name. I didn't know the name of their  
23 group.  
24 PRESIDING JUDGE: What is the name of that one?  
11:26:36 25 THE WITNESS: He was called xxxxx.  
26 PRESIDING JUDGE: How xxxxx was he?  
27 THE WITNESS: He was xxxx in complexion.  
28 MR TOURAY:  
29 Q. Yellow Man was an adult; not so? Not a small boy?





1 A. Yes, he was a bigger boy. Older than us.  
2 PRESIDING JUDGE: You say adult?  
3 MR TOURAY: Adult, yes.  
4 PRESIDING JUDGE: You say an adult.  
11:27:54 5 MR TOURAY:  
6 Q. Did you also hear of --  
7 PRESIDING JUDGE: Wait, I want to get it clear.  
8 MR TOURAY: He said it was a bigger boy, bigger than them.  
9 THE WITNESS: By then he was an adult.  
11:28:18 10 MR TOURAY:  
11 Q. Did you also know about xxxxxxxx xxxxxxxx  
12 xxxxxxxx who was a xxxxxxxxxxxx?  
13 A. No.  
14 PRESIDING JUDGE: Let us just have the names.  
11:28:44 15 MR TOURAY: xxxxxxxxxxxx, xxxxxxxxxxxx, a xxxxxxxx of xxxxxxxx.  
16 PRESIDING JUDGE: xxxxxxxx  
17 MR TOURAY: Yes, xxxxxxxxxxxx.  
18 PRESIDING JUDGE: xxxxxxxxxxxx.  
19 MR TOURAY: No, xxxxxxxx, alias --  
11:29:04 20 PRESIDING JUDGE: xxxxxx, alias xxxxxx.  
21 MR TOURAY: Yes.  
22 PRESIDING JUDGE: And xxxxxx was said to be the bodyguard of  
23 xxxxxxxx.  
24 MR TOURAY: Bodyguard, yes.  
11:29:26 25 Q. Did you also any of one xxxxxxxx who was the xxxxxxxx?  
26 A. No.  
27 PRESIDING JUDGE: xxxxxx who? xxxxx  
28 MR TOURAY: Yes, xxxxxxxxxxxxxx commander.  
29 PRESIDING JUDGE: Excuse me, let's have it. xxxxxxxxxxxx



1 MR TOURAY: No, xxxxxxxx.

2 PRESIDING JUDGE: xxxxxx the xxxxxxxx commander.

3 MR TOURAY: Yes, sir.

4 Q. Now at the time you said you saw xxxxxx at xxxxxx you said

11:30:26 5 they were with their --

6 PRESIDING JUDGE: Excuse me, let me get the commander of the -- the

7 xxxxxxxx was xxxxxxxx

8 MR TOURAY: xxxxxx, yes.

9 PRESIDING JUDGE: xxxxx, yes.

11:30:51 10 MR TOURAY:

11 Q. At the time you said you saw xxxxxx and one other with

12 xxxxxxxxxxxx you said they were with their bodyguards; not so?

13 A. Yes, the bodyguards were there.

14 Q. Now, how many of them were there in your estimation at that time, the

11:31:16 15 group?

16 A. At that time I did not count them but they were many.

17 Q. They were many?

18 A. Yes.

19 Q. And did you know that xxxxxxxx had a bodyguard called xxxxx

11:31:48 20 xxxxxxxxxxxx, who was alias xxxxxx at the time?

21 A. No, I did not ask at that time.

22 JUDGE BOUTET: Can you repeat the name again Mr Touray, please.

23 MR TOURAY: xxxxxxxx, alias xxxxx. One of the

24 bodyguards of xxxxxx.

11:32:17 25 PRESIDING JUDGE: Bodyguard called xxxx

26 MR TOURAY: xxxxxxxx, known as xxxxx.

27 PRESIDING JUDGE: Is that alias, xxxxxxxx

28 MR TOURAY: Yes, Your Honour.

29 PRESIDING JUDGE: xxxxxx



1 MR TOURAY: Yes.

2 Q. So according to you it was -- did you also know one xxxxxx at  
3 that time?

4 A. No, I did not know anybody by that name.

11:33:10 5 Q. Now, you were shown Morris Kallon from a distance?

6 A. Yes.

7 Q. You did not talk to him then?

8 A. No, I did not talk to him.

9 Q. And you've never spoken to him?

11:33:34 10 A. No, I did not talk to him.

11 Q. And you have never spoken to him; that is my question?

12 A. We have never spoken together. We have not stood there and talked  
13 together.

14 Q. Now, who was the one that showed Morris Kallon to you?

11:34:11 15 A. xxxxxx

16 Q. And from that day you said you saw Morris Kallon you never saw him  
17 again until you left for training?

18 A. Yes, except when we are gathered together then, there again I saw  
19 him.

11:34:57 20 Q. Was he shown to you then as well?

21 PRESIDING JUDGE: When you were gathered together where?

22 THE WITNESS: xxxxxxxxxxxx  
23 MR TOURAY:

24 Q. Was he shown to you again at that time?

11:35:17 25 A. At that time he introduced himself by name.

26 Q. And that was the time you knew it was Morris Kallon; not so?

27 A. Yes, he was first introduced to xxxxxxxxxxxx  
28 xxx.

29 Q. [Inaudible] that particular time?



1 A. Yes.

2 Q. Now, after that you never saw Morris Kallon again until -- you never  
3 saw him again?

4 A. I came to see him again after our training.

11:36:27 5 Q. Did you talk to him?

6 A. No. No, since then we have not talked to each other.

7 Q. And you had no business with him?

8 A. Yes, I had no business with him because we came as a group and we had  
9 nothing to do with him.

11:37:14 10 Q. Were you told that Morris Kallon was a recruiting officer?

11 A. Well, at that time nobody told me of that but it was of late he was  
12 appointing people to go for training.

13 Q. The question is: Were you told he was a recruiting officer. That's  
14 the question?

11:38:07 15 A. Nobody told me of that.

16 Q. Were you told that he was a G5?

17 A. No.

18 PRESIDING JUDGE: Nobody told me that Kallon was a recruiting officer  
19 but later on somebody -- what did you say? Later on he saw?

11:38:32 20 MR TOURAY: Well, let him say.

21 PRESIDING JUDGE: Later on -- I want to complete the sentence I  
22 started here.

23 MR TOURAY:

24 Q. Can you complete your sentence? You said nobody told you he was a  
11:38:51 25 recruiting officer; not so?

26 PRESIDING JUDGE: But later on you saw him doing what?

27 THE WITNESS: Nobody told me that he was a recruiting officer but  
28 that day he was appointing people to go for training.

29 MR TOURAY:





1 Q. You know he was a G5; not so?

2 A. No, at that time nobody showed me and I never bothered to ask.

3 Q. Did you know who was a G1?

4 A. No.

11:39:39 5 Q. The trouble is you knew nothing about the RUF movement?

6 A. It's true because the time we were xxxxx I knew nothing about it.

7 PRESIDING JUDGE: Who's fault? They didn't teach them what a company  
8 was, what a battalion was.

9 MR TOURAY: He knew nothing about the RUF. He was not an RUF,  
11:40:16 10 there's the point.

11 PRESIDING JUDGE: That's argumentative. We don't accept that  
12 comment.

13 MR HARRISON: It's quite unfair for extraneous comments to be  
14 continually made.

11:40:21 15 PRESIDING JUDGE: We'll look at those, we'll visit all those areas  
16 later. Never mind. Adduce the evidence as you want to put it in the  
17 records, please.

18 MR TOURAY:

19 Q. Let's talk about this incident of the goat. Did you see the goat?

11:40:51 20 A. That day I did not see the goat.

21 Q. Thank you. And you've already said you did not know who was a  
22 civilian and a rebel in the other camps except in your own camp xxxxxx;  
23 not so?

24 PRESIDING JUDGE: Yes, he has said so.

11:41:31 25 MR TOURAY: He has said so, so I'll move along.

26 THE WITNESS: Yes, because I was not roaming over all the camps.

27 MR TOURAY:

28 Q. Therefore you are not in a position to tell this Court whether that  
29 boy was a civilian or a rebel, assuming without considering that your



1 evidence is correct ?

2 PRESIDING JUDGE: Did he see the boy? Did he say he saw the boy?

3 MR TOURAY: He said so.

4 MR HARRISON: I don't think --

11:42:11 5 PRESIDING JUDGE: [Overlapping speakers] yes, and he was struggling  
6 to die or so.

7 MR HARRISON: I apologise for interrupting but I don't think the  
8 connection has been made clear on the record that this boy we're talking  
9 about is the one that is related to the goat and perhaps, if Mr Touray does  
11:42:28 10 wish to pursue it, that could just be made clear for the witness.

11 MR TOURAY: I refuse the offer, Your Honour.

12 PRESIDING JUDGE: You refuse the offer. Is that a Trojan horse?

13 MR TOURAY: Indeed, sir.

14 PRESIDING JUDGE: All right. Beware of Trojan horses, I don't blame  
11:42:55 15 you for your caution. Go ahead, please.

16 But, learned counsel, there is a question I want you to put to him.  
17 You said he could not say whether the boy who was involved in that incident  
18 was a soldier or a civilian.

19 MR TOURAY: I've abandoned that, Your Honour.

11:43:30 20 PRESIDING JUDGE: You've abandoned that. All right.

21 MR TOURAY: That's for the Prosecution, not me.

22 Q. You said you saw Morris Kallon at xxxx xxxxx, not so, that is in  
23 connection with the UNAMSIL affair?

24 A. Yes, I saw him there.

11:44:13 25 Q. And that was after the incident had happened, the attack had taken  
26 place and they had been taken to xxxxx where xxxxxx xxxxxx. That  
27 was the time you saw Morris Kallon xxxxxxxx?

28 A. Yes, I saw him there.

29 Q. And you did say it was the bodyguards that were making arrangements



1 for them to be taken out of xxxxxxxx

2 A. I did not get you clearly.

3 Q. You did say it was the bodyguards who were around them that were

4 making arrangements for them to be taken to Kono?

11:45:34 5 A. Yes. While standing there I heard them shouting at them asking them

6 to go and bring vehicle to take these people out of Makeni to Kono.

7 PRESIDING JUDGE: You heard them shouting. Who?

8 THE WITNESS: The bodyguards who were standing by, I heard one

9 shouting at his companion asking him to go and bring vehicles to convey

11:46:10 10 these people.

11 MR TOURAY:

12 Q. You did not know whose bodyguards were those?

13 A. No, because they were scattered all about and they were plenty.

14 Q. Did you know what group Savage belonged to? Did you know he was an

11:47:06 15 SLA?

16 A. Yes, it was of later I came to know that he was an SLA.

17 Q. And did you know what group SAJ Musa belonged to as well?

18 A. Yes.

19 Q. He was also an SLA?

11:47:28 20 A. Yes, when we met him at xxxxx.

21 Q. Did you know what group Gullit belonged to?

22 A. Well, I did not know in what group he was.

23 Q. What about xxxxxxxx?

24 A. xxxxxx was in xxxx.

11:48:06 25 Q. xxxxxxx was an xxxxx and he was the only one that managed to get

26 to Freetown on board the trucks that left for reinforcement, according to

27 you?

28 A. Yes. They who came, he was the only person I knew.

29 Q. Now, let me just finally put it to you that the man you said was



1 Morris Kallon was not Morris Kallon facing this trial, it must have been  
2 another person. No further questions.

3 JUDGE THOMPSON: Don't you want an answer?

4 PRESIDING JUDGE: You don't want an answer?

11:49:24 5 MR TOURAY: No, he can give the answer.

6 MR HARRISON: No, no. Mr Touray is going to have a very long time to  
7 say a number of things when he makes submissions but, the way I remember  
8 that, that's at the end of the trial.

9 MR TOURAY: Thank you. No further questions.

11:49:39 10 PRESIDING JUDGE: But we have no reply to that --

11 JUDGE BOUTET: But is this a statement or a question to the witness.  
12 If it's a question we need an answer.

13 MR TOURAY: As Your Honour pleases.

14 Q. What is your answer?

11:49:51 15 PRESIDING JUDGE: He says the Morris Kallon you are referring to is  
16 not that one there.

17 MR TOURAY: He's not even here.

18 PRESIDING JUDGE: Well, the one standing trial. Not that one  
19 standing trial is what I mean.

11:50:06 20 THE WITNESS: What I'm saying, the Morris Kallon I knew in xxxx is  
21 the one I'm seeing back here.

22 MR TOURAY: No further questions.

23 JUDGE THOMPSON: Counsel for the third accused, your witness.

24 MR CAMMEGH: Can I just respectfully ask the Bench if you were  
11:51:38 25 thinking of taking a short break. I'm quite happy to continue but there  
26 may be those along this side of the room who would appreciate a very short  
27 intermission.

28 MR HARRISON: I would actually appreciate an intermission as well, if  
29 I could volunteer that.





1           PRESIDING JUDGE: And what if we overrule that concurred application,  
2    which of course we grant. The Court will rise for 10 minutes.

3 [Break taken at 11.51 a.m.]

4 [HS110405C]

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12:06:46 5 [Upon resuming at 12.10 p.m.]
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6 JUDGE THOMPSON: Counsel, may we proceed.

7 MR CAMMEGH: Thank you, Your Honour. I can promise to be very brief.

8 CROSS-EXAMINED BY MR CAMMEGH:

9 Q. Mr Witness, good afternoon. I want to ask you a few questions about  
12:11:55 10 the military police, if I can. Hopefully I won't --

11           PRESIDING JUDGE: Mr Cammegh, tell him your client is not well.  
12    Anyway.

13 MR CAMMEGH: I'm sorry?

14 PRESIDING JUDGE: Anyway, it's okay, go ahead, go ahead.

12:12:13 15 MR CAMMEGH:

16 Q. I hope, Mr Witness, that I am not going to be very long with you at  
17 all. I just want to ask some questions about the military police, okay.  
18 You mentioned that you saw military police xxxxxx is that right?

19 A. I did not see them inxxxxx. I only saw them at xxxxxx

12:12:39 20 Q. All right. But you told us, of course, on I think it was last Friday  
21 afternoon, that you were aware that in xxxx the police were not performing  
22 their duties properly; is that right?

23 A. I was asked whether there were military police in Kono. I said I  
24 don't know because I was not seeing them performing any duty like that  
25 there, except for xxxxxx

26 Q. Did you see any police in the Kono District at all?

27 A. I did not see any police there.

28 JUDGE BOUTET: Mr Cammegh, when you say any police, you mean any  
29 police, not necessarily any military police?



1 MR CAMMEGH: I'll specify.

2 Q. By police, Mr Witness, I mean first of all did you see any military  
3 police in Kono?

4 A. No.

12:14:24 5 Q. Did you see any civilian police in Kono, if I can use that word?

6 PRESIDING JUDGE: Yes.

7 THE WITNESS: The civilian police I know of, the town in which we  
8 are, was called G5.

9 MR CAMMEGH:

12:14:52 10 Q. What do you mean? You mean the town was called G5 or the civilian  
11 police were called G5?

12 A. The civilian that was in Kissi Town.

13 Q. Did you hear of -- or did you hear whether or not there were military  
14 police in Kono? Did you know whether there were military police in Kono or  
12:15:31 15 not?

16 A. Well, I did not see them in Kono. It was only in Makeni I saw them.

17 Q. In that case I will move on to Makeni. I think you told us that the  
18 police you saw in Makeni were well organised; correct?

19 A. Yes, I saw them wearing their uniform and their hand band they wear  
12:16:14 20 on their arm.

21 Q. Yes, thank you. I think you told us, in your words, they behaved  
22 like military policemen as well; correct?

23 A. I did not get you. Is it in Makeni or elsewhere?

24 Q. Makeni, Mr Witness.

12:16:43 25 A. Yes.

26 PRESIDING JUDGE: Yes, [microphone not activated]?

27 MR CAMMEGH: Yes, they behaved like military police.

28 PRESIDING JUDGE: They behaved like military police.

29 MR CAMMEGH:



1 Q. So is it correct, then, that they behaved responsibly to uphold the  
2 law in Makeni?

3 A. Yes, the time they were there they're working.

4 Q. And I believe that one of the things that they attempted to do was to  
12:17:48 5 prevent any more burning of houses after an order from Issa Sesay; is that  
6 right?

7 A. Yes. Yes, because the time we were there they were scattered all  
8 about, they didn't allow rebels to move about. Any rebel they caught, they  
9 carried him to the barracks.

