

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

TUESDAY, 19 APRIL 2005
9.37 A.M.
TRIAL

TRIAL CHAMBER I

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 Ms Boi-Tia Stevens Ms Sharan Parmar Mr Mark Wallbridge(Case Manager)
For the Principal Defender:	No appearances
For the accused Issa Sesay:	Mr Wayne Jordash 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

1 Tuesday, 19 April 2005
2 [Open session]
3 [The accused Kallon, Sesay entered court]
4 [The accused Gbao not present]
09:44:26 5 [On commencing at 9.37 a.m.]
6 PRESIDING JUDGE: Learned counsel, good morning. We're
7 resuming the session and, Mr Touray, you may proceed, please.
8 MR TOURAY: Thank, Your Honour.
9 PRESIDING JUDGE: We don't have the witness on the monitors
09:44:26 10 yet.
11 WITNESS: TF1-141 [Continued]
12 [Witness testified via videolink]
13 [Witness answered through interpreter]
14 CROSS-EXAMINED BY MR TOURAY: [Continued]
09:44:27 15 Q. Good morning, Mr Witness.
16 A. Good morning.
17 Q. Now, you remember yesterday we were talking about the
18 recapture of Kono, Koidu exactly. You said there were three
19 groups: the advance, the bulldoze, the rear?
09:44:27 20 A. Yes.
21 Q. And you said there was an ambush team set up between Kono
22 and Masingbi. They cut off the supply line.
23 A. Yes.
24 Q. And then you said after the recapture there was a
09:44:27 25 reinforcement team to from Koidu to meet up ambush team at Gold
26 Town?
27 A. Yes.
28 Q. That is correct; not so?
29 A. Yes, yes.

1 Q. Now, in which group was Morris Kallon?

2 A. I have told you earlier on that I did not know.

3 Q. But you knew that he took part in the operation?

4 A. Yes.

09:44:36 5 Q. The only thing you don't know is the part he played.

6 A. I did not see him.

7 Q. I put it to you that he was, in fact, leading the ambush

8 team. Is that not so?

9 A. Well, it might be so, yes, because we had divisions and if

09:45:41 10 he were a part to the advance team, it might be so, yes.

11 Q. And TUmbody is not in that direction?

12 A. No.

13 Q. And that ambush team and the reinforcement team proceeded

14 to Makeni.

09:47:00 15 A. Yes.

16 PRESIDING JUDGE: That ambush team?

17 MR TOURAY: And the reinforcement team proceeded to Makeni.

18 JUDGE BOUTET: From Gold Town.

19 MR TOURAY: From Gold Town, yes.

09:47:48 20 Q. Okay, so let's talk about this pregnant woman, having laid

21 that foundation. Now, you narrated an incident regarding a

22 pregnant woman in Tumbodu.

23 A. Yes.

24 Q. You said you were amongst a group of combatants?

09:49:37 25 A. Yes.

26 Q. Do you remember any one of them?

27 A. Yes.

28 Q. How many of them do you remember?

29 A. Many.

1 Q. [Previous interpretation continues] --

2 A. Well, most of them I cannot recall their names now, but
3 some I can recall their names.

4 Q. You said there was a bet between groups of those
09:50:49 5 combatants; not so?

6 A. Yes, yes.

7 Q. One said the woman was carrying a boy and the other said a
8 girl?

9 A. Yes.

09:51:09 10 Q. Who was the first to make the bet?

11 A. I said it was amongst the combatants.

12 Q. [Previous interpretation continues] -- which one of them?

13 A. It was between the combatants. I cannot remember his name.
14 If I had known his name, I would have called that name first.

09:51:38 15 PRESIDING JUDGE: He said he could identify the names of
16 some of the combatants who were there. You've shifted that now
17 and you are asking for the bet. He says he cannot remember the
18 names. If he remembers, he will tell you.

19 MR TOURAY: Your Honours, we're satisfied with that, sir.

09:51:55 20 PRESIDING JUDGE: Good.

21 MR TOURAY:

22 Q. And you also don't remember the name of the one that made
23 the opposing bet?

24 A. I cannot recall.

09:54:23 25 Q. Did you say you were going on a food finding mission?

26 A. This was a patrol team, but it is the same. It is just the
27 same.

28 Q. Do you remember a name of the combatant who first stabbed
29 the pregnant woman?

1 A. I cannot recall.

2 PRESIDING JUDGE: When you say "remembering," learned
3 counsel, you mean the name?

4 MR TOURAY: The name, yes.

09:55:37 5 PRESIDING JUDGE: The name itself.

6 MR TOURAY:

7 Q. Do you also remember the name of the second combatant who
8 delivered -- who made the other stab?

9 A. I cannot recall.

09:56:43 10 Q. How large was this group of combatants you were with?

11 A. We were many.

12 Q. Can you give an estimate of the size?

13 A. We were many. We were many.

14 Q. Do you know the number? Can you even guess how many?

09:57:11 15 A. We were many.

16 MR TOURAY: I don't think we're even getting the
17 translation -- sorry.

18 Q. Were they more older than you were?

19 THE INTERPRETER: Would the attorney pose the question
09:57:52 20 again. The interpret cannot get it clearly.

21 MR TOURAY:

22 Q. Were they more older than you were?

23 A. Most of them were elderly people.

24 JUDGE BOUTET: Did he say elderly people or older?

09:58:25 25 PRESIDING JUDGE: He said bigger ones, not elderly. Most
26 of them are older ones. It doesn't mean elderly.

27 JUDGE THOMPSON: Yes, it is not elderly.

28 JUDGE BOUTET: Yes, to be elderly is --

29 THE INTERPRETER: The interpreter is sorry. For the

1 record, it should be older people -- older people. Yes, older
2 ones.

3 MR TOURAY:

4 Q. That was my question. Now, were you out of Tumbodu town
09:59:13 5 when -- I mean, the incident took place -- sorry, let me rephrase
6 it. Were you in Tumbodu Town itself when this incident took
7 place, or was it in Tumbodu Town itself where the incident took
8 place? Was it in Tumbodu Town itself where this incident took
9 place?

10:04:58 10 A. Right inside the town.

11 Q. Of Tumbodu. Now, you said there was a commander who came
12 and removed the guts of this pregnant woman?

13 A. That was the last part that came in where Morris Kallon
14 was.

10:04:58 15 Q. [Previous interpretation continues] -- all right, so I'm
16 just asking. You said it was a commander, one of the commanders,
17 not so, that removed the guts?

18 A. Yes.

19 Q. Do you know his name?

10:04:59 20 A. I was not familiar with most of their names.

21 Q. And also their ranks, perhaps?

22 A. All I know -- all that I know, they were senior officers,
23 especially the ones at the back.

24 Q. Now, yesterday I asked you whether you knew that there was
10:04:59 25 an RUF camp in Tumbodu even before the recapture of Koidu Town.
26 And you said -- I don't remember your answer. Did you say no?
27 Do you still maintain that?

28 PRESIDING JUDGE: You can put the question to him again.

29 MR TOURAY: Yeah, okay, I will do that.

1 Q. Now, was there an RUF camp in Tumbodu all the time, even
2 before the recapture of Kono? Do you know?

3 A. It was only after we have recaptured Koidu Town, that was
4 the time that base was formed. That area was a no man's land.

10:05:00 5 Let no one tell -- fool you.

6 Q. Thank you.

7 JUDGE BOUTET: Did you say a no man's land?

8 THE WITNESS: Yes, it was no man's land. No man's land.

9 JUDGE BOUTET: Norman's land?

10:05:00 10 PRESIDING JUDGE: No man's land.

11 JUDGE BOUTET: N-O-R? I think he said Norman.

12 PRESIDING JUDGE: [Microphone not activated]

13 JUDGE BOUTET: Well, I'm not sure that's what he says. I
14 think he says "N-O-R-M-A-N-D".

10:05:00 15 JUDGE THOMPSON: No, he said N-O.

16 JUDGE BOUTET: Ask him.

17 MR TOURAY:

18 Q. When you say "no man's land," what do you mean?

19 A. It was a territory in which nobody lived there. Not even
10:05:00 20 an enemy lived there.

21 Q. You say it was -- according to you, it was after the
22 recapture of Kono that a base was made there?

23 A. Yes, it was then those settlements were made. In fact, it
24 took some time.

10:05:23 25 Q. So do you know when that settlement was made?

26 A. From the time we started our first visit, that was the time
27 the combatants began going there. I cannot tell you the precise
28 dates that settlement was made.

29 Q. Do you know who was the head of base after the settlement

1 was made?

2 A. I don't know.

3 Q. Now, how large was this group of senior officers you call
4 commanders that were at the back?

10:06:36 5 A. Any how, there were many. There you have lieutenants,
6 captains, but the most senior officer amongst them all was Morris
7 Kallon, Bilai Karim.

8 Q. How did you know that, that he was the most senior officer?

9 A. The most senior officer?

10:07:23 10 Q. Yes.

11 A. Amongst them all he was the most senior man. I was aware.
12 I was aware who he was during that time.

13 Q. My question to you is: How did you know that Morris Kallon
14 was the most senior officer amongst the group of commanders at
10:08:19 15 the back?

16 A. It was when they arrived at the scene where that incident
17 took place. That was the time I started recognising them and
18 amongst them all, he was the most senior officer that I knew.

19 Q. That you knew?

10:08:50 20 A. Yes.

21 Q. And you say some of the others you did not know?

22 A. I knew them facially and by their ranks. Sometimes during
23 the muster parade they stood on the side of the lieutenant and
24 Morris Kallon used to stand where the most senior officials do
10:09:19 25 stand. I cannot tell you exactly the most senior officers'
26 names.

27 Q. All right. Thank you. Now, which combatants slit the
28 fetus in two after it was removed?

29 A. It was one amongst the two that made a bet.

1 Q. You don't know the name?

2 A. I cannot recall the name.

3 Q. You said the commanders were at the back.

4 A. Yes.

10:11:15 5 Q. And by the time they got there, the pregnant woman --

6 I mean the combatants had already stabbed this pregnant woman;

7 not so?

8 A. Yeah.

9 Q. Now what was this distance? Was it a short distance or a

10:12:07 10 long distance?

11 A. It was a very short distance.

12 PRESIDING JUDGE: [Previous interpretation continues] -- do

13 you intend to pursue this?

14 MR TOURAY: Well, I'm almost getting there.

10:12:23 15 PRESIDING JUDGE: I mean, this particular -- I'm just

16 asking, do you intend to pursue this?

17 MR TOURAY: At this point in time?

18 PRESIDING JUDGE: Yes, with the answer this witness has

19 given? Do you still intend to pursue this?

10:12:33 20 MR TOURAY: No, My Lord.

21 Q. Now, Mr Witness, do you know whatever -- what action was

22 taken or do you know whether any action was taken against the

23 perpetrators of this incident?

24 A. No action.

10:13:07 25 Q. How do you know?

26 A. In fact, when they arrived, they admired the situation.

27 And the entire thing occurred within three or four minutes.

28 Q. Yes, three or four minutes. I'm asking you whether after

29 this incident happened, do you know whether any action was taken

1 against any one of those combatants?

2 PRESIDING JUDGE: He said no action was taken.

3 MR TOURAY: No, maybe at the point of arrival to the scene.

4 My question now is after.

10:14:28 5 PRESIDING JUDGE: And that in fact they admired the
6 incident.

7 MR TOURAY: When they arrived.

8 PRESIDING JUDGE: Yes.

9 MR TOURAY: That is when they arrived at the scene.

10:14:39 10 JUDGE THOMPSON: Learned counsel, the question does not
11 appear to be clear. It wasn't as specific as that. When who
12 arrived at the scene? You said, "When they arrived at the
13 scene."

14 MR TOURAY: Well, the commanders that were at the back.

10:14:57 15 JUDGE THOMPSON: If wasn't that specific. You just said:
16 Do you know whether any action taken against the perpetrators of
17 this incident, not by the commanders. So the answer clearly left
18 everything in the air. If you want to be more specific, you can
19 be.

10:15:15 20 MR TOURAY: As Your Honour, pleases.

21 JUDGE THOMPSON: Yes.

22 Q. Now, Mr Witness, do you know whether this incident was
23 reported to the senior level authorities?

24 A. How could this be reported when they themselves arrived and
10:15:40 25 met the situation like that and they even admired at it? They
26 did nothing about it.

27 Q. So it was not reported?

28 JUDGE THOMPSON: Learned counsel, let's just get the answer
29 before you move on. How could the incident have been reported

1 when they themselves did what?

2 MR TOURAY: Admired the act.

3 JUDGE THOMPSON: Admired the act. How do you put it?

4 While it happened?

10:16:25 5 MR TOURAY: Yes.

6 JUDGE THOMPSON: So the answer is in the form of a question
7 to you.

8 MR TOURAY: Yes.

9 Q. Now, if it had been reported, would you have known?

10:17:34 10 A. Yes.