12:18:27 10 PRESIDING JUDGE: He deviated from the question. Put the question to  
11 him again.

12 MR CAMMEGH: Yes.

13 PRESIDING JUDGE: The question -- the reply had something to do -- or  
14 the question had to do with Issa Sesay.

12:18:39 15 MR CAMMEGH:

16 Q. You told us on Friday that Issa Sesay passed a law that no more  
17 houses should be burned and no more women should be raped. Do you remember  
18 telling us that?

19 A. Yes.

12:18:58 20 Q. Right. And --

21 PRESIDING JUDGE: Please wait. Yes.

22 MR CAMMEGH:

23 Q. Would you agree that the town of Makeni, during the time that you  
24 were there, was run in a lawful and orderly manner by these military  
12:19:59 25 police?

26 A. Yes, law did operate there perfectly until the time I left and went  
27 xxxxxx

28 Q. Thank you. You told us that there was a certain man who settled  
29 their disputes between them. We're talking about the people of Makeni



1 here. A certain man who settled their disputes between them. Do you  
2 remember telling us that?

3 A. Yes.

4 Q. Was that man an officer in the military police in Makeni?

12:21:04 5 A. No, he was a medicine man.

6 Q. A medicine man?

7 A. Yes.

8 Q. Did you ever see the man who was in charge of the military police in  
9 Makeni?

12:21:27 10 A. I saw him once. At that time we are there.

11 Q. Where? In Makeni itself?

12 A. Yes, in Makeni.

13 Q. Do you know the roundabout in Makeni in the centre of town?

14 A. Yes, there the office was.

12:22:07 15 Q. I think it used to be an old British bank, didn't it -- the blue  
16 building?

17 A. Yes, where their office was.

18 PRESIDING JUDGE: Office of the?

19 MR CAMMEGH: Can I just clear that up, Your Honour.

12:22:29 20 PRESIDING JUDGE: Yes.

21 MR CAMMEGH: I am aware that I haven't done.

22 Q. And that was the office of the RUF police, wasn't it, for Makeni?

23 A. Yes, there they were.

24 PRESIDING JUDGE: Of the RUF police?

12:22:49 25 THE WITNESS: Yes.

26 MR CAMMEGH:

27 Q. You told me just now -- I'm sorry, Your Honour. I was waiting for  
28 you. Right. You told me just now that you saw the boss of the RUF or the  
29 military police in Makeni. Where did you see him?





1           PRESIDING JUDGE: He didn't say the RUF. He said he saw the boss of  
2           the military police in Makeni once. He did not say RUF.  
3           MR CAMMEGH: I'll clarify that.  
4           JUDGE BOUTET: And in your language, too, I would appreciate it if  
12:23:31 5           you would clarify that RUF police means military police.  
6           MR CAMMEGH: I will. I was aware that I made that slip.  
7           Q.    Mr Witness, were the RUF police the military police in Makeni? Were  
8           they the same people?  
9           A.    Yes, at that time they were the same people. They were appointed.  
12:24:05 10          MR CAMMEGH: I'm sorry, Your Honour, I was aware I had made that  
11          error.  
12          Q.    All right. Now, you told us that you saw the boss of the RUF, the  
13          military police, in Makeni. Whereabouts did you see him?  
14          A.    Where the MP office was at the roundabout.  
12:24:43 15          Q.    And just so that we can be clear, he was the boss of the police who,  
16          you tell us, had been acting in a lawful and orderly fashion in Makeni  
17          while you were staying there; correct?  
18          A.    At that time we knew them to be MP commanders. He was there deciding  
19          matters between people.  
12:25:25 20          Q.    Thank you. Was he still the boss when you left Makeni? The boss of  
21          the police, I mean.  
22          A.    Yes, he was the person we left in charge before going to xxxxxxxx  
23          Q.    Mr Witness, we're nearly finished. So when you left for xxxxxxxx with  
24          your friends, you left this man in Makeni in his police station behind you,  
12:26:20 25          did you?  
26          A.    Yes, we left him there.  
27          Q.    He did not leave Makeni himself?  
28          A.    I do not know whether he left Makeni, but we left him there.  
29          Q.    My last question is this: You mentioned the trouble with the



1 peacekeepers; yes?

2 A. Yes.

3 Q. Did you see the boss of the police on that day that the trouble broke  
4 out between, you say, Issa Sesay and the peacekeepers?

12:27:17 5 A. That day I did not see him.

6 MR CAMMEGH: Thank you, Mr Witness, that's all I have. Thank you.

7 JUDGE THOMPSON: Counsel, re-examination?

8 MR WERNER: Just one question, Your Honour.

9 JUDGE THOMPSON: Proceed, please.

12:28:56 10 RE-EXAMINED BY MR WERNER:

11 MR WERNER:

12 Q. Mr Witness, I have just one question for you. What year were you  
13 born?

14 MR O'SHEA: Your Honour, I think we have gone through this  
12:29:14 15 exhaustively.

16 THE WITNESS: 1984.

17 MR O'SHEA: I have an objection, just a moment please. We have gone  
18 through this question of age exhaustively, both in chief and in the  
19 cross-examination. That specific question has been put to the witness. In  
12:29:32 20 my submission it is not within the purview of the Prosecution to simply  
21 repeat that question in the re-examination.

22 JUDGE THOMPSON: Yes, please.

23 MR HARRISON: I think that is a fair comment in normal circumstances.  
24 I have in fact excerpted sections from the transcript from the direct, the  
12:29:55 25 cross-examination of Mr Jordash and the cross-examination by counsel for  
26 the second accused. I distributed those to all of Defence counsel this  
27 morning and five copies have been given to the Chamber's legal officer with  
28 a view that three of them could be distributed to the Court. I think those  
29 excerpts make it clear why, in fairness to this witness and in the pursuit



1 of justice, that question ought to be allowed and the answer permitted in  
2 evidence. I can take you to those excerpts now if you wish.

3 JUDGE THOMPSON: Let's hear Mr Jordash.

4 MR JORDASH: Sorry to leap to my feet. Could the witness's  
12:32:05 5 headphones be removed, please?

6 JUDGE THOMPSON: Yes, quite. Would Court Management please remove  
7 the headphones of the witness?

8 MR JORDASH: I would put my objection slightly differently to  
9 Mr O'Shea's. I will put it simply like this: That the witness answered  
12:32:27 10 that the reason he'd said 1983 --

11 JUDGE BOUTET: Mr Jordash, are you using the copies of the  
12 transcript? That is what you have in your hands?

13 MR JORDASH: Yes, although I am not referring to them.

14 JUDGE BOUTET: All right. We haven't seen them yet.

12:32:41 15 MR JORDASH: The witness said the reason he'd said 1983 was because  
16 of the translation which wasn't what it should have been. My respectful  
17 submission would be that no further question should be asked on this  
18 subject until the translation booth has been approached to ask whether at  
19 that stage there was the later difficulties with translation which seem to  
12:33:04 20 refer to a new translator, a female translator. My recollection, and  
21 looking at the transcript, is that there was no problem with translation at  
22 this time, the time the questions were asked. If that is true I would then  
23 support Mr O'Shea's objection that no further questions ought to be asked.  
24 If it is not true --

12:33:28 25 JUDGE THOMPSON: So your objection is not on the substantive  
26 objection of Mr O'Shea?

27 MR JORDASH: Well, I don't think we're there yet.

28 JUDGE THOMPSON: Well, that is where he has gone.

29 MR JORDASH: He has.



1 JUDGE THOMPSON: He's gone there. You're not going there yet.

2 MR JORDASH: Not quite.

3 JUDGE THOMPSON: Right. In other words, yours is an objection that  
4 would materialise, if it materialises into a full objection, after we have  
12:33:55 5 had the opportunity of examining the transcript.

6 MR JORDASH: Yes.

7 JUDGE THOMPSON: All right.

8 MR JORDASH: If the translator says there was no problem with  
9 translation that's the end of it I would submit.

12:34:04 10 JUDGE THOMPSON: May I ask counsel for the second accused if they  
11 have any contribution to make.

12 MR NICOL-WILSON: Your Honour, our position is that we support the  
13 comments by Mr Jordash, that this is an issue for the translator to  
14 clarify.

12:34:22 15 JUDGE THOMPSON: So you're not in any way associating with  
16 Mr O'Shea's objection at this stage.

17 MR NICOL-WILSON: Well, we are more associating with Mr Jordash's  
18 position.

19 JUDGE THOMPSON: Very well. Mr O'Shea, did you want to clarify  
12:34:36 20 something?

21 MR O'SHEA: I maintain my objection, but I agree it would be sensible  
22 to clear up the translation issue.

23 JUDGE THOMPSON: In other words, you are accepting for the time being  
24 a friendly amendment to your objection from Mr --

12:34:48 25 MR O'SHEA: Your Honour can put it that way.

26 JUDGE THOMPSON: Yes. I mean, that is what you are saying. In other  
27 words, let's resolve this preliminary issue before we go, if we ever go to  
28 the substantive one.

29 MR O'SHEA: Your Honour, yes.





1 JUDGE THOMPSON: Yes, okay.

2 JUDGE BOUTET: But my recollection of the evidence in this respect,  
3 although I still have to read the excerpt of the transcript, was that the  
4 witness was not necessarily saying he was not properly translated.

12:35:14 5 Essentially he was saying he was confused with the translation. In other  
6 words, he's not saying I didn't say this; he's saying at the time, given  
7 the way that interpreter that particular morning was doing interpretation,  
8 he was confused overall and so was he about this particular issue. So that  
9 is my understanding. It is not that he said 1984, it was translated as  
12:35:37 10 1983 or vice versa. It was more the overall circumstances. So even if we  
11 clarify, as you are suggesting, Mr Jordash, with translation, it won't  
12 change that scenario. So it is not the exact words for what the answer was  
13 when the witness was asked a question; it was overall.

14 MR JORDASH: If that is --

12:35:58 15 JUDGE BOUTET: And, again, I need to look at the transcript, but that  
16 is my recollection of that.

17 MR JORDASH: My understanding was that the witness was connecting the  
18 difficulties of translation with the translation difficulties he'd raised  
19 earlier in relation to a female translator.

12:36:16 20 JUDGE BOUTET: Yes.

21 JUDGE THOMPSON: And my recollection was that in fact he gave the  
22 birth thing as an example.

23 MR JORDASH: Yes.

24 JUDGE THOMPSON: That's my recollection. As an example.

12:36:28 25 MR JORDASH: My submission would be that as far as I recall we didn't  
26 have the female translator at this time.

27 JUDGE THOMPSON: Yes, and perhaps that is what has precipitated the  
28 need for re-examination on that issue. Because if that were not the case,  
29 it was that a general expression of dissatisfaction with the translation.



1 But I recall that this particular issue was given as an example.

2 MR JORDASH: Yes.

3 JUDGE THOMPSON: Before we ask the Prosecution to --

4 MR O'SHEA: Your Honour, the Prosecution can ask different questions  
12:37:05 5 to try and remedy any perceived damage to their case by virtue of what came  
6 out in the cross-examination. I have no difficulty with that. But what I  
7 am saying is that from the transcripts it would seem -- I know Your Honours  
8 don't have the transcripts --

9 JUDGE THOMPSON: We wanted to rule on this briefly before -- because  
12:37:26 10 much as I am not sure whether I agree with your general proposition that  
11 the Prosecution can ask under re-examination any question to remedy damage  
12 to their case; certainly not --

13 MR O'SHEA: No, I don't wish to put it as broadly as that.

14 JUDGE THOMPSON: They can clarify inconsistencies and ambiguities but  
12:37:47 15 not use cross-examination to bolster up their case.

16 MR O'SHEA: My point is this -- Your Honour puts it correctly, if I  
17 may respectfully say, and that that is the function of re-examination or at  
18 least one of the functions of re-examination. What I am saying is that  
19 they are constrained in the manner in which they do it. If a question has  
12:38:08 20 already been put and a clear answer has already been given, even if a  
21 different -- because what we had was how old are you? That was the first  
22 question that was put in chief, and we got a clear answer to that question:  
23 "I was xxxxxxxx." Then we got a clear question during the  
24 cross-examination: When was your date of birth and are you confused about  
12:38:31 25 whether it was xxxxxx or 1984? Then the witness gave a clear answer: "Yes,  
26 my date of birth is xxxxx." So in other words, we have clear questions and  
27 clear answers. My objection is that the Prosecution cannot put the same  
28 question. If they want to approach the matter through different questions  
29 they're entitled to do so, but not simply take us through the ground -- not



1 the ground, take us through the specific questions and answers that have  
2 already been given.

3 JUDGE THOMPSON: We understand the objection. In other words, they  
4 cannot exceed the recognised scope of re-examination. In other words, they  
12:39:11 5 must either bring themselves within the three rubrics: One, new matter  
6 raised under cross-examination; two, clarify ambiguities; or reconcile  
7 inconsistencies. But our point now is that we would like to look at the  
8 transcripts to determine whether in fact we share the same legal perception  
9 that you hold and uphold your objection or whether we in fact agree that  
12:39:42 10 there may well be something necessary to be clarified under re-examination.  
11 And that is the way we would want to go now.

12 MR O'SHEA: I merely wanted to clarify my objection, but I agree --

13 JUDGE THOMPSON: No, your objection is perfectly clear.

14 MR O'SHEA: I agree that that is what we should do to. Look at the  
12:40:01 15 transcript before we go any further.

16 JUDGE THOMPSON: Quite right. Are the transcripts available? Did  
17 you want to make a short point?

18 MR HARRISON: There is no need for me -- I have actually given five  
19 copies earlier on.

12:40:16 20 JUDGE THOMPSON: The Bench would like to examine the transcripts.

21 MR HARRISON: I realise that you have them in your hands. Is it  
22 helpful if I take you through what I understand to be the paragraphs in  
23 question.

24 JUDGE THOMPSON: They have taken an objection to your question, so  
12:40:29 25 the burden is on you to guide us as we go along.

26 MR HARRISON: On the second page of the handout that you have it  
27 should say page 5 at the top and the date.

28 JUDGE THOMPSON: Court Management, do we have the transcripts there?  
29 Did you say page 2?



1 MR HARRISON: The second page in the group that I have given to you,  
2 but on the top right-hand corner the number should be page 5, the top  
3 left-hand corner should be 6th of April 2005.

4 JUDGE THOMPSON: Correct.

12:40:59 5 MR HARRISON: I should also say that these are excerpts from the 6th,  
6 7th and 8th April - Wednesday, Thursday, Friday - and they are the unedited  
7 versions of the transcript. There may in fact be errors in the transcript.  
8 If you go to line 6 and 7, that is the question and answer put to the  
9 witness in direct examination. If you were to go to the next page in the  
12:41:40 10 pamphlet, it should be page 25 in the top right-hand corner, again this is  
11 direct examination from the 6th of April.

12 JUDGE THOMPSON: Line?

13 MR HARRISON: 15, 16, 17.

14 JUDGE THOMPSON: Yes, any other references?

12:42:09 15 MR HARRISON: For the 6th of April that is all there is. The next  
16 page in the group that was handed up is just a front page for the 7th of  
17 April 2005. If you turn that over the very next page you should have is  
18 page 46, and the date on the top left should be 7 April 2005?

19 JUDGE THOMPSON: Yes, line?

12:42:35 20 MR HARRISON: 14 and 15. This is the cross-examination by counsel  
21 for the first accused. If you then turn the page again you should have  
22 page 47, again from the same date, the 7th of April. There is a  
23 continuation of the cross-examination by counsel for the first accused and  
24 the relevant lines begin at 5 and continue down to 27.

12:43:15 25 JUDGE THOMPSON: Go over those lines again.

26 MR HARRISON: Begins at line 5 and continues to line 27. I should  
27 actually say continues all the way to the bottom of the page, line 29.  
28 Then on the next page, which is 48, it would only be the first five lines  
29 which may be of some guidance to you.





1 JUDGE THOMPSON: Is that all? Anything else?

2 MR HARRISON: That is all that has been excerpted from the 7th of  
3 April. The next page as you turn it over should be 49. That was just put  
4 in for the completeness of the discussion that was going on between  
12:44:31 5 Mr Jordash and the Court. If you turn over, the next page should be the  
6 front page from the 8th of April 2005. If you were to turn over the front  
7 page, the next page should be page 85 from the 8th of April 2005.