11 Q. At your level?

12 A. Yes.

13 Q. Now I'm putting it to you that Morris Kallon was not in
14 Tombodu?

10:18:06 15 A. He was not there, but he went there.

16 Q. He was not there, but he went there?

17 PRESIDING JUDGE: Witness, what do you mean: "He was not
18 there, but he went there"? What does that mean? Mr Witness,
19 what does that mean: He was not there, but he went there?

10:18:28 20 THE WITNESS: Because you said Morris Kallon was not at
21 Tombodu, that is to say, Morris Kallon based at Tombodu, but he
22 never based there, he only went there on patrol, on mission.

23 JUDGE THOMPSON: Counsel, would you not have been better to
24 put the time frame?

10:18:49 25 MR TOURAY: Yes.

26 Q. He was not in fact with that patrol team at Tombodu? That
27 is my question. I am putting it to you.

28 JUDGE THOMPSON: At that point in time.

29 MR TOURAY: At that point in time, yes.

1 THE WITNESS: He was there.

2 Q. I'm putting it to you, that in fact he was with the ambush
3 team proceeding to Gold Town.

4 A. With that ambush team some people even returned and I want
10:19:51 5 to believe that even some senior officers returned. The team
6 that went to Makeni there was that reinforcement team. They went
7 to reinforce the team, some senior officers thought they were
8 never fit to go. It is possible he came back.

9 Q. It is possible he came back. Thank you. That is your
10:20:14 10 answer. It is possible he came back. May I refer you to your
11 witness statement of the 31st January 2003.

12 A. What is the number at the top-right corner?

13 Q. It is 9705. Have you seen it, 9705?

14 A. Yes.

10:22:11 15 Q. The last paragraph, the beginning of the last paragraph.

16 A. Yes, yes.

17 Q. Now, did you say Morris Kallon also cut open a pregnant
18 woman in Kayima, Koidu Town?

19 A. In fact, it was not Kayima. No, no.

10:22:40 20 Q. Did you say that --

21 JUDGE THOMPSON: Counsel, why not read the passage.

22 MR TOURAY: Yes.

23 Q. "Morris Kallon also cut open a pregnant woman in Kayima,
24 Koidu Town. We met as we were going on mission. He and the
10:22:56 25 reporting mission commander, Colonel Ghadafi took a bet on the
26 sex of the child as a determining factor of the success of our
27 mission ahead." Did you say that?

28 A. No.

29 Q. So you don't know how that managed to get into your

1 statement?

2 A. Well, this -- it has the same as what I said. I said this,
3 but when he talks about Kayima, I didn't call Kayima. I didn't
4 call Kayima. It was Tumbodu. Morris Kallon was in the group
10:23:34 5 when that act was committed.

6 Q. [Previous interpretation continues] -- what about Colonel
7 Ghadafi?

8 A. Yes, by then my memory was fresh. Colonel Ghadafi was
9 there; He was not a colonel. My memory was fresh to call some of
10:23:53 10 these names. At that time he was not a colonel.

11 Q. Mr Witness, really, I'm just -- this is your evidence about
12 the pregnant woman. With all respect, it is just a make up.

13 A. Well, you can saying it that way, but it is not something
14 I make up. It is the reality I'm telling you. It is not a
10:24:51 15 fiction. It is not a fiction.

16 Q. Thank you.

17 PRESIDING JUDGE: Mr Witness, it is not a fiction, but let
18 us have it very clear. You have related the incident in Tumbodu
19 to the Court. Kallon was not there when it happened. He met the
10:25:11 20 incident after the woman had been split open. You said they
21 arrived about three minutes later, very soon after the incident
22 happened.

23 MR TOURAY: No, the incident took place three to four
24 minutes.

10:25:24 25 PRESIDING JUDGE: But in this one, in this statement your
26 saying that in Baima --

27 MR TOURAY: Kayima.

28 PRESIDING JUDGE: Kayima -- I'm sorry, Kallon also opened
29 the stomach.

1 MR TOURAY: Yes, yes.

2 PRESIDING JUDGE: Kallon took a bet with Ghadafi, didn't
3 he?

4 MR TOURAY: Yes.

10:25:47 5 PRESIDING JUDGE: That is what I'm saying. And they opened
6 a pregnant woman up, so where do we stand now? Can you locate
7 the Court? Can you situate the Court as to this particular
8 statement that you made to the police -- or rather, to the
9 prosecutor?

10:26:03 10 THE WITNESS: Yes, yes. It was English. If you look at
11 the language you are using, it was English. It was not my mother
12 tongue. Maybe the woman was getting it differently, or maybe she
13 was get a little idea, but how I explained so I did it, but the
14 town was not Kayima. Kayima is just a town near Tumbodu, or
10:26:34 15 around Koidu Town. Then when he said we met on food finding
16 mission, we met some other commanders. These were some of the
17 questions she was asking me. We were meeting with some other
18 commanders when we were going who were also on food finding
19 mission. And this particular event Colonel Ghadafi was there.

10:26:55 20 I called him colonel at that time because -- because he got that
21 rank -- he was promoted to colonel, but the time they were on
22 that mission, he was not a colonel, he was a captain. And -- and
23 he was in the group, but they did not do the act. When this
24 thing happened, Morris Kallon was not there. He came to the
10:27:19 25 scene a little later, but probably the woman understand it
26 differently and it is not only this place.

27 MR TOURAY:

28 Q. Thank you, Mr Witness. Now, Mr Witness -- [Microphone not
29 activated]

1 PRESIDING JUDGE: Microphone.

2 MR TOURAY:

3 Q. Mr Witness?

4 A. Yes.

10:28:58 5 Q. Now, you remember you received some money from the office
6 of the Prosecution?

7 A. Yes.

8 Q. Did you remember that some time in September, the 28th of
9 2003 they made payment for your school fees?

10:29:27 10 A. Yes.

11 PRESIDING JUDGE: September of what year, counsel?

12 MR TOURAY: 28th September 2003.

13 Q. And you remember also that in October 22, 2003 you received
14 money from the office of the Prosecution for support to your
10:30:10 15 foster parents?

16 A. Yes.

17 MR TOURAY: No further questions.

18 JUDGE THOMPSON: Defence team for the third accused, your
19 witness.

10:32:20 20 MR CAMMEGH: Your Honour, I do have questions for this
21 witness. Would Your Honour give me a moment, please, to have the
22 lectern transported over to this part of the bench. Can Your
23 Honours hear me adequately? Thank you.

24 CROSS-EXAMINED BY MR CAMMEGH:

10:33:12 25 Q. Witness, I ask questions on behalf of Augustine Gbao. I'm
26 going to ask you about the role of G5 in Kailahun Town. I'm
27 going to ask you about Mr Gbao's job in Kailahun Town. I'm going
28 to ask you about the screening of civilians you told us about in
29 Kailahun Town. I'm going to ask you about Mr Gbao's so-called

1 securities in Kailahun Town. And then I'm going to ask you a few
2 questions about the command structure in Kailahun. All right?
3 A. Yes.
4 Q. Now, if you listen carefully to the questions, I hope that
10:34:24 5 we can finish this reasonably quickly, all right? So please
6 listen carefully to the questions and then give your answer. Do
7 you understand?
8 A. Yes.
9 Q. You told us that you reached Kailahun Town from Boima;
10:34:46 10 correct?
11 A. You have not called any of these towns. I don't
12 understand.
13 Q. Perhaps I mispronounced it, Baoma?
14 A. Baoma, yes.
10:35:10 15 Q. Baoma.
16 A. No, Baoma.
17 Q. Thank you. And when you reached Baoma, you were screened;
18 is that right?
19 A. No, we were not screened there until we reached Kailahun.
10:35:30 20 Q. When you reached Kailahun, you were screened; correct?
21 A. Yes.
22 Q. And this is where you came into contact with G5; yes?
23 A. Yes.
24 Q. Now, within the RUF, Mr Witness, there were various
10:36:01 25 sections, weren't there? There was --
26 A. Yes.
27 Q. There was G1, which was personnel issues, recruitment;
28 correct?
29 A. Yes.

1 Q. G2 was intelligence; is that right?

2 A. Yes.

3 PRESIDING JUDGE: G1 was.

4 MR CAMMEGH: Personnel and recruitment.

10:36:45 5 Q. G2 was intelligence; yes?

6 A. Yes.

7 Q. G3 was operations; correct?

8 A. Yes.

9 Q. Can you remind me what G4 was?

10:37:03 10 A. Yes.

11 Q. What was it?

12 PRESIDING JUDGE: Can you remind him what G4 was? What was

13 G4?

14 THE WITNESS: G4 was the armouries. They were responsible

10:37:25 15 for the arms and ammunitions.

16 MR CAMMEGH: Thank you.

17 Q. Then there was G5, and G5 was civilian military relations;

18 correct?

19 A. Yes.

10:37:41 20 Q. In other words, the G5 was responsible for the relationship

21 between the RUF combatants and civilians; is that right?

22 A. Yes, yes.

23 Q. Would you agree that the G5 was not in fact a combat unit

24 itself?

10:38:08 25 A. As I saw it, yes.

26 Q. You agree?

27 A. Yes.

28 Q. And to all intents and purposes, Mr Witness, G5 was simply

29 an administrative section of the RUF; do you agree?

1 A. Well, yes.

2 Q. Thank you. And would I be right in supposing, therefore,
3 that the G5 section wasn't responsible for any fighting?

4 A. Yes.

10:39:34 5 Q. Thank you. Would you also agree that G5 was separate from
6 security, or the security section of the RUF? You agree with
7 that?

8 A. Yes.

9 Q. Right. All right then. I want to back to this idea -- or
10:40:20 10 part of your evidence about the screening that took place when
11 you reached Kailahun Town, okay?

12 A. Yes.

13 Q. I think this is where you tell us that you first
14 encountered Colonel Augustine Gbao?

10:40:43 15 A. Yes.

16 Q. And people told you, didn't they, that he was the boss of
17 the G5?

18 A. Yes.

19 Q. I think you went on to say that he himself announced
10:41:05 20 himself as boss of the G5 during a muster parade; is that right?

21 A. Yes.

22 Q. Right. You told us that the G5 was based right inside
23 Kailahun Town. The office was actually in a house; is that
24 correct?

10:41:29 25 A. Yes.

26 Q. Can you remember who that house belonged to?

27 PRESIDING JUDGE: You say his office was where?

28 MR CAMMEGH: In the centre of Kailahun Town.

29 [HS190405B 10.40 a.m. - AD]

1

2 Q. Can you remember who the house belonged to, Mr Witness?

3 A. No.

4 Q. But was it just G5 who operated in that house?

10:42:32 5 A. They were the only ones I was seeing there.

6 Q. Okay, thank you. And it was from that house that the G5
7 conducted - I am just quoting from your evidence. Actually you
8 said this: "That's where they were conducting all their
9 activities with the civilians." You agree with that?

10:43:04 10 A. Yes.

11 Q. Right. Now, I just want to move on to this process of
12 screening that you told us about. You were quite emphatic
13 yesterday that when you were screened in Kailahun Town it was
14 simply to find out whether there were any enemies of the RUF
10:43:37 15 within your group; correct?

16 A. Yes.

17 Q. Right. And just so that we are all clear about this, I
18 think you told Mr Touray, who has just finished asking you
19 questions, you told him yesterday that the screening of your
10:44:06 20 height and weight and your teeth was done - I am sorry, I will
21 start that again. Screening of your height and weight was done
22 on a different occasion at Camp Lion Training Base; that's right,
23 isn't it?

24 A. It is you that know where you got that. I never told him
10:44:41 25 yesterday. I talked about this armament centre with regard to
26 height, weight, and not with the G5.

27 Q. Well, I'll settle for that, Mr Witness. Just so we all
28 remember, when you were checked for your height and weight and
29 when your teeth were examined at the DDR centre in 2000 you were

1 judged to be 14 years old. That's correct, too, isn't it?

2 A. Yes.

3 Q. Right. Let's just go back to the screening in Kailahun.

4 All the civilians were screened, weren't they, Mr Witness?

10:45:32 5 A. Yes.

6 Q. And was your body checked for any marks that might have

7 signified that you were either a Kamajor or Nigerian ECOMOG

8 combatant?

9 A. Yes.

10:45:50 10 Q. And then you told us this on, well, last week, when the
11 Prosecutor was questioning you, you said: "If you qualify to be
12 on the ground and you're a young man, they had a separate place
13 where they put you." Do you remember saying that last week?

14 A. Yes.

10:46:24 15 Q. So I presume you were adjudged at the screening at Kailahun
16 Town to be a young man who could be put on one side; were you?

17 A. Yes.

18 Q. Right. I just want to ask you about this because you have
19 made it clear so far that G5 were in charge of the screening of
10:47:02 20 the civilians; right?

21 A. Yes.

22 Q. But you told us yesterday - again, you told Mr Touray, the
23 gentlemen who has just sat down - that it was actually the G1,
24 the recruitment people, who decided what to do after the
10:47:23 25 screening was over. Do you remember saying that?

26 A. The G1, no. They were not responsible for screening. The
27 only thing - after they have dealt with me in the G5, there were
28 members of the G5 that stood a lot. After that they will hand
29 you over to the --

1 Q. Can you repeat that?

2 PRESIDING JUDGE: He is continuing, please.

3 MR CAMMEGH: I didn't understand it, Your Honour. I have
4 to know the answer.

10:48:08 5 PRESIDING JUDGE: He is continuing. He says after they
6 have screened you they would hand you over to - yes. That is it;
7 he has answered your question.

8 THE WITNESS: The G1, after you have been handed over to
9 the G1, they place people behind you and then you start to
10:48:27 10 transport the materials used for training, like drums and other
11 things.

12 MR CAMMEGH:

13 Q. I am going to go back to my question. Just listen to the
14 question, Mr Witness. After you had been screened to decide
10:48:48 15 whether or not you were an enemy, were you then turned over to
16 the G1 in order that the G1 could decide what was going to be
17 done with you next?

18 A. So that they will carry you to the training base.

19 Q. Who carried you to the training base?

10:49:14 20 A. The G1, the PTIs.

21 Q. And it was the G1 who decided that you would be going to
22 the training place, was it?

23 A. Well, I think, I got into -- the way I see it. Well, it
24 was not -- they never sat all by themselves and made the
10:49:53 25 arrangement. It was true the G5 arrangement was made.

26 Q. So, you are saying, are you, that it was the G5 who decided
27 whether you were fit to go for military training or not?

28 A. Yes. After the screening, because here members of the G5
29 that were in combat medic. So, after the screening is over they

1 gave medical reports. So, if you are physically fit, they --

2 Q. Yes; if you are physically fit, what?

3 A. If you are physically fit then you are handed over to the
4 G1.

10:50:50 5 Q. Right. So the job of the G5 was to screen you to decide
6 whether you were an enemy or not and then to decide whether you
7 were medically fit; correct?

8 A. Yes. After which they --

9 Q. Go on.

10:51:11 10 A. Then they have to see, if at all, the number of civilians
11 that were present in the area could not affect the particular
12 area and at any time the area have had anything to do work, it
13 was through the G5. If they want to make a swamp, the commander
14 will say so and so number of civilians shall do the work, and

10:51:48 15 another commander will come and say so and so number of civilians
16 should do this work. They, all of them, go through the G5.

17 Q. Right. And that is where the G5 job ends, is it?

18 A. Yes.

19 Q. Right, thank you. What actually happened to you after you
10:52:32 20 were turned over to G1? Where did you go?

21 A. As we were handed over, we went to the training base,
22 straight.

23 Q. Right. And where was that, again, please?

24 A. That was Bunumbu, Camp Lion.

10:53:02 25 Q. Right, thank you. Now, you told us that you actually saw,
26 or passed through rather, a government farm. Do you remember
27 that?

28 A. Yes.

29 Q. You said that there were securities there; you said that

1 you saw two securities there. Do you recall telling the Court

2 that?

3 A. Yes.

4 Q. But then you said the words, "I didn't go there to be
10:53:47 5 checking individually on the securities." Do you remember

6 telling us that last week?

7 A. Yes.

8 Q. Thank you. You told us that the securities' job was to
9 ensure a better harvest by putting a fence around the farm and by
10:54:14 10 making sure that people worked hard; correct?

11 A. Yes.

12 Q. You told us that you heard that there was beating on this
13 particular farm. Did you witness any beating yourself?

14 A. Yes.

10:54:43 15 Q. But, of course, this beating would have been done by
16 securities, would it?

17 A. Yes.

18 Q. And, as you have helpfully told us already, the securities
19 were not part of the G5, were they?

10:55:07 20 A. All I knew, they were security, they were combatant. I
21 never knew the details.

22 Q. Well, one thing you can tell us, can't you, is that after
23 the G5 sent various civilians to the farms, their job was over?
24 You have told us that this morning already, haven't you?

10:55:48 25 A. Yes.

26 Q. Thank you. Can you just give me a moment, please,
27 Mr Witness? I want to be sure I don't miss anything. Yes, just
28 this, this is my last question on the G5. When you were in
29 Kailahun Town and you first met the G5, you told us last week,

1 "They had a way of calling the section G5, but I don't know it."

2 "They had a way of calling the section ... but I don't know it."

3 Can you remember what name the G5 was given?

4 A. Anyway, I cannot recall.

10:57:04 5 Q. Why is that?

6 A. My head is not a computer. It is not everything that I can
7 recall.

8 Q. Well, I am going to ask you later on this morning whether
9 you can recall other people involved in the G5 in Kailahun, Mr
10:57:29 10 Witness. So let's hope your memory is working a little bit
11 better then. Right? I'm going to move on from the screening.

12 Actually, no. There is one last question on the screening, and
13 that is this: While you were in Kailahun and your group was
14 being screened, was anybody discovered to be an enemy?

10:58:09 15 A. From the time they started the screening until the time
16 they reached to me no enemy was detected. So I cannot tell you
17 about the last batch.

18 Q. Okay. While you were in Kailahun Town were any enemies
19 detected by the screening unit?

10:58:32 20 A. This is what I am saying, because we are many. As they
21 started screening until the time I was screened - after I was
22 screened, I was handed over to the G1 - no enemy was detected. I
23 cannot tell as to whether after I have been taken away they
24 detected any enemy.

10:58:56 25 Q. Thank you. As you have just said, after the screening was
26 over you were handed to the G1. Thank you, Mr Witness. Now
27 let's move on to Colonel Augustine Gbao. Did you ever see a man
28 in Kailahun Town announce himself as Colonel Augustine Gbao?

29 A. Yes.

1 Q. Can you describe that man for us, please?

2 A. Yes.

3 Q. Go ahead, please.

4 A. He is a short man. His body is bulky and he is black in
10:59:52 5 complexion. During that time his stomach was protruding; he had
6 a protruding stomach.

7 Q. Did you see any other commanders in Kailahun Town during
8 that time?

9 A. Well, there were other commanders, but the one that talked
11:00:20 10 to me is the one that I have called.

11 Q. Gbao?

12 A. Yes.

13 Q. Did you see Colonel Gbao talking to any other commanders?

14 A. In Kailahun?

11:00:42 15 Q. Yes.

16 A. No.

17 Q. Thank you. So the position is this then: That while you
18 were in Kailahun, Mr Witness, you don't - you correct me if I am
19 wrong, because I don't want to be unfair to you - you don't
11:01:07 20 remember any other commanders in Kailahun Town except Colonel
21 Gbao. Is that fair?

22 A. It is unfair anyway. There were other commanders, but I
23 thought you were talking about the G5.

24 Q. Sorry. I tell you what, Mr Witness, I will ask the
11:01:47 25 question one more time so I am absolutely clear. It is probably
26 my fault. When you were in Kailahun Town did you see any other
27 RUF commanders outside the G5, or apart from the G5?

28 A. Yes, yes.

29 Q. But, as you have just told us, you didn't see Colonel Gbao

1 speaking to any of them yourself; is that right?

2 A. Well, at that time when we are gathered together, but after
3 we had been gathered together, Colonel Gbao used to go there and
4 visit them. Then Akim will come to visit him in his office.

11:02:48 5 Others came and visited him in his office.

6 Q. And who is Akim?

7 A. Akim was one of the SLA soldiers; he was with us in the
8 jungle.

9 Q. Colonel Gbao, chief of G5 in Kailahun Town, was being
11:03:18 10 visited by an SLA commander, was he?

11 A. Yes. During that time Akim had taken an oath that he was
12 no longer an SLA but an RUF member.

13 Q. I see.

14 JUDGE BOUTET: Mr Cammegh, it is not clear to me when the
11:03:52 15 witness says "that time". What time frame are we talking about?

16 Have we moved away from --

17 MR CAMMEGH: I will clarify.

18 Q. I want to clarify something, Mr Witness. I'm asking you
19 about Colonel Gbao meeting RUF commanders while you were in

11:04:09 20 Kailahun Town. Are you saying that while you were in Kailahun
21 Town you saw Akim, an ex-SLA soldier, visiting Colonel Gbao?

22 A. Yes. Even at one time, I think, about two days, when we
23 arrived in Kailahun they called a meeting under one mango tree,
24 under Banya's compound. They summoned a meeting there which was
11:04:45 25 attended by Gbao, Sam Bockarie, JPK. It was the jet that stopped
26 everything there.

27 Q. I asked you not five minutes ago whether you saw Colonel
28 Gbao meeting any other commanders and you said, "No." Now
29 Sam Bockarie himself is in Kailahun Town. Why did you tell me

1 just a few minutes ago that you hadn't seen Colonel Gbao meeting
2 any of the commanders?

3 A. Well, that was a meeting; it was held in different areas
4 and, in fact, I only heard about it.

11:05:37 5 Q. Right.

6 A. I saw the ground force that was in the town.

7 Q. This was a meeting that you heard about; yes?

8 A. Yes.

9 Q. A meeting that took place in other areas you just said;
11:05:58 10 yes?

11 A. Inside Kailahun Town, in Banya's compound.

12 Q. Right. Let's just go back to the question. I am not
13 interested in what you might have heard, what rumours you might
14 have heard, Mr Witness. I asked you what you saw with your own
11:06:22 15 two eyes.

16 A. I, myself, when I went there I saw the security.

17 Q. Quite. Wait for the question.

18 A. I said I heard it.

19 Q. Please wait for the question. The question is this: Did
11:06:37 20 you ever see Colonel Gbao meeting any RUF commanders in Kailahun
21 Town, apart from Akim?

22 A. Well, yes.

23 Q. Which is the truth, Mr Witness, you did or you didn't? You
24 remember a few minutes ago when I asked you this question first
11:07:13 25 of all you gave the answer "No"? What is the truth?

26 MR HARRISON: I think the context was that after the second
27 question was asked the witness then said, "I thought you were
28 only referring to G5." That was the context of the exchange.

29 MR CAMMEGH: Well, I'm sorry. It certainly was not the

1 context of the way the question was put. Perhaps we will let the
2 witness answer the question one last time.

3 [Defence counsel confer]

4 JUDGE THOMPSON: Perhaps you need to reformulate the
11:07:51 5 question.

6 MR CAMMEGH: I will.

7 JUDGE THOMPSON: Yes.

8 MR CAMMEGH:

9 Q. One more time, Mr Witness. Did you see Colonel Gbao meet
11:08:02 10 any RUF commanders in Kailahun Town?

11 A. Yes.

12 Q. Who?

13 A. Like Sam Bockarie, Povay, JPK, with other people whose
14 names I cannot recall.

11:08:20 15 Q. Thank you. Now, about four minutes ago you told me that
16 that was a meeting in various places within Kailahun Town that
17 you had not seen yourself. In your own words you "heard about
18 it". You are now telling us you saw it. Which is the truth,
19 please?

11:08:55 20 A. Well, no. I did not say that I did not see it myself. I
21 said I heard that there was a meeting in Banya's town. We were
22 in Gbao compound. So I moved from there and came to the barrack.
23 I saw vehicles pass; I saw the authorities. Security were right
24 around. Some of the commanders I never knew. It was there I saw
11:09:25 25 them.

26 Q. What do you mean - what do you mean when you say, "Some of
27 the commanders I never knew"?

28 A. Well, some of them I have never met with them; I never knew
29 them before. It was there people say, "Hey, that is that

1 commander over there. He has been doing this, this, this." Like
2 CO Pepe said, Sankoh Trouble and the other ones.

3 Q. Mr Witness, you were asked questions last week about
4 Kailahun Town and Colonel Gbao, and, of course, as we all know,
11:10:42 5 you gave several statements to the Prosecution. You met the
6 Prosecution and evidence was taken from you on no less than nine
7 occasions, to my calculation, between January 2003 and January
8 2005 - two years. Why is it, Mr Witness, that you have never
9 mentioned, until this morning, seeing Colonel Gbao in a meeting
11:11:22 10 with the individuals that you have just named?

11 A. It is because my head is not a computer and as you are
12 asking me now you help me to recollect some of the things which I
13 seem to have forgotten.

14 Q. You seem to have forgotten. Just think about the question,
11:11:53 15 please, Mr Witness. Why is it that in two years of regular
16 contact with the Office of the Prosecution you did not mention
17 seeing Colonel Augustine Gbao in company with those men? Why
18 have you never mentioned it to anybody until now?

19 A. Not all - everything that I can virtually remember. But as
11:12:27 20 you are asking me now there are things I cannot remember, but now
21 you are jogging my memory. So as you are asking me, I see the
22 picture of the things that happened as I am talking now.

23 Q. Well, all right. But I will come back to your statements
24 later. As far as your personal dealings with Colonel Gbao, I
11:12:59 25 think you told us that if you want to cross anywhere he would
26 give you a pass; is that right?