8 JUDGE THOMPSON: Lines?

9 MR HARRISON: I am just suggesting that this page sets a context of  
12:45:01 10 the cross-examination by counsel for the second accused and that it is  
11 actually over on the next page, page 86, which is of relevance to the Court  
12 at this time. It would be line 6 down to and including 22.

13 JUDGE THOMPSON: Is that all?

14 MR HARRISON: Yes.

12:45:34 15 JUDGE THOMPSON: Thank you. Yes, Mr Jordash, do you want to --

16 MR HARRISON: Sorry, there is just one thing I forgot to mention. I  
17 think the Court will recall that on Thursday morning I brought to the  
18 Court's attention a discussion that had taken place between -- sorry, this  
19 would have been on Friday.

12:45:58 20 JUDGE THOMPSON: Correct, I thought you should --

21 MR HARRISON: Friday morning. A discussion that took place between  
22 the witness and the psychologist from Witness and Victims Services Unit.

23 JUDGE THOMPSON: And that is reflected somewhere in the records no  
24 doubt.

12:46:15 25 MR HARRISON: That would be the morning of the 8th. That would be  
26 Friday the 8th. I did not excerpt that, but I thought it would be --

27 JUDGE THOMPSON: The Court of course would like to access that  
28 because that has a clear relevance to the overall assessment of the  
29 situation before us in my judgment. Mr Jordash, your short brief



1 contributions in terms of the citations here.

2 MR JORDASH: Only referring to --

3 JUDGE THOMPSON: Do you want to add anything?

4 MR JORDASH: Simply that page 86 line 12 the witness suggests that  
12:46:55 5 the interpreter mixed everything up. I would simply reiterate my  
6 submissions that the translator should be asked whether they mixed  
7 everything up.

8 JUDGE THOMPSON: Okay, thank you. Mr Cammegh -- or should I go this  
9 side first. Second accused?

10 MR NICOL-WILSON: Your Honour, that is our position, the position of  
11 Mr Jordash.

12 JUDGE THOMPSON: And you agree that the Chamber should look at all  
13 the references for the Prosecution.

14 MR NICOL-WILSON: No.

12:47:25 15 JUDGE THOMPSON: You don't have any problem -- any addition?

16 MR NICOL-WILSON: In particular the reference that has just been  
17 given to the Court by Mr Jordash.

18 JUDGE THOMPSON: You don't want us to look at the other citations to  
19 get a total picture.

12:47:37 20 MR NICOL-WILSON: You may, Your Honour, but we say that the crucial  
21 aspect is the position that has just been mentioned by -- [Overlapping  
22 speakers]

23 JUDGE THOMPSON: All right, fine. Learned counsel for the third -  
24 thank you very much, counsel - any additions to this or any emphasis that  
12:47:50 25 you think the Chamber must seek to place?

26 MR O'SHEA: May I seek this clarification from the Court. Are we at  
27 the stage where the Court is going to look at the transcripts and then I  
28 can say anything I wish thereafter with regards my objection or would you  
29 wish me to say anything I want to say about my objection now?



1 JUDGE THOMPSON: I would have thought that since we're doing a  
2 preliminary assessment to determine whether we should uphold or sustain or  
3 overrule the objection -- this is the exercise we are now embarking upon.  
4 And anything that is useful in enabling us to reach a fair and constructive  
12:48:42 5 position from your side is what I am trying to invite you to contribute.

6 MR O'SHEA: I have no further contributions on the transcripts  
7 themselves, which were fairly put by my learned friend for the Prosecution.  
8 I will deal with the substance of the objection once we get past this  
9 preliminary point.

12:49:07 10 JUDGE THOMPSON: Quite right, without prejudice to your right to do  
11 that if and when that comes up.

12 MR O'SHEA: Yes.

13 JUDGE THOMPSON: All right.

14 [Trial Chamber confers]

12:51:59 15 JUDGE THOMPSON: Learned counsel for the third accused, at this stage  
16 after brief consultation here, we would like you to elaborate a little on  
17 your objection.

18 MR O'SHEA: Thank you, Your Honour. Your Honour, if in  
19 examination-in-chief and cross-examination - in particular  
12:52:23 20 cross-examination - questions are put and answers are given which leave  
21 room for doubt as to exactly what the witness is saying, then that is an  
22 area for re-examination. The fact that a witness on the same question  
23 gives one answer on one occasion and a different answer on another occasion  
24 is an inconsistency, but it does not necessarily mean that there is any  
12:53:22 25 doubt as to what the witness is saying. In other words, there is no room  
26 to manoeuvre. It might be inconsistent but there is no room to manoeuvre  
27 in a sense that one needs further clarification as to what he was saying or  
28 what he meant.

29 My submission is that on the transcripts as they stand, the question



1 which my learned friend wished to put to the witness is a question that has  
2 already been put in two different forms. So it is not a new question, it  
3 is a question that has already been put. And the answers that were given  
4 were clear in themselves. I accept that there is an inconsistency, but the  
12:54:26 5 answers which were given were clear.

6 If Your Honours have any doubt as to the legitimacy of the way I am  
7 approaching the question of re-examination, then let me say this: Even if  
8 it were the case that we could be considered to be facing an ambiguity  
9 here, which I say we are not, that ambiguity has already been addressed in  
12:55:00 10 the cross-examination of Mr Nmehielle where - I quote - he states:

11 "Okay, let me try to refresh your memory a little bit. You said you  
12 were born in 1983; right? I was born in 1984."

13 Again, a clear answer. But what the Prosecution is attempting to do  
14 now is essentially exactly what Mr Nmehielle has already done. So, in a  
12:55:40 15 sense, I could say that Mr Nmehielle has already done the Prosecution's  
16 task for them insofar as re-examination is concerned, therefore it is a  
17 pointless exercise.

18 May I remind the Court that we do not have a right to  
19 re-cross-examination. So if all we are doing here is repeating an exercise  
12:56:04 20 that has already been done, then we must also have that right. But of  
21 course we don't have that right under the Rules.

22 So just to summarise, number one, there is no ambiguity. Yes, there  
23 is an inconsistency, but there is no ambiguity as to what this witness was  
24 saying at these particular points in time in the transcript. In other  
12:56:27 25 words, there is no room for manoeuvre to establish what he meant by what he  
26 was saying. And number two, even if I were wrong about that, the  
27 re-examination which my learned friend is attempting to conduct has already  
28 effectively been done by Mr Nmehielle, so it is a waste of the Court's  
29 time.





1 JUDGE THOMPSON: Right, thank you. Do learned counsel on the other  
2 side wish to associate?

3 MR JORDASH: I associate with those submissions.

4 JUDGE THOMPSON: Quite, and for the second accused?

12:57:04 5 MR NICOL-WILSON: We do, Your Honour.

6 JUDGE THOMPSON: The Prosecution wish to reply, then we will. Yes.  
7 The issue seems to be narrowed down from Professor O'Shea's perspective. A  
8 concession from him -- a legal concession that there is an inconsistency,  
9 but that there is no ambiguity, and that what you're seeking to do has  
12:57:36 10 already been achieved by counsel who started cross-examination for the  
11 second accused. Perhaps we should just confine ourselves to those kinds  
12 of --

13 MR HARRISON: Perhaps we could just continue on with the  
14 cross-examination on the 8th of April from page 86. Mr Nmehielle goes on  
12:58:01 15 to say at line 9:

16 "If I reflect very clearly yesterday, you told this Court it was your  
17 mistake for saying you were born in 1984, that actually you were born in  
18 1983; is that correct?

19 A. The person who was interpreting to me yesterday mixed up everything.  
12:58:19 20 That was the reason I said I was born in 1983."

21 Had we ended there I think Mr O'Shea's position might have some  
22 interest to the Court. But we go on:

23 "PRESIDING JUDGE: What you're saying, Mr Nmehielle, is true. As he  
24 now says -- because what you're saying is very true. That is what he said,  
12:58:43 25 that it was his error when he said he was born in xxxxxx and that he was  
26 indeed born in xxxxxx. If he now says that it was a mix up by the  
27 translation cabin, well --

28 "MR NMEHIELLE: No, Your Honour, it couldn't be because we have the  
29 record where counsel for the first accused asked him, 'So you couldn't be



1 sure. You could have been 14 or 15. In fact, you could have been xxxxxxxx  
2 old?', and he says, 'Yes.'

3 "PRESIDING JUDGE: Well proceed."

4 And then instead of that question being put to the witness and him  
12:59:16 5 being allowed to respond to it, the topic is dropped entirely.

6 JUDGE THOMPSON: Yes, I remember that.

7 MR HARRISON: If you do go back to what was put during the  
8 examination by Mr Jordash --

9 JUDGE THOMPSON: Cross-examination you mean.

12:59:36 10 MR HARRISON: Yes, I'm sorry, cross-examination by Mr Jordash.

11 JUDGE THOMPSON: Page?

12 MR HARRISON: This would be pages 47 and 48 from the 7th of April.

13 JUDGE THOMPSON: Yes. Lines?

14 MR HARRISON: I am actually going to go from 5 down to the bottom. I  
12:59:51 15 will try doing this as quickly as I can. Perhaps I can just start from 9.

16 The question is put by Mr Jordash and the answer is:

17 "I didn't get you clearly, sir.

18 Q. Well, the statement I am looking at of yours, a front sheet, it has a  
19 heading saying date of birth and your statement date of birth says xxxxxx

13:00:11 20 Is it right in fact that you were born in xxxxxx or you just don't know?

21 A. Actually my date of birth is xxxxxx. It was an error on my side just  
22 now.

23 Q. Is the reality, Mr Witness, that you're not sure if it was xxxx or  
24 xxxxxx

13:00:26 25 A. Yes, my date of birth is xxxxxx.

26 Q. What month, do you know that?

27 A. I don't know the month.

28 Q. Right. So when you said yesterday that in February of xxx you were  
29 xxxx, you may in fact have been xxx; is that correct?



1 A. I didn't get that statement clearly.

2 Q. Well, try to listen to my questions, Mr Witness. If you were born in  
3 xxxxx and you don't know the month, in February 1998 you may have been xx or  
4 xxx. Is that right?

13:00:58 5 A. I didn't say that I was born in xxxx."

6 And it continues on in that vein. I shouldn't say that. It does not  
7 continue on in that vein. In fact, it is dropped. There then begins an  
8 exchange between Mr Jordash and the Court and it continues from the bottom  
9 all the way through page 48, that exchange. And when we go back to page 49  
13:01:22 10 and the cross-examination this topic is dropped, it is left.

11 So, in fact, you already have on the record a clear indication that  
12 there is ambiguity. The witness is saying "I didn't get you" on three  
13 occasions. "I'm not understanding, there is some problem," and this is  
14 ambiguous. In the Prosecution submission it is clearly ambiguous. We have  
13:01:48 15 put the question, it has been answered. That is as far as we propose to  
16 go.

17 JUDGE THOMPSON: Thank you. Short point. As you respond, just for  
18 my own clarification, your contention is that as to the scope of  
19 re-examination as a matter of law is what? A short submission on that for  
13:02:20 20 me. In terms of the scope of re-examination, what is your understanding of  
21 the law?

22 MR O'SHEA: My understanding of the law is --

23 JUDGE THOMPSON: That counsel --

24 MR O'SHEA: -- if there is an ambiguity over what the witness has  
13:02:36 25 said --

26 JUDGE THOMPSON: Then it is permissible to ask a question to clear  
27 that up.

28 MR O'SHEA: What I am saying is there is no ambiguity over what the  
29 witness has said.



1 JUDGE THOMPSON: What about if there is an inconsistency? Is the law  
2 not clear on that too, as to the scope of re-examination?

3 MR O'SHEA: My learned friend can ask different questions to, as I  
4 put it before, try and redeem the situation created by the inconsistency.  
13:03:11 5 But what he can't do is put the very same question which has already been  
6 put to which clear answers have been given. There may have been two  
7 different clear answers, but they were clear answers nonetheless.

8 To put it shortly, Your Honour, if one goes to page 86, "I was born  
9 in 1984," how could that be possibly be considered as a statement to have  
13:03:42 10 been ambiguous. So if the Prosecution then says, "When were you born?",  
11 they can't contend in my submission that they have an ambiguous answer to  
12 that. It not unequivocal. Sorry, it is unequivocal. It is not equivocal.  
13 "I was born in 1984."

14 If the Prosecution wished to ask different questions to try and deal  
13:04:04 15 with the inconsistency, I don't have a difficulty with that. But what I do  
16 not wish them to -- I submit they should not do is to put a question which  
17 has essentially already been put. And I remind the Court that essentially,  
18 even if that were permissible, it has already been done.

19 JUDGE THOMPSON: Thank you.

13:04:30 20 MR JORDASH: May I just add one very brief submission, which is --

21 JUDGE THOMPSON: Nothing new.

22 MR JORDASH: Well, it's not --

23 JUDGE THOMPSON: Because the Prosecution has already responded. We  
24 want to confine you to the Prosecution's reply.

13:04:46 25 MR JORDASH: Certainly. The sections pointed out by the Prosecution  
26 as indicating a lack of clarity, the answer to that lack of clarity lies  
27 peculiarly within the translation booth.

28 JUDGE THOMPSON: Well, that's the point. The whole idea of  
29 submitting the transcripts is for the Court to have some kind of sense of





1 whether here there is some ambiguity, inconsistency or lack of clarity to  
2 enable the Court to say that the question which the Prosecution intends to  
3 ask falls within the legitimate scope of re-examination. I thought that is  
4 what we are trying to do.

13:05:22 5 MR JORDASH: Yes. I am simply suggesting that the aspects pointed  
6 out by my learned friend don't support his argument. They support the  
7 argument that we should address our clarification issues to the translation  
8 booth.

9 JUDGE THOMPSON: Okay. We will hand over to the Presiding Judge.

13:05:47 10 MR HARRISON: I'm sorry, if I could just indicate that the  
11 Prosecution has never had any reservation of following Mr Jordash's  
12 suggestion. In fact, I put it to Defence counsel on Friday and I tried to  
13 indicate to the Court at the close of proceedings on Friday that that may  
14 be a way of resolving this. But on Friday one of the parties took the view  
13:06:09 15 that that was not an appropriate vehicle of proceeding. But the  
16 Prosecution does not in any way object or take issue with Mr Jordash's  
17 suggestion that the Translation Unit in some way provide a report back to  
18 the Court.

19 JUDGE THOMPSON: Yes, and I think at the end of the day is what do we  
13:06:30 20 do now in the interests of justice in the light of your question?

21 PRESIDING JUDGE: We will recess for lunch and we will address this  
22 issue when we do resume at 2.30. The Court will rise, please.

23 [Luncheon recess taken at 1.05 p.m.]

24 [HS110405D 2.30 p.m. - AD]

13:06:53 25 [Upon resuming at 2.42 p.m.]

26 PRESIDING JUDGE: Good afternoon learned counsels. We will resume  
27 the session. Our ruling on whether Mr Werner, in re-examination, can put  
28 the question as to the age of this witness will be delivered by Honourable  
29 Justice Bankole Thompson.



1 [Ruling]

2 JUDGE THOMPSON: There is a brief ruling of the Chamber on the  
3 Defence objection. Having heard the objection by the Defence to the  
4 question as to age sought to be put by the Prosecution in re-examination of  
14:43:33 5 witness TF1-263, having listened to and deliberated upon the submissions  
6 made by both sides, and having carefully examined the relevant transcripts  
7 of the trial relating to the specific issue and the extent to which the  
8 issue seemed to have been complicated by the translation process, the  
9 Chamber overrules the objection and rules that the question is permissible  
14:44:06 10 under re-examination.

11 MR HARRISON: I think the question was put and there is an answer on  
12 the record. That was as far as we were going to go unless the Court after  
13 this ruling, for some formal reason, wished the question be re-put.

14 PRESIDING JUDGE: What does that mean?

14:44:29 15 MR HARRISON: The question was asked and an answer was given, then  
16 the objection was made. The Prosecution's view is that that is the end of  
17 the matter; we have the ruling, the answer stands and there would be no  
18 function --

19 PRESIDING JUDGE: I didn't get the answer. I got the objection; I  
14:44:47 20 didn't get the answer. I don't know.

21 MR HARRISON: Well, it was recorded twice.

22 PRESIDING JUDGE: I didn't get the answer to that question. Maybe it  
23 escaped my attention.

24 JUDGE THOMPSON: I did not get the answer either.

14:45:04 25 MR WERNER: I think the witness should have his headphones.