27 THE INTERPRETER: Sorry, the interpreter cannot get the
28 attorney's question clearly.

29 MR CAMMEGH: I will put it again.

1 Q. So far as your personal involvement with Colonel Gbao was
2 concerned, while you were in Kailahun Town I think it included or
3 involved him giving you a pass when you wanted to cross to
4 anywhere; correct?

11:13:41 5 A. Yes, he was supposed.

6 Q. One of his jobs was to issue passes to the civilians and to
7 sign the passes; correct?

8 A. Yes.

9 Q. You told us also last week, and I think again the other
11:14:08 10 day, that he had securities with him and you would see
11 Colonel Gbao with the securities at any time he was wandering
12 around the town; correct?

13 A. Yes.

14 Q. And that they had guns with them; yes?

11:14:37 15 A. Yes.

16 Q. You mentioned that two of them were younger than the
17 others. Do you remember that?

18 A. I said some had height more than the others. I cannot tell
19 their age.

11:15:03 20 Q. All right. But you are sure of one thing aren't you, or as
21 sure as you can be, that although you didn't know their exact age
22 these securities were older than you were at that time; correct?

23 A. Yes.

24 Q. And you knew that judging from their volume and the fact
11:15:37 25 that they were taller than you were; yes?

26 A. Yes.

27 Q. Thank you. And just to remind us, of course during
28 disarmament you were adjudged to be 14 years old; yes?

29 A. During disarmament?

1 Q. Yes. You agree with that, do you?

2 A. That was the age they gave me. What do you expect me to
3 say?

4 Q. Just ask answer the question, Mr Witness. It is quite
11:16:22 5 simple really. Now, I want to ask you a little bit about --

6 A. Please, please. I want a five-minute break. I am feeling
7 uncomfortable.

8 PRESIDING JUDGE: We will rise, please.

9 [Break taken at 11.15 a.m.]

11:44:59 10 [On resuming at 11.42 a.m.]

11 PRESIDING JUDGE: Mr Cammegh.

12 MR CAMMEGH: Thank you. I am just waiting for the witness
13 to come back to the screen.

14 Q. So, hello again, Mr Witness.

11:46:25 15 A. Hello.

16 Q. I've got good news for you, Mr Witness. I think you have
17 been in the witness box for over a week now, haven't a you? It
18 is about five days.

19 A. Yes.

11:46:43 20 Q. Well, within about half an hour it's all going to be over.

21 I have just got a few questions left. You had a chance last week
22 to go through all of the statements that you gave to the
23 Prosecution. Do you remember that?

24 A. Yes.

11:47:04 25 Q. We all had a break one morning, didn't we, so that you
26 could go through every statement that you'd made?

27 A. Yes.

28 Q. And did you, in fact, or were you able to either read those
29 statements to yourself or have them read to you so that you could

1 follow and understand everything that they contained?

2 A. I read it myself.

3 Q. Right. Were you able to read before January of 2003?

4 That's when you first met the Prosecution. Could you read before

11:48:09 5 that? Thank you. I'd better clarify that; I am talking about

6 English.

7 PRESIDING JUDGE: English.

8 MR CAMMEGH:

9 Q. Sorry, Mr Witness, my mistake. I will put that question

11:48:24 10 again. Before January of 2003, could you read English?

11 A. Yes.

12 Q. When did you learn English?

13 A. Before I was captured.

14 Q. All right. You were asked earlier on today, very briefly,

11:49:02 15 about the fact that some money had been made available to you to

16 pay for your schooling or your lessons since you met the

17 Prosecution in January 2003. Do you remember that?

18 A. Yes.

19 Q. I want to make it clear, I am not going to ask you about

11:49:31 20 how much money you received to pay for your lessons. I just want

21 you to describe to us, please, how your education has progressed

22 since you first met the Prosecution.

23 MR HARRISON: There is absolutely nothing wrong with the

24 question. I just ask if Mr Cammegh could keep his ear to whether

11:49:58 25 the witness is about to divulge the location of the village or

26 town as well as the institution.

27 JUDGE THOMPSON: From what I gather, your question seems to

28 be requiring the witness to give some kind of status report on

29 the progress of his education.

1 MR CAMMEGH: I think it is best, because I take note of
2 what Mr Harrison has just said, it is best that I rephrase the
3 question.

4 JUDGE THOMPSON: Okay.

11:50:33 5 MR CAMMEGH: Sorry, Mr Witness, I'll start again. Let's
6 just start from the beginning.

7 Q. I understand that you had learned English before your
8 capture in 1998. Okay?

9 A. I was learning by then.

11:50:45 10 Q. I understand that. As we know, you went to a DDR camp some
11 time in 2000, when you were 14; correct?

12 A. Yes.

13 Q. I don't want to know where you have been living over the
14 last five years and I don't want to know where you have been to
11:51:11 15 school over the last five years. Can you remember when you first
16 met somebody from the Office of the Prosecution? Can you
17 remember when that was?

18 A. Yes.

19 Q. Okay. Were you going to school at that time?

11:51:41 20 A. I was going to school, but that particular year I should
21 not have gone to school because I had no support.

22 Q. I just want to get this clear. Were you going to school
23 regularly before you first met somebody from the Prosecution?

24 A. From the time I came from the jungle when we disarmed we
11:52:15 25 were not given the money and we are going to school. So we are
26 sent to school.

27 Q. Who sent you to school before you met somebody from the
28 Prosecution?

29 A. It was a humanitarian organisation which we are under, like

1 IRC and other programs.

2 Q. I understand. But at the time that you first met somebody
3 from the Office of the Prosecutor, were you going to school
4 regularly at that time?

11:52:54 5 A. That particular year --

6 Q. Yes.

7 A. -- I should not have gone to school. I would not have gone
8 to school because I had no support the first time I met with the
9 woman.

11:53:12 10 MR CAMMEGH: With respect, it is the translation that is
11 causing the problem rather than the witness. Mr translator, is
12 he saying he did or he did not go to school in the year prior to
13 meeting somebody from the Office of the Prosecutor for the very
14 first time?

11:53:27 15 THE INTERPRETER: The witness is saying that he would not
16 have gone to school that year because I hadn't any support.

17 PRESIDING JUDGE: "Did not have", not "would not have".
18 Was he or was he not?

19 JUDGE BOUTET: Let's ask the witness.

11:53:47 20 PRESIDING JUDGE: Mr Interpreter, you are hearing me.
21 Please translate me to Mr Witness. Before you first met somebody
22 from the Prosecution, were you going to school or not?

23 THE WITNESS: I was going to school.

24 MR CAMMEGH: And the plot thickens.

11:54:25 25 Q. Mr Witness, you just told us that in that year you would
26 not be going to school - those were the precise words that the
27 interpreter gave us - because you had no support.

28 JUDGE BOUTET: He did not say he would not. He said, "I
29 should not have gone to school because I didn't have support."

1 But he was going to school.

2 PRESIDING JUDGE: He was going to school. That is another
3 detail, Mr Cammegh.

4 MR CAMMEGH: Very well. I understand the distinction.

11:55:00 5 Q. All right. So you were going to school that year,
6 Mr Witness, before you met the Prosecutors; right?

7 A. Yes.

8 Q. Did your education improve after you met people from the
9 Office of the Prosecutor?

11:55:29 10 A. Yes.

11 PRESIDING JUDGE: Please, wait Mr Cammegh.

12 MR CAMMEGH:

13 Q. Mr Witness, I want you to be very careful here because I
14 don't want you to say anything that might lead to your identity.
11:56:06 15 So I don't want to hear places or names, no detail, okay? I just
16 want you to describe to the Court please, if you can, how your
17 education began to improve from the time you first met people
18 from the OTP.

19 A. Well, as I said, I was going to school, but I would not
11:56:43 20 have attended that particular year because I had no support.
21 Now, we are under certain programs. Some of us our families were
22 traced but they were not seen. So because of that they were
23 unable to resettle with their parents so the program had to end
24 up. I was almost going to live on the street. I had nobody to
11:57:15 25 look after me, nobody would give me food. But I still had the
26 courage that I would go to school, even though I didn't have
27 support. But since then, I started to get some small support
28 from them. I have seen the way I have improved.

29 Q. Support from who?

1 A. From the first person I met.

2 Q. Can you remember who that person was, please, Mr Witness?

3 A. Yes.

4 Q. Was that person from the Office of the Prosecutor?

11:57:59 5 A. Well, the name she showed me as Virginia. She was a
6 Zimbabwean woman.

7 Q. Now, I think we have heard the name Virginia before,
8 haven't we, last week? Can you confirm, please, that it was
9 Virginia who was the person who took your very first statement

11:58:31 10 back in 2003?

11 A. Yes.

12 Q. All right. Thank you, Mr Witness. Are you still going to
13 school now?

14 A. Yes.

11:58:42 15 Q. Are you receiving support in order for you to go to school?

16 A. Yes.

17 Q. Who is giving you that support? Do you know? Can you tell
18 us?

19 A. I don't know the particular place that is responsible for
11:59:18 20 that, but all I know is that I am getting support from the office
21 of the OTP, that is all.

22 Q. That is all I am going to ask you on that particular
23 subject. Can we just move to Daru now --

24 [Defence counsel confer]

11:59:49 25 MR CAMMEGH:

26 Q. Can I just ask you about Daru? We are doing very well,
27 witness. We are going finish fairly soon. But I want to ask you
28 what you did in Daru.

29 PRESIDING JUDGE: What if he does badly, would you

1 compliment him? Please, let's proceed.

2 MR CAMMEGH:

3 Q. Daru - I want to ask you about what you did in Daru,
4 please, Mr Witness. Do you remember telling us that there was an
12:00:23 5 attack on Daru against the ECOMOG forces and you were involved in
6 that; yes?

7 A. Yes.

8 Q. And I think one of the things that you were involved in was
9 that you burnt down a club - you torched a club; do you recall?

12:00:46 10 A. Yes.

11 Q. I am going to read you some words that have been recorded.
12 This is what you said last week when you were being asked
13 questions by Ms Parmar. You were asked about setting the
14 building on fire, and you said these words: "It was after we had
12:01:13 15 pushed them" - ECOMOG that is --

16 THE INTERPRETER: My Lord, let the lawyer read slowly and
17 start again.

18 MR CAMMEGH: I was hoping to do that. I will start again:
19 "It was after we had pushed them and sent them out of the town.
12:01:33 20 We were in the barracks. We were just separated by the river.
21 It was at that time that people looted and they couldn't take it
22 along. We were just in the barracks. We were killing
23 stealthily." And then you were asked who you were killing
24 stealthily by the Prosecutor, and you replied: "Well, you just
12:02:16 25 go around and you see a corpse lying down there. You wouldn't
26 know who had killed them, but they were civilians. That stealthy
27 killing was happening to civilians." Now my first question is
28 this, Mr Witness: Daru had been an ECOMOG stronghold for about a
29 year by the time of that attack, hadn't it?

1 A. Yes.

2 Q. Right. Are you sure, given that Daru was an ECOMOG
3 stronghold, are you sure that there were many civilians living in
4 Daru at all at that stage?

12:03:21 5 A. Yes, a lot of civilians were in Daru, but I heard some of
6 the things I did not talk about in fact.

7 Q. Well, I want to just continue with what you then said given
8 that you are sure there were civilians being killed.

9 JUDGE BOUTET: Mr Cammegh, could you tell me what page
12:03:45 10 and/or date you are reading? You are reading from the
11 transcript.

12 MR CAMMEGH: I am sorry, Your Honour; I didn't realise you
13 had copies of these. It is page 43 --

14 JUDGE BOUTET: Of which date?

12:04:00 15 MR CAMMEGH: Of the 12th of April - last Tuesday. And it
16 is the top half of the page. Just a moment, Mr Witness, please.

17 JUDGE BOUTET: We are getting there. That is fine, thank
18 you.

19 MR CAMMEGH: Right.

12:04:38 20 Q. So, there were civilians being killed in Daru; yes?

21 A. A lot.

22 Q. A lot?

23 A. Yes.

24 Q. I have just read what you were saying about what you were
12:05:03 25 doing in Daru that night. Then you were asked this question:
26 "Were you yourself participating in these killings?" And your
27 answer: "Well, actually, no." Why did you say that to the
28 Prosecutor: "Well, actually, no, I was not participating in
29 those killings of civilians"? Why did you say that last week?

1 A. The first person whom we first captured, three of us were
2 given to execute him. I think that was the first thing I said.

3 [HS190405C 12.05 p.m. - SV.]

4 Q. No. The question, Mr Witness, is very straightforward.
12:06:11 5 Why did you say that you were not actually participating in the
6 killings of those civilians? Why did you tell the Court that
7 last Tuesday?