26 Thank you.

27 Q. Mr Witness, I just have one question for you. What year were you  
28 born?

29 A. xxxxxx.



1 MR WERNER: I have no further questions.  
2 JUDGE THOMPSON: Thank you, learned counsel.  
3 PRESIDING JUDGE: Yes, Mr Jordash.  
4 MR JORDASH: I have two very brief applications.  
14:46:36 5 PRESIDING JUDGE: Yes.  
6 MR JORDASH: The first application is --  
7 PRESIDING JUDGE: Just a minute please.  
8 JUDGE BOUTET: With respect to this witness, Mr Jordash?  
9 MR JORDASH: It relates to his statement. It doesn't really relate  
14:46:50 10 to him and his oral testimony -- not directly.  
11 PRESIDING JUDGE: Can we then dismiss him?  
12 MR JORDASH: Certainly, I have nothing further I wish to ask him.  
13 PRESIDING JUDGE: Mr Witness, are you hearing me?  
14 THE WITNESS: Yes.  
14:47:10 15 PRESIDING JUDGE: We have come to the end of your testimony. We want  
16 to thank you for coming to assist this tribunal with your evidence.  
17 Although we have finished with you for now, we are not ruling out the  
18 possibility of calling you back here. I am not saying we would; I am  
19 saying we could. Should that necessity arise, it would be a pleasure to  
14:47:51 20 have you back here. Of course, you will be contacted through the right  
21 channels. This said, once more, the tribunal wants to thank you for coming  
22 and we wish you a safe journey back to wherever you are living. Okay?  
23 THE WITNESS: Yes, sir.  
24 PRESIDING JUDGE: The best in the pursuit of your endeavours and may  
14:48:18 25 be apprenticeship or so. So, I think, this said, Mr Jordash, wouldn't you  
26 think we should allow him to retire? No. I think we can draw the screens  
27 and he retires and then we will continue to take your observations.  
28 Please, can the screens be drawn for the witness to retire?  
29 [The witness withdrew]



1 JUDGE THOMPSON: Proceed, learned counsel.

2 MR JORDASH: Thank you, Your Honour. Very brief applications. The  
3 first application is to be allowed to read into the record the dates of the  
4 witness's statements and proofing sessions. From a Defence point of view,  
14:51:23 5 how many times the witness attended to see the Prosecution before coming  
6 out with pieces of evidence is an important part of our Defence case in  
7 terms of the credibility of the allegations made against Mr Sesay. They  
8 are not disputed -- the dates -- but my learned friend for the Prosecution  
9 I am sure can agree that the dates of the proofing are there on the  
14:51:46 10 statements and I would simply seek to have them on the Court record.

11 PRESIDING JUDGE: Is this different from what Mr Touray went through  
12 this morning? Is this different from what you went through?

13 MR JORDASH: It is not different, it is just more specific because we  
14 get the exact date as to when the witness attended when the particular  
14:52:15 15 allegations were given to the Prosecution.

16 JUDGE BOUTET: Mr Jordash, these are no different than all the dates  
17 that you put on the record when you were questioning the witness. The  
18 first statement was on x date and so on. Do you want to put that more in  
19 just one package now?

14:52:43 20 MR JORDASH: Yes, because I didn't put all the specific dates because  
21 I did not expect the witness to remember exactly the dates. That is the  
22 first application. The second application is concerning what the witness  
23 said about his age. Looking at the transcript from the 7th of April,  
24 line --

14:53:07 25 JUDGE THOMPSON: Slowly.

26 MR JORDASH: The 7th of April, in my cross-examination of witness 263  
27 I referred at --

28 JUDGE BOUTET: That is page 46 of the transcript.

29 MR JORDASH: Page 47, Your Honour.





1 JUDGE BOUTET: Page 47.

2 MR JORDASH: I --

3 PRESIDING JUDGE: Just a minute, Mr Jordash.

4 MR JORDASH: I am sorry; I beg your pardon, Your Honour.

14:53:34 5 PRESIDING JUDGE: Page --

6 MR JORDASH: Page 47, the 7th of April, line 5, 12.41.14 seconds.

7 PRESIDING JUDGE: Line five?

8 MR JORDASH: Yes, where I asked the question: "Now, I want to refer

9 you at this stage to your statement and the cover sheet. Perhaps I could

14:53:51 10 shortcut this by saying to you that the front sheet of your statement says

11 you were born in xxx, not xxxx. Is it right you were born in xxxx? Is it

12 that you were born in xxxx?" And then we go on to the question and answer

13 session we have heard about this morning. I would ask for the cover sheet

14 of this witness's statement to be exhibited. I would also invite the

14:54:21 15 Prosecution to consider whether this might be an appropriate witness to be

16 considering calling the investigator to see if this witness did tell the

17 investigator he was born in xxxxx.

18 JUDGE THOMPSON: Is there just one cover sheet for all the

19 statements?

14:54:40 20 MR JORDASH: I think it is a cover sheet which relates to the 2003

21 statement.

22 JUDGE THOMPSON: To the entire --

23 MR JORDASH: I think just the 2003 statement.

24 JUDGE THOMPSON: Yes.

14:54:48 25 MR JORDASH: It is a pro forma which is the same as we have seen in

26 relation to most of the witness's original statements. The number of

27 subheadings -- date of birth and age being two of those subheadings. And

28 in relation to 263, date of birth given is xxxx; age in 2003, 20.

29 JUDGE BOUTET: You have just mentioned that you are reading from that



1 cover sheet.

2 MR JORDASH: Indeed, Your Honour, yes. They are the applications,  
3 Your Honours.

4 JUDGE THOMPSON: Right, Prosecution? Let us see how the  
14:55:55 5 Prosecution responds.

6 MR HARRISON: The first application -- I had thought that all of  
7 those proofing sessions had been canvassed throughout the evidence. If it  
8 had not, the Prosecution sees no reason to oppose that application. I am  
9 not sure that there would be a useful purpose in taking a contrary  
14:56:22 10 position.

11 PRESIDING JUDGE: So you are not opposing one and two.

12 JUDGE THOMPSON: No, one.

13 PRESIDING JUDGE: The first and second --

14 JUDGE THOMPSON: The first application is not opposed.

14:56:34 15 PRESIDING JUDGE: The second is for the cover sheet.

16 JUDGE THOMPSON: Yes, that is the second one. You are not opposing  
17 the first application.

18 MR HARRISON: Yes, that is correct; we are not.

19 JUDGE THOMPSON: Right, the second application.

14:56:55 20 MR HARRISON: In the second one -- this would typically be a matter  
21 that would be dealt with while the witness is giving his evidence. I am  
22 suggesting to the Court that you ought not to agree to this procedure  
23 because the quandary you are left with is this: The witness has given no  
24 evidence whatsoever as to the reliability of the information on the  
14:57:37 25 statement, and to any extent anything can be read into the question, the  
26 answer would be that the information on that cover page is unreliable. It  
27 is the Prosecution's understanding of the law that with respect to any  
28 document, with respect to any piece of evidence, reliability has to be  
29 considered by the Court.



1           PRESIDING JUDGE: Mr Harrison, are you suggesting that even under  
2   89(C) we cannot admit that? The point you are making is unreliability. It  
3   is another issue. We are now on the issue of admissibility, and I am just  
4   putting the question to you.

14:58:56 5           MR HARRISON: I understand the law to be this: If something is  
6   unreliable it cannot be admissible.

7           PRESIDING JUDGE: Well, I will tell you that I made a ruling on a  
8   bail motion and I have received a decision by the Appeals Chamber saying  
9   that -- I rejected two documents which were not signed -- manifestly  
15:00:16 10   unsigned. And this was a document by the Attorney General which the  
11   Attorney General did not appear, the document was not signed and I refused  
12   to admit it as evidence of his submissions as to why bail should not be  
13   granted to Mr Fofana. It is a case which concerned Fofana. There is also  
14   a statement of a surety who came forward -- Miss Fortune -- that she would  
15:00:16 15   stand as a guarantee for Mr Fofana. She was to either file an affidavit or  
16   to give oral evidence. On the day when the matter was adjourned in the  
17   presence of all the parties, this witness did not come -- Miss Fortune did  
18   not come. Instead we were confronted with an unsigned document. I said  
19   that this document was not reliable because it did not contain the  
15:00:17 20   statement and did not engage anybody. The Appeals Chamber has ruled that  
21   that statement unsigned, or those two statements, unsigned as they are, are  
22   admissible, and that even if they are unreliable they are admissible. So,  
23   that is where we are at.

24           MR HARRISON: I think there might be somewhat of a --

15:00:56 25           PRESIDING JUDGE: Have you read that case?

26           MR HARRISON: Yes, I have.

27           PRESIDING JUDGE: Good, okay.

28           MR HARRISON: That CDF case, I think, stands for a proposition  
29   somewhat different from the one I am suggesting the Court is bound to rely



1 upon in order to be consistent with other prevailing jurisprudence. I do  
2 not want to belabour this point because from the Prosecution's point of  
3 view this is not a significant issue. I have made the point that I wish to  
4 make. I do not wish to belabour this, but I think the distinction is this:  
15:01:41 5 In the CDF file, the issue was the information that was before the Court in  
6 the form of those letters could, if the Court be wished to admit it, be  
7 reliable information because there was a full discussion of it -- it was  
8 fully canvassed. In this case it is not fully canvassed; it was not put  
9 before the witness for him to address. That is the distinction.

15:01:41 10 PRESIDING JUDGE: I see no distinction; I really see no distinction.  
11 I think, Mr Harrison, that we can safely, under 89(C), admit those cover  
12 statements for all their worth and see where we move from there. That is  
13 my view on this point, and having regard to the ruling of the Appeals  
14 Chamber in the Fofana bail motion. So, there is a third application,  
15:02:26 15 Mr Harrison. There is a third subsidiary application by Mr Jordash; that  
16 is, to call in the investigator.

17 MR JORDASH: Your Honour, I was simply flagging the issue up. My  
18 learned friend's submissions, in a sense, have supported my flagging that  
19 up, because they seem to be challenging the reliability of their own  
15:02:53 20 investigator to record the details as given to them by this witness. So I  
21 am simply inviting the Prosecution to consider whether particular point  
22 might be best dealt with by their investigator.

23 JUDGE BOUTET: But I come back to your first application, which  
24 clearly is not objected to by the Prosecution. Are you to read into the  
15:03:20 25 record the dates in question?

26 MR JORDASH: If I may.

27 JUDGE BOUTET: That was your application, and it is not objected to.

28 MR JORDASH: The original statement --

29 JUDGE BOUTET: My --





1 MR JORDASH: I beg your pardon, sorry.

2 JUDGE BOUTET: I thought we had made a decision on that, but maybe  
3 not. I am not sure.

4 JUDGE THOMPSON: I just want to ask one short question. Mr Harrison,  
15:03:42 5 is it a correct statement of the law in terms of the practice of  
6 international tribunals and not the national systems -- which of course  
7 have different regimes of rules of admissibility -- but is it a correct  
8 statement of the law, and I will put it this way, that when objections are  
9 raised on grounds of authenticity and reliability an international tribunal  
15:04:18 10 will in fact admit the document under the concept of free evaluations, of  
11 free, flexible admission of documents and then decide what probative value  
12 to give to it? Is that a correct statement of the law in terms of the  
13 practice of international criminal tribunals?

14 MR HARRISON: I think your Your Honour may have used the word  
15:04:50 15 "pribitive" [phon] value.

16 JUDGE THOMPSON: No, probative value. In other words, the practice.  
17 I am not talking about national systems. You and I can agree on most of  
18 the submissions you make if we are talking about national systems,  
19 particularly the common law system. But in terms of international criminal  
15:05:06 20 tribunals, isn't it the practice that you admit these documents? In other  
21 words, you more or less do not allow the strict technical rules of  
22 admissibility to stand in the way of admission of the documents. But then,  
23 when it comes to determining what weight to attach to them, you come back  
24 and say to yourself, "Even though we have freely and flexibly admitted this  
15:05:39 25 document, the tribunal must be very careful as to what weight to attach."  
26 In other words, assume that what may be in the statement may not even be an  
27 accurate portrayal of the facts. Isn't that the position we are called  
28 upon to adopt in international criminal tribunals?

29 MR HARRISON: Are you making a distinction between a document and



1 viva voce evidence?

2 JUDGE THOMPSON: Yes, documented viva voce evidence.

3 MR HARRISON: Are you saying that they are different?

4 JUDGE THOMPSON: Yes.

15:06:12 5 MR HARRISON: That may well be the case. There is a passage in Jones  
6 and Powell --

7 JUDGE THOMPSON: Yes.

8 MR HARRISON: -- which talks about the requirement of the Court to  
9 assess the reliability --

15:06:18 10 JUDGE THOMPSON: Quite right.

11 MR HARRISON: -- as part of a decision of whether it should be  
12 admissible.

13 JUDGE THOMPSON: Good point; I agree with you.

14 MR HARRISON: Before it is admissible.

15:06:29 15 PRESIDING JUDGE: Mr Harrison, that is precisely what I canvassed in  
16 my decision in that ruling application -- the ruling on the bail  
17 application -- that particular argument that admissibility has something to  
18 do with the reliability of the document, of those two documents. A  
19 document that is not signed by the Attorney General, a document that is not  
15:06:52 20 signed by a so-called surety, to me was unreliable and therefore  
21 inadmissible. But, there we are.

22 JUDGE THOMPSON: And what we have is perhaps two lines of authority.  
23 The question is which is the preponderant authority. Is it to go ahead and  
24 admit them and then determine the reliability when you are assessing the  
15:07:14 25 probative value, or is it to do the gatekeeping at the admissibility level?

26 MR HARRISON: If I had five minutes I think I could find a passage.  
27 Let me try to give an example in the general terms what the Prosecution's  
28 concern is in principle -- forget about these applications -- in principle.  
29 The Prosecution's concern is this: A witness comes forward and says, "I



1 have been looking at the stars recently. My experience as an astrologer is  
2 really quite profound. I have been right least once in the last three  
3 years about what's going to happen the following day by looking at the  
4 stars." I want to tender this witness to give some information about  
15:07:56 5 astrology. The reason why that witness ought not to testify is, first of  
6 all, there may be some relevance, but it may be tangential.

7 JUDGE THOMPSON: Yes.

8 MR HARRISON: But it may be relevant because they are going to say,  
9 "This is what is going to happen. You are going go find a piece of  
15:08:12 10 evidence implicating so and so at that house." But the reason why you  
11 would never consider is because it is completely unreliable.

12 JUDGE THOMPSON: That of course would be in the case of expert  
13 evidence, and I do agree.

14 MR HARRISON: It is not even an expert. If they are just coming in  
15:08:27 15 to say, "I've got information that you'll find a piece of evidence at that  
16 house tomorrow based upon my review of the stars", it is the evidence at  
17 the house that is important.

18 JUDGE THOMPSON: But it would be purported expert evidence because  
19 you would want to let us know whether you have studied astrology or  
15:08:42 20 astronomy sufficiently to be able to say that you can reach that  
21 conclusion. So, in that regard I would agree with you that clearly  
22 reliability in the context of expert evidence would be a factor of  
23 admissibility. That would be clearly the case. But I am speaking of  
24 general documents, like under 89(C), the practice seems to be that you  
15:09:10 25 admit them. But then you actually safeguard against the problem that you  
26 are talking about at the probative value level.

27 PRESIDING JUDGE: Mr Harrison, I think we have sufficiently -- yes,  
28 Mr O'Shea.

29 MR O'SHEA: Your Honours, I can briefly assist on this. The



1 authority and principle which is accepted in the international arena is  
2 contained in the case called Musema, which deals with documentary evidence.

3 PRESIDING JUDGE: Musema?

4 JUDGE THOMPSON: Yes, we are familiar with that.

15:09:39 5 MR O'SHEA: As Your Honours will be aware, in that decision for  
6 admissibility the test is this: Is there some indicia of reliability?  
7 Once the Court is satisfied that there is some indicia of reliability then  
8 it can admit the document. The principle that Your Honour has elaborated  
9 then comes into play.

15:10:02 10 JUDGE THOMPSON: Yes, and that is the point, because this is where --

11 INTERPRETER: My Lord, your microphone is not on.

12 JUDGE THOMPSON: -- you consider relevance. And that is why 89C says  
13 "deemed to have probative value", which would be one indicia. It must be  
14 relevant, so your formula would be relevance, reliability and probative  
15:10:26 15 value in that kind of situation.