8 A. Well, I have no reason. I cannot even remember. Maybe it
9 was due to the pressure. Maybe you might want to say something,
12:06:51 10 at the end of it all you might talk the other thing. Maybe that
11 happened. But I never intended to have said it.

12 Q. Well, I'm not going to let this go, Mr Witness, because I
13 want to understand exactly why you gave that answer. You see, I
14 read to you the evidence that you gave just before you gave the
12:07:21 15 answer, "No, I wasn't killing civilians" and I'll take you
16 through it one more time. The Prosecutor said: "Did you set
17 this house on" --

18 A. Okay, let me read this myself. Maybe that will assist me.

19 Q. That's what I'm trying to do, Mr Witness.
12:07:39 20 MR HARRISON: I think what he's asking is if the copy that
21 Mr Jordash had provided could be given to him so that he could
22 read it along with you.

23 MR CAMMEGH: Certainly, if there's one available.

24 THE WITNESS: I already have one here.

12:07:55 25 MR CAMMEGH:

26 Q. Okay. Well, could you turn to the 12th of April, page 43?

27 PRESIDING JUDGE: I hope he's not scanning through
28 statements. Mr Witness, we're referring to a transcript.

29 THE WITNESS: Page?

1 MR CAMMEGH:
2 Q. 43 of the 12th of April?
3 PRESIDING JUDGE: What does he have in front of him?
4 JUDGE THOMPSON: He has that.
12:08:47 5 PRESIDING JUDGE: He has that.
6 THE WITNESS: Go ahead. I have the statement.
7 MR CAMMEGH:
8 Q. Page 43?
9 A. Yes, page 43.
12:08:55 10 Q. Do you see on line 1 the words, "set it on fire, the house
11 was on fire as well" at line 1? Do you see that?
12 A. Yes.
13 Q. Top line?
14 A. Yes.
12:09:09 15 Q. Good. Then we have Ms Parmar's question: "Now, Witness,
16 did you set this house on fire before you were fighting ECOMOG or
17 after?" Do you see that question?
18 A. Yes.
19 Q. I want you to concentrate on your reply to that question:
12:09:28 20 "It was after we had pushed them and we sent them out of the
21 town. We are in the barracks. We were just separated by the
22 river. It was at that time that people looted and they could not
23 take it along; we were just in the barracks. We were killing
24 stealthily."
12:09:54 25 "Who were you killing stealthily", was the question?
26 A. Well, the way I read it I was misquoted. I never said so.
27 We never captured the barracks. The water was separating us from
28 the barracks and there was a bridge at the middle. Nobody
29 attempted to cross that bridge.

1 Q. Well, I'm sure that's very interesting, Mr Witness, but I
2 think you know what I'm getting at here, don't you? If you carry
3 on, read with me please:

4 "Q. Who were you killing stealthily?

12:10:29 5 A. Well you just go round and see a corpse lying down
6 there. You wouldn't know who killed them but they were
7 civilians. That stealthy killing was happening to civilians.

8 Q. Were you, yourself, participating in these killings?

9 A. Well, actually, no."

12:10:50 10 A. Yes.

11 Q. Please explain to this Court why in one breath you have
12 saying, "we were killing stealthily" and in the next you are
13 saying, "well, actually, no, I was not participating". Can you
14 explain that contradiction to us please?

12:11:10 15 A. Yes.

16 Q. Well go ahead, please?

17 A. Well, why I denied that I did not take part myself, because
18 the question was directed to myself and actually I did not take
19 part in the killing myself. But if it is general I will put
12:11:34 20 myself in that category that we did it. But for me, look at the
21 question here. I myself did not take part in the killing.

22 Q. If that's right why did you use the words, "we were killing
23 stealthily" rather than, "they were killing stealthily"?

24 A. This is what I'm saying. This one is directed to me as a
12:12:05 25 person, but now you are -- that's a general something. I would
26 have said we. But they said what did you do.

27 Q. Is it the case, Mr Witness, that once you reach this
28 courtroom and you're being asked questions by the Prosecutor you
29 want to make absolutely sure that you take - the word that you

1 just used - caution to make it appear that you were as innocent
2 as you could have been during the raid on Daru?

3 A. I don't understand anything on that.

4 Q. Is it the case, Mr Witness, that when you come into this
12:13:03 5 courtroom you're attempting to persuade this Court that your
6 conduct was actually much better than it really was during that
7 raid?

8 A. Up to this time I do not understand your question. I don't
9 understand your question.

12:13:34 10 Q. Is it the case that when you said, "we were killing
11 stealthily", you realised you'd made a mistake which you had to
12 correct by saying well, actually I was not participating myself?

13 A. I think you've not understood what I'm saying. If it is a
14 general something -- if they say what did you do plural, then I
12:14:07 15 would have explained when we attacked Daru we captured the town,
16 we burnt some town and killed some civilians. But if you ask me
17 what did you yourself as an individual do, I never executed
18 anybody so I should answer -- because a group did it I should say
19 I did it alone. I cannot say that. It was not a mistake.

12:14:25 20 Q. You never executed anybody; is that right?

21 A. Inside Daru town? Before going to Daru we cut an old Pa
22 and we said rather than leaving this man to go let us go and
23 execute him. That, I said it before we entered Daru.

24 Q. Is it the case, Mr Witness, that when you told the Court
12:14:57 25 you were killing stealthily or "we were killing stealthily" those
26 were words that you realised you should not have said?

27 A. In fact this steady I'm talking about, what you are
28 talking -- we said secret killing was going on. Secret killing
29 was going on. And which one now is the mistake? Where is the

1 mistake now?

2 PRESIDING JUDGE: Mr Cammegh, can we progress? You've made
3 this point. You've made this point. I think you can come to it
4 on addresses because we think that the question has been -- at
12:15:45 5 least there has been an attempt to explain by employing the
6 singular and the plural connotations of what he said -- that is
7 the question you're putting to him. You can put these answers
8 together because we're getting to nowhere. We've hit a rock.

9 MR CAMMEGH: Your Honour, I was actually in the process
12:16:01 10 of --

11 PRESIDING JUDGE: I think you can use this in addresses to
12 say that, well, he contradicted himself when he said we killed
13 and later said he did not kill. That becomes a matter for the
14 Court to --

12:16:19 15 MR CAMMEGH: Your Honour, I was actually in the process of
16 moving on.

17 PRESIDING JUDGE: Yes, okay.

18 MR CAMMEGH:
19 Q. And it's this, Mr Witness: We've established that you
12:16:28 20 spoke to the Prosecution, I think I said on nine separate
21 occasions between the first interview on the 31st of January 2003
22 and your last one on the 10th of January this year. Nine
23 meetings over a two year period. And, as we've already
24 established, you had a chance last week to read through all of
12:17:02 25 those statements yourself and familiarise yourself with them; is
26 that not so?

27 A. Yes.

28 Q. Can I ask you one simple question. Why was it, and I'm
29 sure my learned friend will agree with what I'm putting here or

1 accept it as correct -- why was it, Mr Witness, that you did not
2 mention anything to do with Augustine Gbao, the G5 or Kailahun
3 Town until your meeting on the 9th of October 2004?

4 A. Well, this is -- actually what had happened that I've
12:18:14 5 explained. Sometimes you explain and explain, you explain
6 certain things and what you intended saying maybe, like myself,
7 there are other things that I cannot recall to explain now. At
8 times when they asked me questions it jogged my memory. It's
9 something that happened. It is still in my mind. It is only a
12:18:41 10 computer that you install information and retrieve the
11 information. But my head is not like that.

12 Q. Well, thank you for that answer, Mr Witness. You've just
13 said that sometimes when you're asked questions you jog your
14 memory; yes?

12:19:09 15 A. Yes.

16 Q. Now, you'd given five separate statements to the OTP during
17 a period of some 20 months before your memory was jogged for you
18 to mention Gbao in your sixth statement on the 9th of October of
19 last year. The question is: What jogged your memory on the 9th
12:19:44 20 of October last year?

21 A. Well, first, after everything had happened I started
22 forgetting some of those things. But now I met with the first
23 person who started asking me about what had happened in the
24 jungle, what I saw. So I started telling the person because it
12:20:23 25 has taken some time. So I had not been thinking about jungle
26 time. So I had to explain to her exactly what had happened.
27 From the time I started explaining to her, at any place I go some
28 of these things that had happened to me, even if I never thought
29 of them again. So if you asked me what had happened, even if I

1 have not explained that, if it comes to my mind the time you ask
2 me I'll explain to you.

3 Q. All right. And did this person on the 9th of October of
4 last year jog your memory?

12:21:09 5 A. Not a person. This is not a person. As I am here now I
6 can recollect some other things. They come into my mind. It was
7 not a person that jogged my memory. Nobody.

8 Q. Okay?

9 A. As I sit here I can see vividly the act that had happened.
12:21:33 10 At any time you asked me about who and who did this the pictures
11 become vivid to me.

12 Q. Mr Witness, did this person ask you about Augustine Gbao on
13 the 9th of October?

14 A. I explain about him to the person and I explained what
12:22:01 15 happened before we went to the bush. That was the question that
16 was put to me; what happened before I went to the base. I was
17 screened. They asked me who screened you. I said
18 Augustine Gbao.

19 Q. Were you asked about Augustine Gbao by this person?

12:22:26 20 A. He asked me what happened that we reach Kailahun before we
21 went to the training base. I made mention of the G5 and the
22 person put the question to me who was the G5, then I made mention
23 of the name. The woman that questioned me, she doesn't know
24 anything about the Sierra Leone war. How would she have put
12:22:58 25 short questions to me.

26 Q. And what was the name of the person who was questioning you
27 on the 9th of October last year when you first mentioned
28 Augustine Gbao. What was the woman's name? What was the woman's
29 name, please?

1 A. Sharan.

2 Q. And how do you know that Sharan knows nothing about the
3 Sierra Leonean war? Who told you that?

4 A. If Sharan knows something then you too know something.

12:24:06 5 Q. Who told you that Sharan knows nothing about the Sierra
6 Leonean war?

7 A. Nobody told me. It's what I know by myself.

8 Q. What makes you know that?

9 A. She only came after the war, after we have had peace.

12:24:35 10 Q. How many times --

11 A. Anything that she spoke, it was something that somebody
12 like myself told her.

13 Q. How many times have you met Sharan since October of last
14 year to talk about your evidence?

12:24:54 15 A. I cannot recall. I cannot recall.

16 Q. Try.

17 A. I said I cannot recall.

18 Q. And I'm asking you, Mr Witness, to try and do your best to
19 tell us how many times you've met this lady since October?

12:25:12 20 MR HARRISON: If the witness can't remember I think that's
21 his answer.

22 PRESIDING JUDGE: The witness should try to --

23 THE WITNESS: I said I cannot recall. I cannot recall the
24 number of times.

12:25:26 25 PRESIDING JUDGE: She made a number of statements which he
26 made. He should be able to -- is it two times, is it three
27 times? We know our statements that this witness made. He can
28 give us at least an approximation of the number of times he saw
29 the Prosecution on this and on the statements which he made and

1 which are here which counsel is referring to.

2 Mr Witness, please try. About how many times? We are not
3 asking you to be very exact but let us know how many times.

4 Answer that question. Try to say how many times you went there

12:26:06 5 and you met Sharan -- is it Sharan?

6 THE WITNESS: If I can show the number of times then I'm
7 lying because many times I have been meeting with her. So
8 actually I cannot tell the exact number of times.

9 PRESIDING JUDGE: So you met her many times?

12:26:23 10 THE WITNESS: Yes.

11 MR CAMMEGH: Yes, well, I think I'll leave it there,
12 Your Honour. I'm helpfully reminded of a question that I meant
13 to put.

14 Q. Mr Witness, I want to ask you one more question about your
12:27:00 15 relationship with people from the OTP. When you were being
16 interviewed by Sharan and a statement was being taken from you
17 was this lady typing on to a computer as you were speaking or
18 writing notes down on paper with a pen?

19 A. She was writing.

12:27:49 20 Q. With a pen?

21 A. Yes.

22 PRESIDING JUDGE: Who was writing?

23 MR CAMMEGH:

24 Q. Just please confirm who it was who was doing the writing?

12:28:10 25 A. Sharan.

26 Q. Finally on this point, when you were talking about
27 Augustine Gbao was Sharan writing with a pen then?

28 A. Yes.

29 Q. Right, we're very nearly there, Mr Witness. I want to ask

1 you about something you told us yesterday. You told us
2 yesterday, and it was Mr Touray, the gentleman who was asking
3 questions earlier this morning, who was on his feet at the
4 time --

12:29:22 5 PRESIDING JUDGE: Let me get this clear, please. "When I
6 was talking about Augustine Gbao Sharan was writing."

7 MR CAMMEGH: With a pen.

8 PRESIDING JUDGE: With a pen. With a pen?

9 MR CAMMEGH: Indeed, yes.

12:29:53 10 Q. Mr Witness, I just want to ask you about something you told
11 my learned friend Mr Touray yesterday. You said this: That
12 there was no G5 in Koidu Town. Do you remember saying that?

13 A. I cannot recall that I said that.

14 Q. Well, we all have a note of it here, Mr Witness, so just
12:30:30 15 try --

16 A. Well, you got it wrong. That was what I said. I said the
17 people that were to be screened, those were the people that were
18 executed. I did not say the G5 were not in town, in Koidu Town.

19 Q. Well, Mr Witness, we have a note, I'm not the only one, and
12:30:52 20 it was checked, that you said yesterday immediately before a
21 break that there was no G5 in Koidu Town.

22 Let me just move on and ask you this question: Did you
23 ever hear of a man called Sylvester Kieh? I'll make it clear, an
24 RUF commander called Sylvester Kieh. I'll help you further, a G5
12:31:49 25 commander called Sylvester Kieh. Mr Witness, did you ever know
26 him?

27 PRESIDING JUDGE: He may have difficulties with the
28 pronunciation. How have we been pronouncing it?

29 MR CAMMEGH: Kieh, K-I-E-H.

1 PRESIDING JUDGE: You have been saying "Key". Maybe if you
2 said Kieh.

3 MR CAMMEGH:

4 Q. Did you ever know of an RUF commander called
12:32:16 5 Sylvester Kieh, K-I-E-H? A G5 commander called Sylvester Kieh,
6 Mr Witness?

7 A. The time that I'm referring to and what you are referring
8 to now are two different things. That's why I am in doubt. The
9 question that was put to me yesterday that I answered and the
12:32:51 10 question now you are trying to put to me are two different
11 things. So I don't know where you are taking me to.

12 PRESIDING JUDGE: We just want to know if you know of -- do
13 you know the name, have you heard of the name Sylvester Kieh?

14 THE WITNESS: I know him himself. I know him. But during
12:33:23 15 that time, that time --

16 PRESIDING JUDGE: Who was Sylvester Kieh?

17 THE WITNESS: -- that type of structure was not in
18 existence.

19 PRESIDING JUDGE: You knew him. What was he?

12:33:38 20 THE WITNESS: Well, I knew him during that time as an
21 officer. That is all. That is what I know him for. Nobody was
22 trained. Say you a particular G5, you can be assigned to take
23 that position. He was sent in Tumbodu to be there. He is not
24 saying things with regards Koidu Town now.

12:34:02 25 MR CAMMEGH:

26 Q. Mr Witness, I think the question, with respect, was
27 possibly the most easy question I've asked you this morning. Did
28 you know Sylvester Kieh and your answer plainly is yes; correct?

29 A. Yes.

1 Q. You said that you knew him when the command structure was
2 not yet in place; correct?

3 A. That time that particular unit was not functioning.

4 JUDGE BOUTET: Can you clarify what he means by unit?

12:35:09 5 MR CAMMEGH: Yes, I will.

6 Q. What unit wasn't in existence when you knew him?

7 A. I'm referring to the G5.

8 Q. Well, Mr Witness, in actual fact wasn't Sylvester Kieh the
9 G5 commander of Koidu Town since about 1998? Wasn't he boss of
12:36:11 10 the G5 in Koidu Town?

11 A. I was there. Even when I left there he had never been a G5
12 commander there. During that time the war was tense. Where
13 can you just put up a kind of unit like that? Those units are
14 normally set up after we have settled. During that time the
12:36:34 15 command that was given to us was to kill and burn houses.

16 MR HARRISON: The Prosecution is not in any way concerned
17 with the format of the questions. The concern is whether or not
18 witness protection measures and the order that is in place of the
19 Court might be put in peril. Mr Cammegh is certainly entitled to
12:37:08 20 pursue all of these questions in this area to its completion but
21 the Prosecution is suggesting whether or not this should be done
22 in a closed session.

23 JUDGE THOMPSON: Your response, Mr Cammegh?

24 MR CAMMEGH: I appreciate my learned friend's concern. I
12:37:24 25 think it can be dealt with without fear of any disclosure.

26 JUDGE THOMPSON: In peril of the protective measures order.

27 MR CAMMEGH: And I would like to remind the witness.

28 Q. Mr Witness, you've just heard my learned friend the
29 Prosecutor expressing his concerns. Remember please, in any

1 answer you give don't give anything away that may lead to the
2 disclosure of your identity.

3 MR HARRISON: But the concern wasn't just for this witness.
4 It's for other witnesses who may or may not testify.

12:37:57 5 MR CAMMEGH: I hope that --

6 JUDGE THOMPSON: Unless perhaps we'll have this witness
7 take off his earphones because this raises a much broader
8 question now and I don't know whether we might want to hear
9 arguments on this, because I thought the question was quite
12:38:13 10 specific. It's just that the witness's answer takes us beyond,
11 sometimes, the scope of the question.

12 MR CAMMEGH: Can I just try one last time and then we'll
13 see what happens?

14 JUDGE THOMPSON: Yes, quite. If not I'll think we'll have
12:38:29 15 to hear some arguments on this.

16 MR CAMMEGH: Very well.

17 Q. Mr Witness, the point is this: That yesterday you told
18 this Court that there was no G5 in Koidu Town. I am putting it
19 to you that certainly up until about May of 1998 there was G5 in
12:38:54 20 Koidu and that the name of the G5 commander in Koidu was
21 Sylvester Kieh. Is that right or wrong?

22 PRESIDING JUDGE: That's since 1998?

23 MR CAMMEGH: Up until about May of '98.

24 THE WITNESS: It's as if you don't understand the point I
12:39:37 25 gave just now but I'll repeat that. I'm not denying that --

26 MR CAMMEGH:

27 Q. Mr Witness, please stop. Don't state anything that may
28 lead to your identity.

29 JUDGE BOUTET: But, Mr Cammegh, as you were talking the

1 witness was talking and he said, I heard him, "I not denying
2 that", whatever it was.

3 MR CAMMEGH: I didn't hear that.

4 JUDGE BOUTET: I knew you would not have heard that but
12:40:02 5 that's what the witness was saying.

6 MR CAMMEGH: Well, if that was the answer --

7 JUDGE BOUTET: Or you may ask the witness to repeat that.

8 MR CAMMEGH:

9 Q. Is His Honour Judge Boutet correct there, Mr Witness? Did
12:40:17 10 you just say that you don't deny that Sylvester Kieh in charge in
11 Koidu up until May of '98?

12 A. I said I did not deny that G5 did not have their office, at
13 the latter part, in Koidu during this time. But the time that I
14 was there, that was the time they asked me the question. So
12:40:46 15 during that time we had no G5 in Koidu. In fact, there was no
16 civilian in Koidu during that time except places like Kissi Town,
17 other small villages around. But the civilians were not resident
18 in Koidu Town, except the time that we have left Koidu Town.
19 Maybe that is the time you are referring to.

12:41:16 20 Q. So, unlike Daru, Koidu had no civilians living in it; is
21 that right?

22 A. Koidu Town had civilians, many of them. They had attacked
23 and captured the town. The ones that have been killed, they've
24 died. There was a command that no civilian should step in in
12:42:01 25 Koidu. It took about 72 hours. No civilian stepped foot in
26 Koidu. At times they executed people, at times they leave them
27 alone.

28 Q. Just help me with this then: When did the civilians leave
29 Koidu, approximately which month?

1 A. I don't know. I cannot recall the month.

2 Q. Well, was it before May of 1998?

3 A. I cannot remember the month.

4 Q. You're not suggesting, are you, that Sylvester Kieh was on
12:42:49 5 duty as a G5 commander in a town without civilians. That's not
6 what you're saying, is it?

7 PRESIDING JUDGE: No, but the witness is saying that --

8 MR CAMMEGH: Well, I'm not sure what the witness is saying,
9 with respect.

12:43:08 10 PRESIDING JUDGE: No, I have it here. He is saying that at
11 that time the intensity of the fighting was enormous and that you
12 don't create a G5 structure where the fighting is very intense
13 and that it is only after things have settled down that they
14 create a G5 in order to establish this relationship with the
12:43:30 15 civilians and that at the time he was there he knew Sylvester
16 Kieh. It's all on the notes here. He knew Sylvester Kieh as one
17 of the commanders but he's not aware that there was a G5
18 structure at the time when the fighting was intense. It was
19 later that Sylvester Kieh went to Tumbodu. It is all here.

12:43:53 20 MR CAMMEGH: I'm anxious, Your Honour, not to draw any
21 findings of fact, with respect, right now.

22 PRESIDING JUDGE: I'm not drawing any findings of fact.
23 This is what he is saying. That's why I'm saying that if we keep
24 pressing and pressing we might -- I'm just relating what I have
12:44:11 25 here. And really if you have to talk of a G5 relationship, which
26 is RUF maintaining a good relationship with the civilians, in
27 times of intense fighting, I wonder what one would expect.

28 MR CAMMEGH: Your Honour, I won't press the point any
29 further. It was simply to illuminate and explore the comment

1 yesterday that there was no G5 in Koidu when of course we spent
2 about two weeks hearing from --

3 PRESIDING JUDGE: You may proceed. You may continue
4 exploring that.

12:44:42 5 MR CAMMEGH: I'll leave it on one side. I think the point
6 is made.

7 Q. You said, Mr Witness, that Augustine Gbao was commander of
8 the G5 in Kailahun Town; correct?

9 THE INTERPRETER: I cannot get the witness clearly.

12:45:09 10 MR CAMMEGH:

11 Q. You said, Mr Witness, that Augustine Gbao was commander of
12 G5 in Kailahun Town; is that correct?

13 A. Yes.

14 Q. Was he the commander of G5 of the entire Kailahun District?

12:45:47 15 A. Well, I was asked as a civilian before I entered the RUF
16 what I knew about Augustine Gbao. He was the G5 commander for
17 Kailahun Town. That was what I know. Maybe he can be the
18 overall boss but I don't know much.

19 Q. Well, what I'm going to suggest to you and perhaps jog your
12:46:10 20 memory about is this: Is this not the case, Mr Witness, that the
21 overall commander of the G5 in Kailahun Town living in Kailahun
22 Town from 1998 to 2001 was a man called Morie Fekai?

23 A. I don't know that man. The one I knew and the person that
24 was clearly shown to us, that was Augustine Gbao.

12:46:52 25 PRESIDING JUDGE: Mr Cammegh, may we have the name of
26 the --

27 MR CAMMEGH: Indeed. It is Morie, M-O-R-I-E, Fekai,
28 F-E-K-A-I.

29 PRESIDING JUDGE: Who was the overall commander?

1 MR CAMMEGH: I am putting it to this witness that he was
2 the overall commander of Kailahun G5 based in Kailahun Town and
3 the dates I gave were '98 to 2001.

4 PRESIDING JUDGE: From?

12:47:53 5 MR CAMMEGH: '98 to 2001.

6 PRESIDING JUDGE: And he has denied that, has he?

7 MR CAMMEGH: He has indeed.

8 Q. But you see, Mr Witness, you told us about this building on
9 the left-hand side on the road as you go into Kailahun Town which
10 was the G5 HQ. I want you to try very hard and try to remember
11 whether the name Morie Fekai means anything to you in connection
12 with Kailahun G5 while you were there?

13 A. I have said that the time I was a civilian, when I arrived
14 in Kailahun the person that was shown to us that I saw myself was
12:48:45 15 Augustine Gbao.

16 THE INTERPRETER: The interpreter cannot get the last
17 segment of the witness's statement.

18 MR CAMMEGH: Shall I continue, Mr Interpreter?

19 PRESIDING JUDGE: Mr Witness, learned counsel has asked you
12:49:14 20 it's true you said you deny that it was Morie Fekai who was the
21 G5 commander but have you heard that name? Do you know the name
22 Morie Fekai?

23 THE WITNESS: The name -- actually I did not hear that
24 name. I don't know him. Maybe he another name that he was
12:49:36 25 called in the jungle.

26 PRESIDING JUDGE: You didn't hear about that name?

27 THE WITNESS: No. No. It was Augustine Gbao that was
28 introduced to us that he was the G5 commander and, indeed, he was
29 the man that I saw.

1 MR CAMMEGH:

2 Q. You described Augustine Gbao for us earlier on and it's a
3 question I should have put a little bit earlier. Could you
4 describe the man you knew as Sylvester Kieh, please?

12:50:31 5 A. He was a slim man and in fact he was speaking that Liberian
6 English. He talks as if he's a Liberian. I don't know his
7 origin but that's how he talked. He's black in complexion. He's
8 a big man actually. He's slim, I know he's slim.

9 Q. So he's slim, is he? Can you remember anything about his
12:51:06 10 face?

11 A. Well, yes, I will say so.

12 Q. What?

13 MR HARRISON: This, in the Prosecution's submission, may
14 require some further discussion and I'm suggesting that it be in
12:51:26 15 a closed session so that the matter can be addressed.