16 [Trial Chamber confers]

17 PRESIDING JUDGE: Mr Jordash, you have abandoned the third arm of  
18 your application, have you? Yes, you have.

19 MR JORDASH: It wasn't an application as such.

15:11:17 20 PRESIDING JUDGE: A suggestion; something ancillary to the first two  
21 arms.

22 MR JORDASH: A suggestion bordering on a plea.

23 PRESIDING JUDGE: Okay, that is all right.

24 JUDGE THOMPSON: We have consulted and as regards the first  
15:11:32 25 application, we grant it as prayed. And in regard to the second  
26 application, again the Chamber grants that application.

27 MR JORDASH: Thank you very much. If I may just read the dates into  
28 the record for witness TF1-263. First original statement was taken on the  
29 21st and 22nd of 2003; a second statement --





1 JUDGE BOUTET: October or November? You said 21 --

2 MR JORDASH: Of September 2003. A second statement was taken on the  
3 26th of January 2004. The witness then attended the following proofing  
4 sessions: One on the 22nd of September 2004; one on the 23rd of September  
15:12:43 5 2004; one on the 5th of October 2004; one on the 8th of October 2004; one  
6 on the 20th of October 2004; one on the 23rd of October 2004; one on the  
7 28th of October 2004; and a final proofing on the 14th of January 2005.  
8 Thank you.

9 JUDGE BOUTET: You have twice told me about October 2004. Were there  
15:13:25 10 two proofings on 28th of October 2004? You had 28 October and then 23  
11 October 2004, and then 28 October 2004 and last, 14 January 2005.

12 MR JORDASH: I think that was my error.

13 JUDGE BOUTET: There was 23 October 2004, then 28th October 2004 and  
14 then 14 January.

15:13:52 15 MR JORDASH: Yes.

16 JUDGE THOMPSON: Mr Jordash, let us just make sure we are on the same  
17 wavelength. You abandoned the third, was it subsidiary, aspect of your  
18 application?

19 MR JORDASH: It was.

15:14:27 20 JUDGE THOMPSON: And you are no longer pursuing that.

21 MR JORDASH: My position on this, Your Honour, is that the burden is  
22 on the Prosecution. We presented, or we have certainly educed evidence  
23 which suggests that the witness was born in xxxx. The Prosecution can add  
24 to that evidence by calling in their investigator if they so choose. If  
15:14:57 25 they don't --

26 JUDGE THOMPSON: Yes, that is what I am saying. But you are not  
27 letting that stand by way of an application. We, of course, have no  
28 intention of encroaching upon prosecutorial autonomy. All we want to know  
29 is that you are not pursuing that further --



1 MR JORDASH: In relation to this --

2 JUDGE THOMPSON: -- at this stage.

3 MR JORDASH: My position will be that there is a doubt and it must be  
4 in due course exercised in favour of the accused.

15:15:29 5 JUDGE THOMPSON: Well, that is premature, isn't it?

6 MR JORDASH: I am just outline what my submission will be. If the  
7 Prosecution wants to call their investigator --

8 JUDGE THOMPSON: But, clearly, as I see this it is premature. You  
9 cannot expect the Bench to, in terms of the presentation of their case,  
10 dictate to the Prosecution, just as we don't dictate to the Defence. But I  
11 see Mr Harrison wanting to make a point.

12 MR HARRISON: No, it was only when Mr Jordash was completed, I was  
13 just going to remind the Court --

14 JUDGE THOMPSON: Yes.

15:15:55 15 MR HARRISON: -- that I had tried to suggest on Friday afternoon that  
16 the Court on its own may wish to have the translation unit revisit the  
17 particular area where Mr Jordash was carrying on the cross-examination.  
18 There was at that point, when I tried to canvass some sort of unanimity  
19 amongst counsel, a disagreement. It is still the Prosecution's view that  
15:16:16 20 if there is unanimity then it ought to go forward. If there is not  
21 unanimity, the Court may still wish, for the interests of justice, to  
22 determine if there was any error.

23 JUDGE THOMPSON: Yes. Mr Jordash, how do you --

24 MR JORDASH: I am all for speaking to the translator to ascertain  
15:16:42 25 whether there is a confusion. I am all for the Prosecution calling their  
26 investigator to deal with the question as to whether this witness told the  
27 investigator he was born in xxxx.

28 JUDGE THOMPSON: The difficulty for the Bench is that we have ruled  
29 on this and we do not see any reason why we should be involved in it, but



1 without prejudice to whatever the Prosecution and the Defence might want to  
2 work out for the overall interests of justice.

3 MR HARRISON: Your Honour, thank you.

4 PRESIDING JUDGE: This said, I think we could adjourn for a few  
15:17:20 5 minutes to allow the next witness to be called in. Mr Harrison.

6 MR HARRISON: This is one where there will have to be some  
7 rearrangement of the physical space because the video --

8 PRESIDING JUDGE: Yes, in any event -- this is TF --

9 MR HARRISON: It is 141.

15:17:42 10 PRESIDING JUDGE: Yes. We have a ruling on this. Before we start  
11 arranging the hall it will be read by His Honour Justice Bankole Thompson.  
12 The recent ruling will be published in due course.

13 [Ruling]

14 JUDGE THOMPSON: This is the brief ruling on the Defence applications  
15:18:11 15 filed on the 7th of February 2005 and the 9th of February respectively for  
16 leave to appeal the Chamber's ruling of 3rd of February 2005 on the  
17 exclusion of certain statements of witness TF1-141. After a careful  
18 consideration of the said applications and the supporting arguments, the  
19 Chamber is of the opinion that the requirements of Rule 73(B) of the rules  
15:18:45 20 have not been satisfied. The applications are therefore denied and  
21 accordingly dismissed. A written, reasoned decision will be published in  
22 due course.

23 PRESIDING JUDGE: I suppose at this stage the Chamber will rise and  
24 we will resume the session when the technical installations are in place.  
15:20:36 25 The Court will rise, please.

26 [Break taken at 3.19 p.m.]

27 [On resuming at 3.45 p.m.]

28 PRESIDING JUDGE: The Defence bench is completely sealed off.

29 MR CAMMEGH: And I am in charge.



1           PRESIDING JUDGE: Mr Cammegh, you are sealed off.  
2           MR CAMMEGH: I am in charge.  
3           PRESIDING JUDGE: And you need some very good cover.  
4           MR CAMMEGH: Things will be different around here.  
15:48:01 5           PRESIDING JUDGE: Just a minute please. Yes, Miss Parmar.  
6           MR JORDASH: I beg Your Honour's pardon.  
7           PRESIDING JUDGE: Yes. Mr Jordash, I thought you wanted to address  
8           us.  
9           MR JORDASH: Only to apologise for being late.  
15:48:43 10          PRESIDING JUDGE: Okay, that is all right.  
11          MS PARMAR: Good afternoon, Your Honours.  
12          PRESIDING JUDGE: Yes, Miss Parmar, you may proceed.  
13          MS PARMAR: Your Honours, the Prosecution calls witness TF1-141.  
14          This witness is a Muslim and will be testifying --  
15:49:03 15          PRESIDING JUDGE: This will be your 27th witness.  
16          MS PARMAR: That is correct. This witness is a Muslim and will be  
17          testifying in the Krio language.  
18          PRESIDING JUDGE: Miss Sharan Parmar.  
19          MS PARMAR: That is correct, Your Honour.  
15:50:00 20          PRESIDING JUDGE: And the witness will be testifying in Krio.  
21          MS PARMAR: Yes. Might we have the witness appear on the monitor?  
22                               [witness appeared on monitor]  
23                               WITNESS: TF1-141 [Sworn]  
24                               [The witness answered through interpreter]  
15:50:46 25                               [The witness testified via videolink]  
26                               EXAMINED BY MS PARMAR:  
27          Q.       Good afternoon, Mr Witness.  
28          A.       Yes.  
29          Q.       How old are you?





1 A. [No interpretation]  
2 MS PARMAR: Your Honour, is it --  
3 A. I am xxx years old.  
4 Q. Never mind. How do you know your age?  
15:52:10 5 A. I came to know my age the time we got disarmed.  
6 Q. What happened when you disarmed?  
7 A. When we came to disarm, they took us to the DDR camp and later on  
8 xxxxx, which is an organisation, came to separate us from the  
9 xxxx. After that, they tried to get our ages --  
15:52:48 10 INTERPRETER: My Lord, the witness is going very fast. Can he repeat  
11 what he just said?  
12 MS PARMAR:  
13 Q. Witness --  
14 A. Yes.  
15:53:01 15 Q. I am going to ask you to speak slowly so that the interpreter has  
16 time to interpret your answer.  
17 A. Yes.  
18 Q. So I would like you to repeat your answer. What happened during your  
19 disarmament?  
15:53:32 20 A. Well, first, after we had come from the battlefield that is in xxxxx  
21 we came to xxx And later, after we had disarmed, we were taken to the  
22 DDR camp. And later we had people who were working for xxx the xxx,  
23 an organisation looking after xxxxx, so we are separated from the  
24 xxxxx. After that they checked our age. First we were taken to the  
15:54:07 25 hospital and that was done by the nurses. They opened my mouth, they  
26 looked at my teeth, checked my weight.  
27 JUDGE BOUTET: Slow please, slow.  
28 MR O'SHEA: Yes, I lost quite a lot of that. If it could be taken  
29 stage by stage.



1 JUDGE BOUTET: Mr Witness, please go a bit slower so we can  
2 understand and hear what you are saying. Thank you.

3 THE WITNESS: Thank you.

4 JUDGE BOUTET: I had it that you were taken to the DDR camp and later  
15:54:44 5 to the Save the Children organisation. Can you take it from there? What  
6 happened after that?

7 THE WITNESS: Yes. We were with the elderly ones and later this  
8 program called Save the Children came in and took me from among the elderly  
9 ones. After this separation had been done -- that is, the elderly ones  
15:55:15 10 from the younger ones -- later we were taken to the hospital and we were  
11 being checked. They opened our mouths, they looked at our teeth, checked  
12 our weight, our height and they guessed at our age.

13 MS PARMAR: What age were you given at this time?

14 A. It was late 2000 and then I was xxxxxx.

15:56:02 15 Q. Where were you born?

16 A. I was born to xxxxxxxxxxxx.

17 Q. Where did you grow up?

18 A. xxxxxxxx.

19 Q. Did you attend school?

15:56:42 20 A. Yes.

21 Q. What class did you reach in xxxxxxxx?

22 A. xxxxxxxxxxxx.

23 Q. Please tell the Court, what is a civilian?

24 A. Well, to my understanding, a civilian is an innocent person, somebody  
15:57:23 25 who does not carry a gun, he is not a fighter nor was he trained to fight.

26 Q. Where were you living in xxxxxx?

27 A. xxxxxxxxxxxx.

28 PRESIDING JUDGE: 19 --

29 MS PARMAR: xxxx, Your Honour.



1 Q. Who did you live with in xxxxxx?

2 A. I was staying with my parents - my mother and my father - and my  
3 brothers.

4 Q. What happened in xxxxxx in xxxx?

15:58:31 5 A. One morning we woke up, me and my parents. My elder brother had gone  
6 to work because he was a miner. So my mother and my father told me to  
7 chase my big brother and call him back. On my way, when I reached xxx  
8 Roundabout, there I was captured.

9 Q. What happened that morning in xxxxxx to make your parents send  
15:59:33 10 you to find your brother?

11 A. When I went I didn't see my elder brother. On my way back, as I was  
12 coming back, I met some serious shooting. I was not the only person, there  
13 were so many other civilians. So they went to the nearby houses for the  
14 firing to cease. At that time all the area had been captured and they  
16:00:05 15 started bringing us out one after the other and we were put in one place.  
16 Some people started pleading for them not to be killed, but they executed  
17 everybody except for the younger ones who were spared.

18 JUDGE BOUTET: Slowly. Mr Witness, can you repeat that last part  
19 please? There was serious shooting on your the way back. What happened  
16:00:38 20 after that? Please go slowly so we can hear what you say.

21 THE WITNESS: Well, when this exchange had been going on between the  
22 Kamajors and the juntas, who were in between, when the rebels had pushed  
23 the Kamajors, and pushed them from where we were, they captured the place  
24 and they started searching, bringing us out together with seven other  
16:01:12 25 civilians.

26 JUDGE BOUTET: Slow, slow.

27 [HS110405E 4.00 p.m. - SV]

28 MR CAMMEGH: Your Honours, may I make a practical suggestion that my  
29 learned friend just use the expression "stop there" every now and again to



1 break the witness up.

2 JUDGE BOUTET: I know it's not easy, but let's try to do the best.

3 JUDGE THOMPSON: Let's try to do that, Ms Parmar.

4 MS PARMAR: It's difficult with the translation because you end up  
16:01:44 5 interrupting the interpreter, but I will endeavour to do so.

6 Q. Witness, you say that rebels captured the town. What were these  
7 rebels wearing?

8 A. Well, the rebels, some of them wore combat trousers while some of us  
9 wore the clothes. Some wore the cap and some were wearing civilian  
16:02:17 10 clothes.

11 Q. At this time who was the president of Sierra Leone?

12 A. At that time I knew JPK, who is --

13 PRESIDING JUDGE: Hold on. They brought them out -- they flushed  
14 them out of their houses. Earlier on he said there was shooting between  
16:02:55 15 the Kamajors and the RUF, they brought them out of their houses and so on.  
16 He had started narrating an incident before he came to that. Are we  
17 through with that?

18 THE WITNESS: Which one?

19 MS PARMAR: Your Honour, we'll certainly go back.

16:03:14 20 THE WITNESS: Yes, I have finished with that. I've finished with  
21 that.

22 PRESIDING JUDGE: You are not finished, my good friend. We are  
23 recording you and we will tell you when you are finished. Counsel will  
24 tell you when you are finished, don't you worry. You understand? Don't  
16:03:30 25 you worry.

26 MS PARMAR:

27 Q. Witness, the question was directed to myself, not to you. Okay?

28 A. Yeah.

29 MS PARMAR: Your Honour, we'll certainly go back to get into detail





1 and break down what happened when the witness was captured. We just want  
2 to go slowly, piece by piece.

3 PRESIDING JUDGE: Okay.

4 MS PARMAR:

16:04:06 5 Q. Witness, do you remember who was in power in Sierra Leone at this  
6 time?

7 A. Yes. It was JPK whom we also called Johnny Paul Koroma who was in  
8 power.

9 Q. Why had the juntas come and attacked **xxxxx**?

16:04:45 10 A. Well, they were looking for a route to the jungle and they brought  
11 us -- at that time when the Kamajors came, civilians came out and they were  
12 capturing soldiers, beating them up, placing a tie around them. And when  
13 they too came they did the same.

14 Q. When who came?

16:05:15 15 A. When the juntas came.

16 PRESIDING JUDGE: When the juntas came what did they do?

17 THE WITNESS: They killed people with the main idea that they had  
18 voted for the SLPP and they were the ones killing their brothers. We are  
19 talking about the soldiers who had stayed in the town.

16:06:16 20 MS PARMAR:

21 Q. Witness, describe who captured you in the town?

22 A. Well, I was captured by the RUF and I came to know, after they had  
23 taken me to the base --

24 Q. How many people were with you when you were captured?

16:06:44 25 A. I can't tell the exact number. I can't tell the exact number but we  
26 were many.

27 Q. When you were captured with these people where were you taken in  
28 **xxxxxx**?

29 A. Well, in the town, in the centre of the town at **xxxxxx**



1 Q. When you were at xxxx describe what was happening that you saw in  
2 xxxxxxxx?

3 A. First, from where they had captured me, we were in a vehicle. I did  
4 see houses being burnt. There was fire on the houses. I saw corpses in  
16:08:13 5 the street. Yes, these are some of the things I saw. Some were  
6 combatants, some Kamajors, civilians, yeah.

7 Q. You mentioned that civilians were being killed. How were they being  
8 killed?

9 A. They used weapons to kill them, a gun.

16:09:13 10 Q. Who used the guns to kill civilians?

11 A. The juntas.

12 Q. What else was happening to the civilians in xxxxxxxx?

13 A. As we continued to stay in the centre of town we started having  
14 patrol teams which looked out whether enemies were around. They would  
16:10:01 15 capture civilians and bring them. They used some as wives. Some of the  
16 women cooked. They would capture them from the bush and bring them to  
17 town. Sometimes that's where they'd kill them.