16 JUDGE THOMPSON: Response? Do you think we're --

17 MR CAMMEGH: Can I ask the witness to be --

18 JUDGE THOMPSON: Yes. Can we have the witness's earphones
19 removed, please? Yes.

12:51:55 20 [By order of the Court, this portion of the transcript,
21 page 56, lines 20 to 29 and page 57, line 1 has been extracted
22 and filed under seal]

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2 MR HARRISON: I wanted to make it clear there's nothing
3 wrong with the question and Mr Cammegh can pursue it to its
4 entirety, but I would like to have the opportunity to canvass

12:53:00 5 this matter thoroughly with the Court but I think that canvassing
6 has to be done in closed session.

7 JUDGE THOMPSON: And if it's virtually what you're doing
8 here, you're saying we're becoming perilously close to a
9 prohibited area.

12:53:21 10 MR CAMMEGH: It's a very brief issue but it's a very
11 important one. If my learned friend and if the Court feels more
12 comfortable it should be very briefly dealt with in closed
13 session then I don't dispute that. But it will be very, very
14 quick. It's one very brief question.

12:53:39 15 JUDGE THOMPSON: What I gather is we have a signal of alarm
16 and if we have an alarm signal in terms of our protective
17 measures I think we need to tread extremely cautiously. It would
18 be my own view that we go into closed session.

19 MR CAMMEGH: Can I deal with it in this way, Your Honour.
12:53:57 20 There's another quick question that I can ask.

21 JUDGE THOMPSON: In other words, you'll sidetrack that for
22 the time being.

23 MR CAMMEGH: I'm looking at the time and what I would
24 propose is I ask that other question now which doesn't offend any
12:54:15 25 requirements of protective measures.

26 JUDGE THOMPSON: With the liberty to revisit that one in
27 closed session.

28 MR CAMMEGH: Well, I can come back to --

29 JUDGE THOMPSON: If you so advise yourself later on.

1 MR CAMMEGH: Yes, I can come back to it very briefly at
2 2.30 and then we can wrap up immediately. So if I can deal with
3 it in that way.

4 JUDGE THOMPSON: Okay.

12:54:31 5 PRESIDING JUDGE: Is counsel suggesting that, with the
6 description he's given so far of that man, counsel is not
7 satisfied that the description is anywhere close to that
8 personality?

9 MR CAMMEGH: No, I'm not.

12:54:49 10 PRESIDING JUDGE: You are not.

11 MR CAMMEGH: No, with respect, I'm not. Your Honour, can I
12 assuage the Court it's not going to take any more than two
13 minutes.

14 PRESIDING JUDGE: That's all right. You can ask the other
12:55:02 15 question. I just wanted to clarify this.

16 MR CAMMEGH: Okay, but that, I'm afraid, is the case. I'm
17 not sure if the witness can hear me.

18 JUDGE THOMPSON: Can we have the witness back on the
19 screen?

12:55:18 20 PRESIDING JUDGE: Let's have him on the screen.

21 MR CAMMEGH:

22 Q. Mr Witness, does the name Prince Taylor mean anything to
23 you?

24 A. I don't remember the name.

12:55:57 25 Q. Well, can you tell us please who was overall RUF boss in
26 Kailahun province between 1998 and 2000?

27 A. It was Sam Bockarie.

28 Q. So you don't know Prince Taylor as overall boss of Kailahun
29 during that period?

1 PRESIDING JUDGE: Still 1998 to 2000?

2 MR CAMMEGH: Yes.

3 THE WITNESS: Are you talking of Kailahun Town or the RUF
4 entirely?

12:56:46 5 MR CAMMEGH:

6 Q. The commander of the RUF in Kailahun District between '98
7 and 2000 I'm suggesting to you was a man by the name of
8 Prince Taylor and I'm asking you whether you recall that?

9 A. This is strange. To me it didn't happen that way.

12:57:19 10 Sam Bockarie was the only CDS.

11 Q. Who was the overall commander of the G5 in Kailahun during
12 that period, Kailahun District?

13 A. Me, I don't know.

14 MR CAMMEGH: All right. Well, Your Honours, that's as far
12:58:00 15 as I can take it now. I'm sorry I took a little bit longer than
16 I thought it would be.

17 PRESIDING JUDGE: You asked him of the district, the entire
18 district, isn't it? The G5 commander for the entire district,
19 for the Kailahun District, isn't it? The supreme commander of
12:58:17 20 the G5. Is that the question?

21 MR CAMMEGH: Yes. Your Honour, that is as far as I can
22 take it and if I can just be permitted to ask that one question
23 in closed session at 2.30 then that will be all from me, unless
24 Your Honours wish to deal with that now.

12:59:04 25 PRESIDING JUDGE: [Inaudible] procedures for going into
26 closed session and so on which are haunting us here now.

27 MR O'SHEA: Your Honours, may I assist on this particular
28 aspect of timing. There is a brief matter that I need to raise
29 prior to the adjournment. The reason I say I need to raise it

1 prior to the adjournment is because it may involve the
2 Prosecution conducting some investigations during the luncheon
3 adjournment. So we could perhaps usefully use these remaining
4 three minutes for me to raise that matter. It is a very brief
12:59:39 5 matter and then Mr Cammegh can come back to the cross-examination
6 after lunch, if the Court pleases.

7 [Trial chamber confers].

8 JUDGE THOMPSON: Mr O'Shea, we'll come to your notice of
9 application later on but let me ask Mr Cammegh one question. We
13:01:29 10 have a kind of abbreviated procedure here which we have adopted
11 in this Court whenever we want to ease the strictures of the
12 closed session procedure whereby if questions touch and concern
13 the protective measures mechanism we ask counsel on both sides if
14 the method of having the witness respond to the question in
13:02:08 15 writing would achieve the same objective without prejudicing the
16 protective measures provision.

17 MR CAMMEGH: Yes.

18 JUDGE THOMPSON: Would you be disposed to consider that as
19 an option?

13:02:27 20 MR CAMMEGH: Anything to abbreviate the proceedings.

21 JUDGE THOMPSON: Yes, without sacrificing the interests of
22 justice.

23 MR CAMMEGH: Of course.

24 JUDGE THOMPSON: What would be the Prosecution's response
13:02:39 25 to that option?

26 MR HARRISON: We're content with pursuing that.

27 JUDGE THOMPSON: With that consent then it would seem to
28 me, and my learned brothers are in agreement, that we could
29 pursue that line straight away before we adjourn for the lunch

1 break and then take Mr O'Shea's, I hope, brief application and
2 come back fully re-energised after lunch to continue the next
3 phase of the trial.

4 MR CAMMEGH: I'm grateful for that. Before the Court rises
13:03:22 5 can I just put right something that --

6 PRESIDING JUDGE: We're not rising.

7 MR CAMMEGH: I see. If we're going to go ahead with it
8 now --

9 JUDGE THOMPSON: Can you now, in conjunction with the
13:03:36 10 Prosecution, put the question in writing, and we usually provide
11 you with a piece of paper from Court Management, so that the
12 witness can in fact read and then respond in writing.

13 JUDGE BOUTET: And normally we put that response in
14 evidence as an exhibit that is sealed obviously as it is related
13:04:00 15 to protective measures. So that's the format that we have used
16 in some other forum as such.

17 Presuming the question is on that sheet of paper we'll show
18 it to the witness and ask the witness to write down the answer on
19 that piece of paper.

13:06:03 20 MR CAMMEGH: Thank you.

21 MR HARRISON: Just for the sake of the transcript, I've
22 seen the question. There is no problem from the Prosecution's
23 point of view.

24 JUDGE BOUTET: And the question on that piece of paper
13:06:16 25 presumably is in English.

26 MR HARRISON: It is indeed and it's legible.

27 MR CAMMEGH: Your Honours, while we're waiting --

28 JUDGE THOMPSON: May we ask Mr Cammegh and Mr Harrison,
29 could you accompany the Court Management --

1 PRESIDING JUDGE: Or Mr Santora.

2 JUDGE THOMPSON: Or Mr Santora to go into the booth so that
3 you can be there whilst the witness is writing down the answer.

4 PRESIDING JUDGE: Yes, Mr Cammegh, I know this is strange
13:06:58 5 to you.

6 MR CAMMEGH: If you want me to go I certainly will, but I
7 was hoping just to correct something that I'd said at the end of
8 my examination. I can do that in just a few seconds and but it's
9 important that I do. Can I just do that before I leave the room?

13:07:11 10 JUDGE THOMPSON: Before we have the response? Okay, go
11 ahead.

12 MR CAMMEGH: It was just a lapse of concentration on my
13 part. Your Honours will remember I asked the witness whether he
14 could recall the identity of the RUF commander of Kailahun,
13:07:24 15 Kailahun District that is. I suggested to him that it was Prince
16 Taylor. Of course that was not what I meant to put. I was
17 driving at who was boss of G5 in Kailahun District. I did put
18 the question a different way, does the name Prince Taylor mean
19 anything to you and he said no. So I took that as final on the
13:07:47 20 point of who was overall boss of Kailahun Town and how much this
21 witness knew about it. I just wanted to make that clear.

22 It's not my case that Prince Taylor was boss of RUF in
23 Kailahun District. It's my case that he was boss of RUF G5 in
24 Kailahun District. I'm sorry if I made that confusing.

13:08:10 25 JUDGE BOUTET: Now, you're confusing me completely because
26 you'd asked prior to that, I mean a few questions before,
27 questions about the overall commander of G5 in Kailahun District
28 to be Morie Fekai and now you're coming with another G5 for
29 Kailahun District by a different name. So now I am confused. So

1 you're now saying the question you ought to have asked was
2 whether or not he knew that Prince Taylor was the overall
3 commander for the Kailahun District, is it?

4 MR CAMMEGH: Your Honour is absolutely right. This is the
13:08:50 5 problem of taking instructions while I'm on my feet and not
6 having a chance to think about it. Can I clear it up?

7 JUDGE BOUTET: I'm saying this because when we look at the
8 record it will be totally confusing. So, certainly from my
9 personal perspective on this, if that is what you want to correct
13:09:02 10 on the record with the witness I suggest you go back in time a
11 bit too because the question about the individual just mentioned
12 is also on the record about G5 Kailahun District.

13 PRESIDING JUDGE: This is what is on the record,
14 Mr Cammegh. "I said Augustine Gbao was a commander of G5 in
13:09:25 15 Kailahun Town. I deny that it was Morie Fekai who was the
16 overall commander of the G5 unit in Kailahun from 1998 to 2001.
17 So that was the first suggestion."

18 MR CAMMEGH: Yes. As I've just said, it is --

19 JUDGE BOUTET: And on that you followed up with some other
13:09:49 20 question. You said the house on the left of -- the G5 house, do
21 you remember having seen -- and that name as well. So, in other
22 words, it was more than just one question.

23 PRESIDING JUDGE: I didn't want to continue, you know,
24 there is more. That follows, it's just that I wanted to stop.

13:10:04 25 MR CAMMEGH: It's my fault for taking notes from
26 individuals while I'm on my feet. Can I investigate this and put
27 it right after the break?

28 JUDGE BOUTET: Well, we're still in your cross-examination.

29 PRESIDING JUDGE: We're still in your hands.

1 MR CAMMEGH: Well, can I do that now in that case?

2 PRESIDING JUDGE: Before you come back to that why don't we
3 wrap up this other issue of the question you've put on paper.

4 MR CAMMEGH: I'll go and do that now, if I may.

13:10:38 5 PRESIDING JUDGE: Yes, let's do that. I thought that could
6 be done. Mr Santora, can you --

7 JUDGE THOMPSON: [Overlapping speakers] have a
8 representative from that side and one on this side.

9 PRESIDING JUDGE: Yes, Mr Santora is going now.

13:10:47 10 [Counsel complies]

11 PRESIDING JUDGE: Has Mr Harrison seen that?

12 MR HARRISON: I've been informed by my colleague.

13 PRESIDING JUDGE: Don't be informed, please read it.

14 MR HARRISON: No, I have no problem.

13:15:29 15 JUDGE THOMPSON: So we will receive this document in
16 evidence and mark it Exhibit 24.

17 [Exhibit No. 24 was admitted]

18 JUDGE BOUTET: That is a question written - for the
19 record - by Witness TF1-141 on 19 April.

13:16:12 20 MR HARRISON: If it's necessary for an application the
21 Prosecution ask that it be sealed.

22 JUDGE THOMPSON: Certainly. Any objection? The
23 Prosecution wants this to be sealed.

24 MR CAMMEGH: None from me but I think my learned friend
13:16:24 25 does.

26 MR JORDASH: Just, if I may, if I understand correctly the
27 note from the witness to be sealed -- is that the suggestion? I
28 can see no reason why anybody's identity would be revealed by the
29 contents of that note. In fact, what I already discussed with my

1 learned friend Mr Nicol-Wilson was that there appears to be
2 objections from the Prosecution concerning witness protection but
3 simply because the Defence mentioned people's names -- perhaps I
4 can address this better in a closed session, but my objection to
13:17:05 5 that being a sealed exhibit is that in no way does the content of
6 that note reveal or even start to reveal anybody's identity.