18 Q. Please tell us what happened to the women who were captured and  
19 brought to Opera?

16:10:47 20 A. Well, first, when they were captured initially they would make them  
21 cook for the combatants and they took some as their wives. Some of the  
22 civilians were captured to be carrying loads for them, from the bush where  
23 they were captured to bring them to town.

24 Q. Who did you see take women as wives in xxxxxxxx?

16:11:41 25 A. Well, most of the combatants, most especially the elders. Most of  
26 them the commanders.

27 JUDGE BOUTET: Mr Jordash.

28 MR JORDASH: The way this evidence is being adduced, it's impossible  
29 to defend. We have the witness sitting in a vehicle in the middle of a



1 town and then we have these broad-ranging allegations which suggest he was  
2 sitting there for weeks. When was this happening? How does he know? None  
3 of that is clear. And if it is left like this cross-examination has to  
4 start with trying to clarify where he was, when he saw it or how he heard  
16:12:59 5 the information.

6 JUDGE THOMPSON: I hope learned counsel for the Prosecution will take  
7 note of that observation. I have been leaving gaps during my notes here,  
8 considerable gaps, because the evidence is not -- one recognises that this  
9 is a young person testifying, but clearly we need to have some kind of  
16:13:33 10 smooth flow of the evidence.

11 MS PARMAR: Your Honours, once the witness has described what he saw  
12 at that point the Prosecution was going to proceed to establish basis of  
13 knowledge.

14 JUDGE THOMPSON: Thank you.

16:13:53 15 MS PARMAR: Just understand that we have to go slowly with this  
16 witness and let him get accustomed to answering questions. Thank you.

17 Q. Witness, you said that you were taken in a vehicle to **xxxxx**. Where  
18 is **xxxx** in **xxxxxx**?

19 A. **xxxx** is in the centre of **xxxxxx**.

16:14:41 20 Q. Where were you when you saw what was happening in **xxxxx**?

21 A. I was at **xxxxx**. I had already been captured. I was with the men.  
22 In fact, I was with **xxxxx** -- with one of **xxxxx** men. I  
23 was with the men when they captured me.

24 Q. When you were brought to **xxxxx** were you still in the truck that had  
16:15:21 25 taken you there?

26 A. Well, yes. At the beginning of **xxxx** I was in the vehicle. But when  
27 we reached the roundabout all of us alighted and people started taking  
28 houses and we the civilians was placed -- we are put in one place.

29 PRESIDING JUDGE: So is it that at **xxxxx** they alighted from the



1 vehicles? Is that the evidence?

2 MS PARMAR: That's what the witness has just stated, Your Honour.

3 MR HARRISON: I think it was actually "when we got to the roundabout  
4 we all alighted."

16:16:25 5 PRESIDING JUDGE: **xxxxx** is supposed to be at a roundabout. Anyway.

6 MS PARMAR: We can ask the witness, Your Honour, what exactly **xxxxxx**  
7 is.

8 Q. Witness, what is **xxxxxx**?

9 A. Well, **xxxxxx** is one of the main roads that links -- that goes from  
16:16:58 10 **xxxxxxxx** to the middle of town. It is in the centre of town.

11 Alongside **xxxxx** there are other streets. The roundabout that I'm speaking  
12 of is just at the junction. There is a place where posters are posted,  
13 it's at the roundabout.

14 Q. You said that when you stopped at **xxxxx** you were given to a commander  
16:17:45 15 under Morris Kallon. What was the name of that commander?

16 MR TOURAY: Your Honour, we have not heard that evidence.

17 PRESIDING JUDGE: There is no evidence like that.

18 JUDGE THOMPSON: The evidence about a bodyguard.

19 PRESIDING JUDGE: Yes. Said he was one of Morris Kallon's men.

16:18:04 20 JUDGE THOMPSON: Bodyguards.

21 PRESIDING JUDGE: Bodyguards, something like that.

22 MS PARMAR:

23 Q. Witness, what was the name of Morris Kallon's bodyguard?

24 A. His name was Akisto.

16:18:37 25 Q. Describe how you were given to him at **xxxx**?

26 MR TOURAY: Your Honour, there is no evidence that this witness was  
27 given to Akisto. No such evidence.

28 MR CAMMEGH: Your Honour, may I make an observation. We, as I'm sure  
29 Your Honours have, I haven't counted it, but it must be something in the





1 region of about 25 to 30 pages of statement of this witness, and Your  
2 Honours are familiar by virtue of the application for leave to appeal in  
3 relation to subsequent statements of this witness that there are  
4 multifarious witness statements pertaining to this witness. It would  
16:19:34 5 certainly help us, I think, if we knew where we were, which statement was  
6 being referred to. Because I am trying to sift through the pile that I  
7 have in front of me and the way that evidence-in-chief has come out so far  
8 bears little or no resemblance to anything I have seen. I am not  
9 suggesting there is anything fresh coming out at all, but I would like at  
16:19:58 10 least to be able to follow the structure of this examination-in-chief in  
11 order that we can do two things: One, know where we are going and; two,  
12 perform our function properly which is to try to determine, as soon as we  
13 can, whether or not there are any inconsistencies between the oral  
14 testimony and what is written down. We'll all at sea at the moment. I  
16:20:16 15 don't want to put my learned friend under any undue pressure but I think it  
16 is going to be very difficult for us to follow unless we know exactly where  
17 we're going.

18 JUDGE THOMPSON: Learned counsel?

19 MR HARRISON: It's just attempted to be a chronological recitation of  
16:21:06 20 the events.

21 JUDGE THOMPSON: The difficulty of course that we have is that they  
22 don't have any indication so far as to, to put it in Mr Cammegh's own  
23 words, where we are going. But all I could do at this stage is to ask  
24 Mr Cammegh to exercise some patience because if, as you say, you have so  
16:21:06 25 many statements disclosed to you, then of course then one doesn't want to  
26 be putting the Prosecution, as you rightly say, under undue pressure to  
27 want to harmonise statement with oral testimony, and of course that is not  
28 the purpose of this exercise.

29 MR CAMMEGH: Quite.



1 JUDGE THOMPSON: I assume the purpose of this exercise is to give us  
2 the testimony viva voce based on the statement as the foundation.

3 MR CAMMEGH: Yes.

4 JUDGE THOMPSON: So perhaps if we could exercise some patience and  
16:21:36 5 let them pursue it with a lot more meticulousness bearing in mind your  
6 advice.

7 MR CAMMEGH: I repeat, I don't want to put my friend under undue  
8 pressure and I appreciate of course the chronology is the only proper way  
9 to go about things. It's just that where we are now is rather confusing.  
16:21:57 10 But Your Honour is right I'm sure. We'll wait and see.

11 JUDGE THOMPSON: My own humble advice would be that we just listen to  
12 what he's saying for the time being and hoping that Ms Parmar would  
13 navigate us through difficult waters and clarify things for us as we go  
14 along.

16:22:18 15 MR CAMMEGH: Very well.

16 JUDGE BOUTET: May I add as well, just for your governance,  
17 Mr Cammegh, that statements that you referred to although we don't have  
18 them. So the evidence that we take from the witness is whatever the  
19 witness is giving us in court. So we may refer to statements at some given  
16:22:37 20 time. For example, in cross-examination, we do refer to a statement.  
21 Otherwise it's unknown to us.

22 MR CAMMEGH: Your Honour, of course I appreciate that and of course I  
23 also appreciate that the Defence have no right to expect that the evidence  
24 should follow any particular statement.

16:22:54 25 JUDGE BOUTET: No, but it's logic though.

26 MR CAMMEGH: Yes. We have our concerns. Your Honours are aware of  
27 them. We'll wait and see what happens.

28 JUDGE THOMPSON: We share them. Ms Parmar.

29 MR HARRISON: I'll just say that 9731, third paragraph down happens



1 to be, I think, the exact location where we may be at this second. But I  
2 fully suspect that in the next question we may be onto another statement.

3 MR CAMMEGH: Which happens to be the page I thought best fitted what  
4 we're listening to. But I'm content to be patient.

16:23:30 5 JUDGE THOMPSON: Right. I hear it's a virtue.

6 JUDGE BOUTET: But, if I may, there was also an objection from  
7 Mr Touray that there was no evidence that this boy had been given, and I  
8 have to say that according to my recollection there was no such evidence  
9 indeed. So the objection has to be sustained in this respect.

16:23:52 10 MS PARMAR: I'm grateful for that correction, Your Honour. That was  
11 an error on behalf of the Prosecution.

12 JUDGE THOMPSON: Proceed, Ms Parmar.

13 MS PARMAR:

14 Q. Witness, how long did you stay at xxxx in xxxxx?

16:24:27 15 A. We were there for about 14 to 15 days. That's an approximation  
16 because I don't know the actual number of days that we spent there.

17 Q. Who did you see in xxxxx when you were at xxxxx?

18 A. I saw combatants and commanders.

19 Q. What were the names of the commanders you saw?

16:25:25 20 A. Where I was, Morris Kallon.

21 THE INTERPRETER: My Lords, the other name is not very clear to us  
22 here.

23 JUDGE THOMPSON: Ms Parmar, would you help us?

24 MR HARRISON: I think it was the translator who was saying that it  
16:25:46 25 wasn't clear to him and perhaps the witness could be asked to restate it  
26 for the translator's benefit.

27 JUDGE THOMPSON: Yes. Ms Parmar, please ask the witness to do that.

28 MS PARMAR:

29 Q. Witness, the translator did not get you clear when you answered my



1 question. When you gave the names of the commanders you saw please say it  
2 as clearly as you can?

3 A. Where I was, Morris Kallon, Issa Sesay who was also called Povei,  
4 Rambo, Colonel Banya --

16:26:37 5 PRESIDING JUDGE: Wait.

6 THE WITNESS: Superman.

7 PRESIDING JUDGE: Wait. Issa Sesay was also called Pa what?

8 MS PARMAR: Povei, Your Honour.

9 THE WITNESS: Povei.

16:27:03 10 PRESIDING JUDGE: Rambo, Superman, who else?

11 MR HARRISON: I think Colonel Banya was between Rambo and Superman.

12 PRESIDING JUDGE: We won't bother about the order, the names are  
13 there. Colonel Banya.

14 JUDGE THOMPSON: Continue, Ms Parmar.

16:27:45 15 MS PARMAR:

16 Q. Witness, the time that you stayed at xxxxx, during that time what did  
17 you do?

18 A. We were at xxxxx for some time and we later on moved to the xxx  
19 xxxxxxx and it was at that time that I did most of the things like food  
16:28:10 20 finding.

21 Q. We're going to go slowly, Witness. Please tell us where is xxxxx  
22 xxxxx?

23 A. Well, xxxxxx is at the extreme part of xxxxxxx. It's a  
24 short distance that somebody can walk.

16:28:44 25 Q. Is xxxxxxxx a road?

26 A. Well, yes. A road that links xxx to xxxxx and at xxxx, xxxxxx  
27 Road, you use the main road to go to xxxxxxx.

28 Q. So, to clarify, you travelled from xxxxx along the main road to  
29 xxxxxx?





1 A. Yes.

2 Q. How many of you went to **xxxxx**?

3 A. Well, we were many. I wouldn't know the exact number of combatants.

4 We were many.

16:29:56 5 Q. Who took you to **xxxxxxx**?

6 A. The person to whom we had been handed over who was **xxxx**, the

7 artillery commander. He took us there. He was somebody close to

8 Morris Kallon.

9 Q. How did you know Akisto was close to Morris Kallon?

16:30:56 10 A. Well, I knew that when I **xxx** for some time. That's

11 when I knew that.

12 Q. What did the group do on the way to **xxxxxxxxx**?

13 A. Like at **xxxxx**, the whole of **xxxxxxxxx**, all the houses at the

14 back of that area were all on fire. The main streets, all the other areas

16:32:16 15 were on fire because at this time all the civilians had fled into the bush

16 and the surrounding villages.

17 Q. Where is **xxxxxxx**?

18 A. **xxxxxxxxxx** is on the same road with Opera but it has a place called

19 **xxxxx** Street and **xxxxxx**], but there's a street across and at that

16:32:23 20 crossing, from the beginning of that place it is called **xxxx**. **xxxxxxxx**

21 **xxxxx** is at **xxxxxxxx**.

22 Q. Who had set these houses on fire?

23 A. Well, it was the combatants.

24 Q. What happened to you when you reached **xxxxx**?

16:33:26 25 A. Actually nothing happened to me except that I started practising

26 things that I have not been used to doing.

27 Q. What sort of things did you practice?

28 A. They would take us to go on food finding missions, food patrol, and

29 we would keep guard in the night as security. Those are some of the things



1 we did.

2 Q. What did you do on a food finding mission?

3 A. We would go out to look for food. If we would find food with any  
4 civilian we would take the food and ask them to carry the food for us to  
16:35:26 5 town. Sometimes some combatants would even rape women and sometimes they  
6 would capture them and bring them to town. So many -- we did so many other  
7 things.

8 Q. Who did you do food finding missions with?

9 A. We under elderly ones and the SBUs and those of us who had stayed  
16:36:06 10 with them for long periods, those who had been captured for a long time and  
11 some big brothers.

12 Q. What is an SBU?

13 A. Well, SBU means small boy unit.

14 Q. How old were the SBUs?

16:36:18 15 A. Some of them I had the same height with them. There were others  
16 whose age I cannot exactly tell, but they were older than myself.

17 Q. Who sent you on food finding missions?

18 A. Well, where I stayed it was Morris Kallon. The ground that I was  
19 staying, it was Morris Kallon.

16:37:11 20 Q. How did Morris Kallon instruct you to go on food finding missions?

21 A. Well, early in the morning we would have our usual parade called the  
22 muster parade and that's where he would pass on those instructions. He  
23 would appoint who would become the commander for that particular patrol.  
24 He would give his instructions and how we should implement it. He would  
16:37:45 25 advise and we would leave for the food finding mission.

26 Q. Who attended muster parade?

27 A. Well, it was combatants together with few officers who were officers  
28 like lieutenants, captain. Just combatants.

29 Q. How old were the combatants who attended muster parade?



1 A. The ones who were always behind the muster parade were the elderly  
2 ones and we, the SBUs, would be in front.

3 Q. When you were at xxxxx how many SBUs were there?

4 A. Well, there were many SBUs there because almost all the commanders  
16:39:54 5 had SBUs but I can't tell the exact number.

6 Q. Which commanders had SBUs?

7 A. Akisto had, with whom I was. And we had also Forty Barrel who was a  
8 security to Morris Kallon. And Morris Kallon himself, also called Balai  
9 Karim, also had SBUs.

16:40:48 10 Q. How many SBUs did Morris Kallon have?

11 PRESIDING JUDGE: Please wait. Yes.

12 MS PARMAR:

13 Q. How many SBUs did you see with Morris Kallon?

14 A. Well, we were all subordinate to him but I do not exactly know the  
16:41:39 15 exact number that he had.

16 Q. What else besides food finding missions did the SBUs do?

17 A. Well, SBUs served as security and sometimes they would help their  
18 boss man's wife to do some domestic jobs. Sometimes they took active parts  
19 at the battlefield.

16:43:00 20 Q. For whom did the SBUs do security?

21 A. For the commanders in whose care they were.

22 Q. What happened to the civilians who brought the food that you captured  
23 on the food finding missions?

24 A. First, from where we captured them sometimes we would tell you to  
16:44:03 25 carry two bags of rice, seed rice. If you can't carry them we would  
26 execute you and take the rice. Sometimes some men raped the women on the  
27 way and sometimes when we brought them, some men took the women as their  
28 wives and for the men [inaudible] wouldn't reach with them but except for  
29 the smaller boys, the younger boys.



1 MR O'SHEA: I think it got a little bit lost through the microphone,  
2 I think, Your Honour, that last sentence.

3 PRESIDING JUDGE: Yes, really. There was some confusion somewhere.

4 MS PARMAR:

16:44:54 5 Q. Witness, the last part of your answer, can you repeat that please,  
6 and go slowly?

7 A. Well, first, when we captured the civilians, if they were women we  
8 would give you some loot to carry and you walk and you get tired and you  
9 say you are tired and there is nobody to carry the load, we would kill you  
16:45:20 10 there because we wouldn't want you to go and tell other people that I saw  
11 these people do this, this and this. Then some men raped them where we  
12 would capture them. Some men took them as their wives after we have  
13 brought them to town. The women would cook for us, for the men. When we  
14 capture them --

16:45:48 15 PRESIDING JUDGE: Please, let him stop.

16 MS PARMAR: Your Honour, is there a point that you might have missed?  
17 Part of the witness's answer that I should --

18 PRESIDING JUDGE: It's the enumeration, you know. When they would  
19 capture them they would give them loads to carry, if they got tired on the  
16:47:09 20 road they would kill some so that they don't go to report what has happened  
21 to them. Others were taken to wherever, with the loads, converted to  
22 wives, was it?

23 JUDGE THOMPSON: Others were raped and taken with wives.

24 PRESIDING JUDGE: Others were raped.

16:47:31 25 JUDGE THOMPSON: It is quite a catalogue of activities. If we've  
26 missed out anything that is important for the Prosecution, because, like my  
27 brother, I've got the one where they get tired and if they get tired when  
28 they are given loads to carry they will be killed. Others raped and taken  
29 as wives. If there is anything I'm missing out I would like to fill it in





1 here.

2 MS PARMAR: No, Your Honours. I would just like to make sure that  
3 you were on track so we could continue.

4 JUDGE THOMPSON: Thanks.

16:48:08 5 MS PARMAR:

6 Q. Witness, just to clarify, you mentioned the word CDI in your answer.  
7 What is a CDI?

8 A. CDI? I do not understand.

9 Q. Perhaps I got the translation incorrectly then.

16:48:34 10 PRESIDING JUDGE: Is this a DDR or so?

11 MS PARMAR: No, I thought I had heard him use the word CDI and I was  
12 just seeking clarification.

13 JUDGE BOUTET: I thought he was making reference to rice of a sort.

14 MR HARRISON: I think it was seed rice.

16:49:02 15 MS PARMAR:

16 Q. Witness, how long did you stay at xxxxxxxx?

17 A. Well, I can't tell but we spent some time there. I was not sitting  
18 down counting the number of times but we spent some time there.

19 Q. Who was in charge of the group that you stayed with at Guinea  
16:49:36 20 Highway?

21 A. Well, it was Morris Kallon.

22 Q. What did Morris Kallon do that you saw at xxxxxxxx?

23 A. When we went on food finding mission we would bring so many women --  
24 sometimes it was not just him, there were other commanders, but in  
16:50:23 25 particular Morris Kallon. At one time he took one of the women as his  
26 wife.

27 Q. Where was this woman from?

28 A. Well, these women, they were from the surrounding villages. Some  
29 were -- some were captured from in the middle of the forest.



1 Q. How old was this woman?

2 A. Well, she was a young girl but I don't know her age. Anyway, she was  
3 a young girl.

4 PRESIDING JUDGE: Which woman? Which woman is this?

16:52:03 5 THE WITNESS: I'm talking about among the women whom we captured from  
6 our food finding missions, Morris Kallon turned one of them into his wife.  
7 Apart from him there were other commanders who did the same.

8 MS PARMAR:

9 Q. Witness, what happened when you finally left xxxxxxx?

16:53:03 10 A. One morning we heard some serious bombardments. We heard gunshots.  
11 I didn't actually know what was happening. After this firing I heard them  
12 ringing a bell and when they rang that bell it meant that all of us should  
13 assemble at the muster parade grounds and all of us were around, we all  
14 went to the muster parade ground.

16:53:46 15 Q. Just stop there, Mr Witness, to give us time to follow what you're  
16 saying. Okay, please continue?

17 A. When we were assembled I saw somebody standing in front of us who was  
18 Morris Kallon and he said he had got an info that the SLA were robbing the  
19 bank. One bank along Post Office Road in xxxxxx. So he said at the  
16:54:28 20 muster parade, "From here we should go there". So as soon as he finished  
21 addressing all of us we went to the place.

22 Q. What happened when you reached the bank?

23 A. Well, before we could reach the bank Morris Kallon removed his  
24 clothes and he said, "This is born naked". Then he turned. The sooner he  
16:55:15 25 turned everybody had removed his clothes. So we were facing the bank. He  
26 was the first person who shot with a pistol.

27 Q. Stop right there, Witness. You said that Morris Kallon stopped and  
28 said, "Born naked". What did that mean, "born naked"?

29 A. Well, if I could remember, most of the times that I had joined him on



1 the mission, those were the names that he gave to his operations; Operation  
2 Born Naked.

3 Q. What do you do on Operation Born Naked?

4 A. So the sooner he shot, all of us took positions and started shooting  
16:56:43 5 against the SLAs. But our firing was more than theirs. So we were able to  
6 capture the bank that I've been talking about. And when we captured the  
7 bank I saw money in a rubber that was in the line.

8 Q. Stop right there, Mr Witness. You say you saw some money. Where was  
9 this money?

16:58:06 10 A. I saw it in the bank, at the back of the bank.

11 Q. And what happened to this money?

12 A. When we captured the place, we the SBUs who were right on the fence,  
13 Morris Kallon radioed and called and we started searching for the soldiers  
14 one house after the other. We made sure that we assembled all the soldiers  
16:58:51 15 and brought them. They put the money in a bag and because the bags were  
16 coming out of the bank.

17 Q. Witness, try to be clear when you're answering the question. Who  
18 brought the money from the bank?

19 A. It was the combatants. Morris Kallon was there. They took the money  
16:58:51 20 and they -- they took the money and put it in an empty bag of rice. We  
21 were standing outside. So the combatants took it from into the bank and  
22 brought them out and we were taking them.

23 Q. Which group did these combatants belong to?

24 A. Those who carried the money? I do not understand the question.

16:59:36 25 Q. You said that combatants brought the money from the bank to where you  
26 were outside the bank. Which group did they belong to?

27 A. It was the RUF. It was the RUF rebels.

28 Q. After the money was taken from the bank what happened next?

29 A. Well, because it was in the morning, when they took the money we



1 reached the base and we were there till the evening, around 4.00 to 5.00.  
2 PRESIDING JUDGE: Please wait. Please wait.  
3 THE WITNESS: We reached the base at xxxxxx.  
4 MS PARMAR:  
17:01:36 5 Q. Where did you go after you returned to the base?  
6 MR JORDASH: Sorry, just before we move on can we clarify where the  
7 bank was please?  
8 JUDGE THOMPSON: Learned counsel, could you supply that information  
9 from the witness.  
17:04:47 10 [HS110405F 5.00 p.m. - EKD]  
11 JUDGE BOUTET: And I would appreciate too if you could expand a bit,  
12 because the witness when he described the attack on the bank and on the  
13 SLAs, he said something about attacking houses and [inaudible] houses at  
14 the same time. So I'm not sure if it was part of this operation, during,  
17:04:47 15 after. It's a bit mixed up in this respect. So if you could clarify that  
16 I would appreciate it.  
17 MS PARMAR: Certainly, Your Honours.  
18 Q. Witness, describe where the bank was located in xxxxxxx?  
19 A. The bank is at xxxxxxx Road, just opposite xxxxxxxx  
17:04:47 20 [phon].  
21 Q. Is this close to xxxxxxxx?  
22 A. Yes, and a road is from -- comes from xxxxxxx. It is from xxxxxx.  
23 Q. You described firing between the RUF and the SLA at the bank. Where  
24 were the SLA when this was happening?  
17:04:47 25 A. What? They had soldiers who were right round the fence. The place  
26 was fenced. Where I came from that is xxxxxxx [phon], we are  
27 seeing them from where they were. They were inside the fence. So we  
28 started exchanging firing. Even after the firing we met one soldier who  
29 was wearing his uniform, because we had some SLAs amongst us who had joined





1 the RUF. So they identified him as an SLA, which is known also as Sierra  
2 Leone Army. He was having a GPMG, that is a gun. They were right round.  
3 He was in front of the fence.

4 Q. So what did you do when you met this SLA man?

17:04:48 5 A. We met his corpse, he had already died. His corpse was outside. We  
6 took the gun, remove the canon where the bullets were, and we took him and  
7 threw him in the water -- in the river, sorry.

8 Q. So to clarify, was it after the firing with the SLA that the RUF took  
9 the money from the bank?

17:05:04 10 A. I do not understand.

11 Q. What did you do after you finished firing with the SLA?

12 A. As we were shooting we were taking positions; that's called forward.  
13 We shot till we captured the bank. After we had captured the bank, that's  
14 when we saw the body -- the corpse rather. And we saw where some of them  
17:05:51 15 had escaped. We saw their footsteps. It was after we had captured the  
16 bank, that's when we saw the money in a line.

17 Q. Who was this corpse that you had seen?

18 PRESIDING JUDGE: Let's be very clear. This money that was seen, was  
19 the money inside the bank or outside the bank? I mean, let's be very clear  
17:06:18 20 on this point. There were SLA soldiers standing all round the fence,  
21 inside the fence, there was firing, then they saw the money. Where was  
22 this money? The location of the money, was it inside the bank or outside  
23 the bank? We need this connection to know at what stage they came and took  
24 possession of the money.

17:06:53 25 MS PARMAR:

26 Q. Witness, you mentioned the capture of the bank. What did the RUF do  
27 after you captured the bank?

28 A. Well, this money that I'm talking about, it was inside the bank. It  
29 was in a line just like passing the bucket from one person to the other.



1 So that's how the money were. So that's how we met the rubbers standing  
2 from inside the bank up to the entrance, because it's a bank with a fence  
3 right round. They were in the fence. When we entered the bank, that's how  
4 we met the money, from inside the bank up to the entrance coming outside.

17:07:55 5 Q. Did you say "robbers" or "rubbers"?

6 A. A kind of rubber bucket used for drinking.

7 Q. And what were these rubbers being used for?

8 A. They were new. It's like they had broken one of the stores and they  
9 had taken them for that operation. So the monies were in them and they  
17:08:29 10 were all standing in a line.

11 Q. Who had taken the rubbers to use for the operation?

12 A. Well, I want to believe it was the SLAs because that's where we met  
13 the rubbers.

14 Q. And what was done with the money that you found in the bank?

17:09:02 15 A. Morris Kallon sent a radio message and a couple times in the town  
16 we're summoned, all of them were summoned, and they came and the monies  
17 were placed in an empty bag of rice and they were taken through the gate,  
18 the main entrance into the bank. They took it from inside the bank,  
19 because we were small boys and we couldn't take them. They took the monies  
17:09:32 20 to the xxxxxx on the highway.

21 MR JORDASH: I'm sorry to leap to my feet and disturb my learned  
22 friend, but Mr Sesay would like to use the bathroom.

23 PRESIDING JUDGE: We'll rise and as soon as he is back - and I am  
24 sure many more would like to - you'll let us know, please. Court will  
17:10:29 25 rise.

26 [Break taken at 5.08 p.m.]

27 [Upon resuming at 5.15 p.m.]

28 MR HARRISON: If the Court will allow me I will undertake the task of  
29 looking for counsel for the second and third accused so we don't lose any



1 further time.

2 JUDGE THOMPSON: You have our leave to do that.

3 PRESIDING JUDGE: What did he say?

4 MR HARRISON: Do I have the leave to come back at some point?

17:20:03 5 JUDGE THOMPSON: You have our leave to determine that.

6 PRESIDING JUDGE: Go ahead.

7 JUDGE BOUTET: Welcome back.

8 PRESIDING JUDGE: Welcome back, Mr O'Shea.

9 MR O'SHEA: I apologise, Your Honour.

17:20:17 10 JUDGE THOMPSON: Apology accepted.

11 PRESIDING JUDGE: Mr Cammegh is beaming in smiles that somebody has

12 committed some mischief.

13 JUDGE BOUTET: Because he was in control a few moments ago, so I

14 guess he lost it.

17:20:46 15 JUDGE THOMPSON: And we accept your apologies in anticipation.

16 Continue, Ms Parmar.

17 MS PARMAR:

18 Q. Mr Witness, before the break you were describing the bank robbery in

19 xxxxxxx. You mentioned earlier that at this time --

17:21:29 20 PRESIDING JUDGE: Now, now, listen. I got it we stopped at the point

21 where it is alleged that Morris Kallon summoned combatants to come and take

22 the money, you know, which had been put into bags --

23 JUDGE THOMPSON: Into rice bags, I think.

24 PRESIDING JUDGE: Into rice bags, yes, to the xxxxxxxx.

17:21:57 25 Was this done?

26 MS PARMAR:

27 Q. Can you confirm the statement that was just made, Witness? Witness,

28 can you hear the translation?

29 A. Yes. Okay, we are talking about this money which was in a rice bag



1 and which was in a rubber bucket. And they brought an empty bag of rice  
2 and they put the money in these bags and they transferred the money to xxx  
3 xxxxxxxx.  
4 Q. Before we leave the site of the bank, you mentioned that houses were  
17:23:08 5 being searched at this time. Can you explain who searched these houses?  
6 A. The houses were being searched for combatants to come and help carry  
7 the money, because the SBUs, that is we the SBUs, wouldn't have been able  
8 to carry the monies.  
9 Q. So who carried the money to xxxxxxxx?  
17:24:04 10 A. The combatants carry the money.  
11 PRESIDING JUDGE: Which combatants? Which combatants?  
12 THE WITNESS: It's the RUF combatants that I'm talking about.  
13 PRESIDING JUDGE: What were they doing in houses that they were  
14 searching? Searching for combatants in --  
17:24:51 15 THE WITNESS: Well --  
16 PRESIDING JUDGE: At the base or by the bank?  
17 JUDGE THOMPSON: Did it come out that they searched for combatants,  
18 they searched the houses for combatants to come and help.  
19 MS PARMAR: Yes, Your Honour.  
17:25:11 20 JUDGE THOMPSON: To help carry the money because the small boys unit  
21 could not do that.  
22 MS PARMAR: That is correct.  
23 PRESIDING JUDGE: Where were the houses? To follow my colleagues's  
24 question where were the houses?  
17:25:22 25 MS PARMAR: Perhaps it would be appropriate to ask the witness and  
26 why.  
27 PRESIDING JUDGE: Please ask him.  
28 MS PARMAR: Why were you searching for combatants in the houses.  
29 PRESIDING JUDGE: Yes.





1 MS PARMAR:

2 Q. Witness, why were you searching for RUF combatants in houses?

3 A. I'm talking about the **xxxxx**. It was through the communication  
4 set that Morris Kallon spoke to the signals man who took the message to the  
17:25:59 5 MP commander and they were searching for combatants who would come and help  
6 to take the money from the **xxxx** to **xxxxxxxxx**.

7 PRESIDING JUDGE: So the search was at the **xxxxx**, at the **xxxxx**  
8 **xxxxxxxxx**?

9 THE WITNESS: Yes.

17:26:40 10 MS PARMAR:

11 Q. You mentioned that you saw Morris Kallon use a communications set?

12 A. Yes.

13 Q. How often did you see Morris Kallon use a communication set?

14 A. Well, usually at the muster parade they would read the message which  
17:27:06 15 had come from the Master Sam Bockarie --

16 THE INTERPRETER: My Lords, the witness is very fast. I didn't get  
17 the last bit of his answer.

18 JUDGE THOMPSON: I think at this stage perhaps you need to repeat  
19 your question because the answer is coming out as something different from  
17:27:24 20 what you wanted.

21 MS PARMAR: Yes.

22 Q. Witness, I am going to remind you to speak slowly, that there are  
23 interpreters who have to translate your evidence and that the people in the  
24 Court are also following what you are saying. So please speak slowly.

17:27:54 25 A. Okay.

26 Q. I asked you how often did you see Morris Kallon use his communication  
27 set? Can you answer that question slowly, please?

28 A. Yes. Morris Kallon himself didn't have a communication set that he  
29 carried. He had a signaller. For instance, when we were going on a



1 mission, he would carry this on his back. So when he wanted to pass this  
2 message he stood by the signaller, held this communication, because it was  
3 the same thing like a telephone. He held it and passed the message. I saw  
4 him passing the message but I didn't hear the message. It was only when I  
17:28:53 5 saw combatants coming and they entered into the bank and I saw them coming  
6 out with the money in the bags.

7 PRESIDING JUDGE: We have got your story, Mr Witness, up to that  
8 point. Signaller sent a message and they came, collected the money and  
9 went back to the base at the Guinea Highway.

17:29:22 10 The question is: How many times did you see Morris Kallon using the  
11 radio set? Is that the communication set? How many times? How often?  
12 How many times? Counsel used "how often" and I'm asking you now how  
13 many --

14 THE WITNESS: Once, that very day. That's when I saw him use that  
17:29:51 15 communication set. Then apart from that day he used to go to the signaller  
16 office, but I wouldn't know because I did not see him using the  
17 communication set. But I do see him going towards the signalling office.  
18 But that very day I set eyes on him sending the message.

19 MS PARMAR:

17:30:35 20 Q. What happened to the money that was taken to xxxxxxx?

21 A. When we arrive with the money, then in the evening, around 5.00 going  
22 to 6.00, we heard bells ringing. That means we should assemble together  
23 for the muster parade ground. So all of us went there and fall in. Then  
24 Morris Kallon said that he has got a message from master. He was talking  
17:31:04 25 about Sam Bockarie.

26 Q. What was the message from Sam Bockarie?

27 A. The message was that we should take the money and all other  
28 properties belonging to government, to take it down to xxxxx in the  
29 xxxxxxxxxxxx.



1 Q. What was xxxxxxxx?

2 A. Well, xxxxxx we used to call xxxx. xxxxxxxx itself as  
3 xxxxxx. The whole of xxxxxxxx District.

4 PRESIDING JUDGE: The whole of xxxxxxxx District is what they call  
17:32:44 5 Burkina? But you said xxxxxxxx in the xxxxxxx District.

6 THE WITNESS: Yes.

7 PRESIDING JUDGE: It means xxxx referred to a particular location,  
8 the xxxxxxx District. Let him explain it to us again, please.

9 THE WITNESS: Well, the two main headquarters, like xxxx and  
17:33:07 10 xxxxxx Town itself, we call there xxxxxx. But as long as you're in  
11 xxxxxx District you're in xxxx.

12 MS PARMAR:

13 Q. What happened after this message --

14 PRESIDING JUDGE: So xxxx is just an invented word or so? It is  
17:33:52 15 not a real town, is it?

16 MS PARMAR: No, Your Honour, but I can clarify that with the witness.

17 PRESIDING JUDGE: Please.

18 MS PARMAR:

19 Q. Witness, who used the word xxxxxx?

17:34:03 20 A. Well, from the time I was captured, that was the way they used to  
21 refer to the town where they took me, the whole of xxxxxxx District. It  
22 was used in the communication set. That was used to disguise the  
23 particular town they're talking about. Like if you're talking about  
24 xxxxxxx and you call there xxxx, somebody would get some doubt.

17:34:35 25 JUDGE BOUTET: So was it code for communications?

26 THE WITNESS: Yes. They used it. That was what they used in the  
27 communication.

28 MR CAMMEGH: Forgive me. I'm still a little unclear as to whether  
29 this testimony amounts to xxxxxx representing Kailahun District as a



1 district or Burkina representing the town of xxxx. We heard just now the  
2 town of xxxx being mentioned. If my learned friend turns to page 9731 and  
3 just looks at the final paragraph three lines from the bottom -- and this I  
4 am reducing now simply to help things along, so there is no confusion -- a  
17:35:33 5 reference to "They were sent to xxxx in xxxx District". If that  
6 helps then maybe we can clear this up properly.

7 JUDGE THOMPSON: Do you take the point?

8 MS PARMAR: Yes, actually the Prosecution was moving to that very  
9 point that my learned friend has referenced me to.

17:35:55 10 JUDGE THOMPSON: Okay.

11 MS PARMAR: But I would like to just clarify with the witness, before  
12 we move on, the fact that he gave what appears to be two answers to this  
13 question.

14 Q. Witness, you've said that xxxx referred to headquarters of xxxxx  
17:36:15 15 and xxxxx Town, but you've also said that xxxxx referred to all of  
16 xxxxxx District. Can you please clarify whether xxxxx was used for  
17 both of these things or for just xxxxx District?

18 A. Well, you see, the whole of xxxx District. Like somebody in xxx  
19 now, you can say he's in xxx. The first two towns you think about is  
17:37:00 20 xxxx and xxxxx Town because they were the two main headquarters in  
21 xxxx. But the whole of xxxxx District, wherever you find a rebel,  
22 was xxxx.

23 JUDGE THOMPSON: That does not dispose of Mr Cammegh's problem.  
24 Mr Cammegh referred to some reference in a statement and I think the  
17:37:24 25 evidence is also that xxxx is a code word. So I think there is still  
26 some clarification to be done from, my own perspective, if that answer is  
27 to stand as the correct answer.

28 MS PARMAR: First, Your Honours, it appears that xxxxx seems to  
29 have been used for both. However, the Prosecution is going to move on and





1 cover the ground that was referenced by my learned friend.

2 JUDGE THOMPSON: Very well.

3 MR CAMMEGH: Did I just hear Bo? I thought it was **xxxx**.

4 MS PARMAR: No, I said "both" in the sense of referring to these two  
17:38:06 5 base headquarters and also the district. Perhaps the word was used  
6 interchangeably in reference to either meaning. That will have to be  
7 deduced from the record by Your Honours.

8 Q. Witness, what happened at Guinea Highway after this message was  
9 received?

17:38:30 10 A. Well, everybody started cleaning his gun, people started doing  
11 their -- wash their clothes to pack. Everybody started doing this to leave  
12 **xxxxx** that particular night.

13 Q. Who was with you when you left **xxxxx**?

14 A. We had combatants, RUF combatants. Then we had civilians who were  
17:39:20 15 with us who were carrying our loads. Civilians, women and their children.

16 Q. What happened to the women that travelled with you?

17 A. Well, some were unable to go on the journey because the roads were a  
18 distance, because they had to walk on their foot.

19 THE INTERPRETER: Your Honours, the witness is going too fast.

17:40:19 20 PRESIDING JUDGE: He's really talking too fast. You can see his  
21 mouth running. His mouth is really running.

22 MS PARMAR:

23 Q. Witness, I have to remind you every time you answer a question stop  
24 and remember that you have to talk slowly. So take a deep breath before  
17:40:45 25 you answer the question and go slowly. Okay?

26 A. Yes.

27 Q. Can you tell the Court again what happened to the women who travelled  
28 with you from **xxxxxx**?

29 A. Well, some as we were going, because the journey was quite some



1 distance, some were unable to walk. After we'd walked for a while, for two  
2 days, some started crying out of pain which they felt on their feet. Some  
3 had swollen feet because of the long journey. So we wouldn't leave them  
4 behind, we'd execute them there. And those who carried loads, because the  
17:41:52 5 loads were heavy and couldn't go ahead with their loads and were crying  
6 that they were tired, we would execute them there as well. Most of them,  
7 yes, things like that were happening.

8 Q. How many women did you see executed while you were travelling?

9 A. I can't tell the exact number but I did see women being killed.

17:42:48 10 Q. Can you tell us where you saw women being killed?

11 A. Well, yes. The first place was xxxxx. When we reached, as we're  
12 about to reach the town, then a jet appeared. But, you know, when a jet is  
13 hovering, the combatants do know how to go into hiding when a jet appears,  
14 but the civilians were in disarray. So when they said stay where you were  
17:43:43 15 and you couldn't stay there, you'll be executed. After we had left  
16 xxxxxxx, that's where the journey became tedious. There were hills  
17 and along that place from xxxxxx, towards a town called Sxxxxx,  
18 in between, they killed so many women there because of the hills and the  
19 long distance.

17:44:15 20 PRESIDING JUDGE: What town is this? xxxxx?

21 THE WITNESS: I am talking about xxxx. xxxx to xxxxx.

22 MS PARMAR:

23 Q. Which district --

24 PRESIDING JUDGE: How many women?

17:44:42 25 THE WITNESS: I can't tell the exact number.

26 PRESIDING JUDGE: But you gave a number now, didn't you? He didn't?  
27 I thought I heard seven.

28 JUDGE BOUTET: Several.

29 PRESIDING JUDGE: I see, several. Okay.



1 MS PARMAR:

2 Q. Which district is xxxxx?

3 A. I want to believe xxxx is in xxxx District. I think xxxxx and  
4 xxxx are in that particular town, the xxxxx.

17:45:32 5 Q. And what district is the second town you mentioned?

6 A. As for -- I don't know which district xxxxx is because it is far  
7 away from xxxx.

8 Q. Where else did you see women being executed?

9 A. I am not often present when they killed some of them, because we are  
17:46:28 10 many. As we walk along you will see corpses along the hillsides and most  
11 of them were women and children who are so easy to give up.

12 Q. Other than for carrying loads why were women travelling with you?

13 A. Well, I feel that's the way the commanders look at it. I do not  
14 know. That's what I saw. They carried loads and they would cook for us  
17:47:38 15 wherever we want to stay, the women. I think those are the things I saw.

16 Q. Where would the women sleep at night?

17 A. Since women were captured they were with some men, they had been  
18 married to them. So when we reach any town if there are houses in that  
19 town, the women would -- such a woman would sleep with her husband. So if  
17:48:17 20 you do not have any husband all of us would sleep outside. Even if there  
21 is place inside we would sleep outside till the morning.

22 Q. Where did you finally stop during your travels?

23 A. At xxxx. That was the first town when you reach xxxxx District.  
24 Just after we crossed Moa, the first town that we reached was xxxxx.

17:49:04 25 Q. You mentioned that while you were travelling to xxxx civilians were  
26 carrying loads. What were these loads?

27 A. First, they were government property, one of which is the bag of rice  
28 that had money in it. Another is a satellite, video, household property  
29 which we had looted from xxxxxx. That's what they were carrying. Some



1 carried rice. Different things. Shoes, shoes that had been looted from a  
2 shop. So many things.

3 Q. How did you know that these properties had been looted from xxxxx  
4 xxx?

17:50:35 5 A. I myself took part in it, because we are going to houses, breaking  
6 those in. And if we are inside a house and did not find anything we'll set  
7 fire to that house. So that I came to know that that's true because I  
8 myself took part in it.

9 Q. When was this looting taking place?

17:51:33 10 A. From the first day that xxxxx was captured, yes. From that  
11 moment -- the sooner xxxxxx was captured, from that very moment, more  
12 than 72 hours, it was all in looting, burning houses, finding food. That  
13 was what was going on in xxxx.

14 Q. Who gave you the order to loot in xxxxx?

17:52:15 15 MR JORDASH: Was there an order to?  
16 PRESIDING JUDGE: Was there an order?  
17 JUDGE THOMPSON: Sustained.  
18 PRESIDING JUDGE: Sustained.  
19 MS PARMAR:

17:52:27 20 Q. Why were you looting in xxxxx?

21 A. It was a pay yourself, cause that's how they called it. They said we  
22 should pay ourselves.

23 Q. Who said you should pay yourself?

24 A. I want to believe that it came from the higher authorities, because  
17:53:00 25 that was their common password amount -- that's the common password among  
26 the combatants. The sooner an operation starts, that's the word we use:  
27 Pay yourself, pay yourself. I know it was the commanders.

28 Q. Which commanders used the code word "pay yourself"?

29 A. Well, any commander who was in xxxxx at that time. Because if





1 you send somebody to go and fight and you do not pay him, I wonder. That  
2 was the password, the late commander at that time. For instance, where I  
3 was the commanders who were around at that time - like xxxx,  
4 Forty Barrel - yes, that's what they were telling us. And when we went  
17:54:16 5 looting, when we came back, they had a way of doing it. They said this is  
6 government property, that is -- those who were valuable, they'll take it  
7 from amongst the others.

8 JUDGE BOUTET: So when they said government property, it meant that  
9 you could not keep it yourself?

17:54:59 10 THE WITNESS: No, no. Yes.

11 JUDGE BOUTET: So everything you looted that was of value became  
12 government property?

13 THE WITNESS: Yes.

14 JUDGE BOUTET: And that government property is what you had to carry  
17:55:20 15 along when you moved out of xxxx?

16 THE WITNESS: Yes, that's what the civilians carried.

17 MS PARMAR:

18 Q. How long did you loot in xxxx?

19 A. Well, if I could remember, from the time I was in xxxxx until  
17:56:02 20 the time we left there, we were just looting. Those food finding missions  
21 were just, you know, offhand. All was part of looting, kind of.

22 PRESIDING JUDGE: We have five minutes to go, so maybe you would be  
23 thinking of rounding up this episode and to let us know when we should stop  
24 for the day. Certainly you are not winding up your examination-in-chief  
17:56:57 25 today.

26 MS PARMAR: No, Your Honour.

27 PRESIDING JUDGE: Certainly not. You let us know. We have five  
28 minutes to go.

29 MS PARMAR: Perhaps how the Prosecution will proceed is I will just



1 ask one more question about looting in xxxxxx and we can pick up from  
2 the journey.

3 PRESIDING JUDGE: Would you have been done with looting xxxxxx?  
4 We will not come back to it tomorrow morning?

17:57:19 5 MS PARMAR: No, Your Honours, I just have one more question.

6 PRESIDING JUDGE: Right okay.

7 JUDGE THOMPSON: Before you ask that, it was the last question that  
8 there was incessant looting in xxxxx? He said from the time we went  
9 there it was just looting, it was looting. Was that what he was saying?

17:57:37 10 MS PARMAR: Yes, it appears that what he was saying there was looting  
11 continuously.

12 JUDGE THOMPSON: Yes, thank you.

13 MS PARMAR: I will just ask one question to clarify that and then we  
14 can finish for the day.

17:57:49 15 Q. Witness, can you tell the Court over what period of time - was it  
16 days or weeks - that this looting took place?

17 A. Well, for xxxx, I want to believe that we did it for less than  
18 72 hours. But for the surrounding villages, when the civilians were  
19 leaving the town, going to the other villages, they would take everything  
17:58:30 20 along - rice, salt, Maggi, everything, all those little things. When we  
21 had looted xxxxxx to completion then we started going for the  
22 surrounding villages. When finished with the surrounding villages and we  
23 started going to the bushes where they had gone, in the forest, right into  
24 the forest.

17:58:51 25 PRESIDING JUDGE: You mean they looted in xxxxxx for only 72  
26 hours? Let me get that clear. Or for less than 72 hours?

27 THE WITNESS: Well, I'm talking about less than three days, day and  
28 night. From morning, since the time xxxxxx was captured, up to three  
29 days.



1 JUDGE BOUTET: And after three days you moved to the surrounding  
2 villages to do the looting in those villages?

3 THE WITNESS: Yes.

4 JUDGE BOUTET: And after these villages had been done, then you moved  
17:59:31 5 to the bush -- you pursued the civilians in the bush and looted their  
6 property in the bush?

7 THE WITNESS: Yes.

8 JUDGE BOUTET: How long all of this in xxxxxx, in the villages  
9 and in the bush?

17:59:53 10 THE WITNESS: Well, I can't tell because I was not keeping any  
11 account about days or weeks.

12 JUDGE BOUTET: Approximately. You said you were about 72 hours in  
13 xxxx, so was it about the same time in the villages?

14 THE WITNESS: Well, for some villages that we went to we finished  
18:00:23 15 looting at those villages for less than 30 minutes, except that we have to  
16 find civilians to carry the load for us. Because some villages were small.  
17 But for the other big villages, you know, it is difficult to make, but to  
18 unmake is so easy. So we unmake so easily within a very short time.

19 JUDGE BOUTET: Thank you, Mr Witness, thank you.

18:00:52 20 PRESIDING JUDGE: That's very philosophical.

21 MS PARMAR: Your Honours, I just want to clarify one more point  
22 around the looting.

23 JUDGE BOUTET: I know you had said only one question but I asked a  
24 few questions.

18:01:10 25 MS PARMAR:

26 Q. Witness, while you were staying in xxxxxx and the looting was  
27 being committed, who at that time was in power in Sierra Leone?

28 A. Well, it was JPK. By that time he had announced that he was almost  
29 going to the jungle with us.



1 MS PARMAR: Your Honours, that's a good time for a break in the  
2 examination-in-chief and we can continue tomorrow.

3 JUDGE THOMPSON: Mr Jordash.

4 MR JORDASH: Just to go through if we could the formality of  
18:02:58 5 exhibiting the front sheet to 263. I applied to exhibit it, Your Honours  
6 agreed and then it wasn't done.

7 MR HARRISON: It's far too late now and the Prosecution adamantly  
8 take the position that this cannot be taking place. This would be an  
9 outrage against justice. But other than that they'll consent.

18:03:26 10 JUDGE THOMPSON: We can attend to that tomorrow.

11 PRESIDING JUDGE: Well, learned counsel, we will rise for the day and  
12 resume the session tomorrow at 9.30. The Court will rise, please.

13 [Whereupon the hearing adjourned at 6.00 p.m., to be reconvened on Tuesday,  
14 the 12th day of April 2005, at 9.30 a.m.]

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EXHIBITS:

Exhibit No. 22	25
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WITNESSES FOR THE PROSECUTION:

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