7 JUDGE THOMPSON: Mr Harrison?

8 MR HARRISON: I can give you a full answer but it's going
9 to require a closed session.

13:17:24 10 JUDGE THOMPSON: Right, okay. Then perhaps the question of
11 whether it is going to be sealed or not will in fact be held in
12 abeyance.

13 PRESIDING JUDGE: Are you suggesting that we will still
14 move to a closed session? For what good reasons? I mean, for
13:17:43 15 this particular aspect of the evidence I'm yet to identify the
16 very good reasons why we should move to a closed session after
17 this response on this paper. I don't know. Mr Jordash?

18 MR JORDASH: Your Honour, I would agree that we should
19 argue this in a closed session because it seems to be, from the
13:18:03 20 Defence perspective, a recurring problem of objections by the
21 Prosecution in relation to witness identity. The issue, as far
22 as the Defence is concerned, is not about witness identity. I'm
23 speaking very vaguely because I can't speak more specifically
24 without saying why the Defence are opposing the Prosecution's
13:18:24 25 stance in relation to special measures in one specific regard.

26 JUDGE BOUTET: May I suggest that we look at that at some
27 later time today.

28 JUDGE THOMPSON: Quite right. We certainly can revisit
29 that when we come back.

1 MR NICOL-WILSON: Your Honour, but for the records we also
2 wish to state that we are objecting --

3 JUDGE THOMPSON: [Overlapping speakers] we are certainly
4 not going to consider the question now. We should be able to
13:19:04 5 hold that in abeyance until we come back.

6 MR NICOL-WILSON: As My Lord pleases.

7 MR CAMMEGH: I'm sorry to revisit the topic of my error.
8 Can I clear that up now?

9 JUDGE THOMPSON: Let me ask, are you seeking to, as it
13:19:31 10 were --

11 MR CAMMEGH: Firstly I'm seeking to apologise for confusing
12 everybody in this room.

13 JUDGE THOMPSON: That's okay, we've had the apology, but
14 the effect on the records, you're virtually saying that you are
13:19:37 15 seeking the leave of the Court to editorialise some aspect of
16 your questioning.

17 MR CAMMEGH: I think it will be necessary for me to put a
18 last question to the witness and it's on the topic of command
19 structure, who was in charge of RUF in Kailahun, who was in
13:19:55 20 charge of RUF nationally. But that was where my mistake was.

21 JUDGE THOMPSON: In other words, you put certain questions
22 that in fact were put inadvertently and you now want to
23 editorialise and put the correct questions.

24 MR CAMMEGH: It's only fair that I should, in my
13:20:15 25 submission.

26 JUDGE THOMPSON: I'm not in any way suggesting that you
27 shouldn't.

28 MR CAMMEGH: I appreciate that.

29 JUDGE THOMPSON: I just wanted to be clear in my own mind

1 as to the object of the exercise.

2 MR CAMMEGH: It amounts to this: My case is that I have a
3 name for the G5 commander of Kailahun District. I have a name
4 for the G5 commander of RUF nationally. Forgive me for the slip
13:20:39 5 up, it's actually very simple.

6 JUDGE THOMPSON: And you put the wrong names before.

7 MR CAMMEGH: I mixed it up completely.

8 JUDGE THOMPSON: Okay.

9 MR CAMMEGH: I don't know if Your Honours want me to do
13:20:47 10 that now or can wait until later.

11 JUDGE THOMPSON: We're entirely in the hands of the
12 presiding judge. It's 1.20 and we defer to what he says.

13 PRESIDING JUDGE: I think we could break off for lunch at
14 this stage and to resume the session with this. But my worry is
13:21:04 15 that Mr O'Shea had something to raise which was to be discussed
16 at lunch time. For your application, Mr Cammegh, we would
17 revisit that when we resume after the lunch break.

18 MR CAMMEGH: Thank you.

19 PRESIDING JUDGE: Mr O'Shea, I don't know what --

13:21:23 20 MR O'SHEA: Yes, Your Honours. Very briefly, during the
21 course of Mr Cammegh's cross-examination he put the question to
22 this witness -- can I ask that the witness's headphones be taken
23 off now.

24 PRESIDING JUDGE: Mr Witness, can you take off your
13:21:48 25 headphones.

26 MR O'SHEA: Mr Cammegh put the question to this witness
27 when he was being interviewed by a lady referred to as Sharan
28 whether she was typing directly into a computer or writing on
29 paper with a pen and the answer that came from the witness was

1 that she was writing on paper with a pen.

2 What I would request from the Prosecution is the following
3 information, and depending on the answer I may have an
4 application. At this stage I done have an application, it
13:22:32 5 depends on the answer. I would like the Prosecution to confirm
6 to the Court and to the Defence whether there are in fact
7 handwritten notes by the lady referred to as Sharan, and the
8 answer is simply yes or no, and I would ask that the Prosecution
9 investigate that, if they need to, over the luncheon adjournment.

13:23:00 10 JUDGE THOMPSON: Any response?

11 MR HARRISON: No, no response.

12 PRESIDING JUDGE: We would again, like in the earlier
13 issue, revisit this after the lunch break. The Prosecution has
14 heard and I'm sure you know it will crosscheck this information,
13:23:28 15 yes. We would take a lunch break and resume the proceedings at
16 three o'clock. At 3.00 p.m., please. The Court will rise,
17 please.

18 [Luncheon recess taken at 1.23 p.m.]

19 [On resuming at 3.18 p.m.]

14:50:01 20 [HS190405D-RK]

21 PRESIDING JUDGE: We're resuming the session. Yes,
22 Mr Cammegh.

23 MR CAMMEGH: May it please, Your Honour, I don't know if
24 the witness can hear me.

15:22:14 25 PRESIDING JUDGE: He is not yet on the monitor, is he?

26 MR CAMMEGH: No.

27 PRESIDING JUDGE: Let's wait awhile and see. He's there
28 now.

29 MR CAMMEGH:

1 Q. Mr Witness, you probably can't see me, but can you hear me?

2 A. Yes, yes.

3 Q. I want to clear up a mistake that I made just before we
4 broke for lunch. I want to mention a couple of names to you one

15:22:50 5 last time and ask you if you knew them in certain capacities.

6 The first name is this --

7 A. Yes.

8 Q. What I suggest to you is that the commander of the G5 in
9 Kailahun District was Morie Fekai. Can you comment on that?

15:23:32 10 A. I was a fighter. I had nothing to do with G5.

11 PRESIDING JUDGE: You had something to do with G5,

12 Mr Witness. Please, let's get out of this mess. You had given a

13 reply this morning about Morie Fekai. Counsel is asking you, you

14 know. Put the question to him again, please.

15:24:00 15 MR CAMMEGH:

16 Q. Could I just ask the question one more time. Did you know

17 the commander of G5 Kailahun District to be a man called

18 Morie Fakai?

19 A. I don't know him.

15:24:24 20 Q. You suggest that he was --

21 PRESIDING JUDGE: Please wait. Please wait. That is in

22 the whole of the Kailahun District.

23 MR CAMMEGH: Indeed.

24 JUDGE BOUTET: But this is not different from the question

15:25:11 25 you asked this morning in this respect, at least according to my

26 notes.

27 PRESIDING JUDGE: This is what you said anyway. You're

28 just correcting.

29 MR CAMMEGH: Can I just put the second question and I hope

1 everything will once and for all be clear.

2 Q. Did you know, Mr Witness, the overall commander of G5
3 throughout Sierra Leone as Prince Taylor?

4 A. No.

15:25:59 5 Q. Right.

6 MR CAMMEGH: I hope Your Honours --

7 PRESIDING JUDGE: Please wait.

8 MR CAMMEGH: -- that is sufficient.

9 JUDGE BOUTET: Presumably, Mr Cammegh, you say that
10 throughout the era of RUF.

11 MR CAMMEGH: Yes. Did I not say that, Your Honour.

12 PRESIDING JUDGE: You did.

13 JUDGE BOUTET: Did he say it?

14 PRESIDING JUDGE: Um-hum, throughout Sierra Leone.

15:26:49 15 JUDGE THOMPSON: I didn't hear for the RUF.

16 JUDGE BOUTET: He did not say for the RUF. He did say
17 throughout Sierra Leone.

18 PRESIDING JUDGE: Well, okay. I just put it there.

19 MR CAMMEGH:

15:27:01 20 Q. Mr Witness, when I say commander of the G5 for
21 Sierra Leone, I of course mean commander of the RUF G5 throughout
22 Sierra Leone; do you understand?

23 A. Yes, I understand.

24 Q. Thank you. Now, earlier on this morning, Mr Witness,
15:27:33 25 I asked you about your education and you told this Court that
26 after January 2003 your education improved. You told the Court
27 this: "I now have support from the OTP to go to school." My
28 question is this, Mr Witness, would you have been as willing to
29 give statements to the OTP between January 2003 and January 2005

1 had you not received support from the OTP for you to continue and
2 improve your education?
3 A. Yes.
4 Q. Is that --
15:28:31 5 A. Yes.
6 Q. I suggest --
7 PRESIDING JUDGE: Please wait. Let's get it right, you
8 know. The witness is saying that he would be prepared to give
9 statements to the OTP even if his education was not financed by
15:29:28 10 the OTP.
11 JUDGE THOMPSON: If he had not received financial support.
12 MR CAMMEGH: The word, Your Honour, with respect, was
13 "support."
14 PRESIDING JUDGE: Even if I did not receive support.
15:29:40 15 JUDGE THOMPSON: All right, yes.
16 JUDGE BOUTET: But the word you used was, "support to
17 improve your education."
18 MR CAMMEGH: Yes, and continue to support and continue your
19 education.
15:30:07 20 PRESIDING JUDGE: To support and continue.
21 JUDGE THOMPSON: Improve and continue.
22 MR CAMMEGH: To improve and continue.
23 PRESIDING JUDGE: To improper, support and continue,
24 whatever.
15:30:20 25 MR CAMMEGH: Yes, indeed.
26 Q. I suggest, Mr Witness, that you have not, over the last few
27 days, been entirely honest with this Court. That is right, isn't
28 it?
29 A. Not so.

1 Q. Isn't there --

2 PRESIDING JUDGE: The past days he has not been?

3 MR CAMMEGH: Entirely honest.

4 PRESIDING JUDGE: Entirely honest to the Court.

15:31:18 5 MR CAMMEGH: With this Court, yes.

6 PRESIDING JUDGE: With this Court. He denies that

7 suggestion.

8 MR CAMMEGH: He did.

9 PRESIDING JUDGE: Yes.

15:31:32 10 MR CAMMEGH:

11 Q. Is there, Mr Witness, not even the slightest possibility

12 that you have been giving answers to questions with the intention

13 of helping the Prosecution, whether your answers were true or

14 not?

15:32:11 15 A. I don't understand.

16 Q. I'll put it in plain terms, Mr Witness, so that you can

17 understand. I'm suggesting to you that since January 2003, up

18 until this day, a period during which you have received support

19 from the OTP to continue your education --

15:32:46 20 JUDGE BOUTET: Slowly, slowly.

21 MR CAMMEGH:

22 Q. -- you have been playing out a bargain with the Prosecution

23 and you have been telling this Court -- or rather, you have been

24 giving evidence in this Court which has been designed to help

15:33:28 25 them in putting their case.

26 JUDGE THOMPSON: Learned counsel, that is definitely not

27 simple. It is complex. It is complicated.

28 PRESIDING JUDGE: It is controversial.

29 JUDGE THOMPSON: It is controversial. I mean introducing

1 the concept of a bargain.

2 PRESIDING JUDGE: A bargain with the Prosecution.

3 JUDGE THOMPSON: That is not simple. It complex. Okay,
4 try again.

15:34:03 5 MR CAMMEGH: Very well.

6 Q. In return for help with your education, Mr Witness,
7 I suggest that you have come here --

8 PRESIDING JUDGE: Excuse me. Are you now -- we want to
9 take you down. In return for --

15:34:22 10 MR CAMMEGH: Giving -- I can't remember what I said now,
11 Your Honour, I'm afraid.

12 JUDGE BOUTET: In return for help with your education.

13 PRESIDING JUDGE: In return for help -- for receiving help
14 for your education.

15:34:36 15 MR CAMMEGH:

16 Q. You have come to this Court --

17 PRESIDING JUDGE: Please wait.

18 MR CAMMEGH:

19 Q. You've come to this Court to say what you think the
15:38:00 20 Prosecution would like you to say rather than to tell the truth;
21 is that not so?

22 A. It is not like that.

23 MR CAMMEGH: Your Honours, I'm sorry for taking to long. I
24 have no further questions.

15:38:00 25 PRESIDING JUDGE: It is okay. It is all right.

26 JUDGE THOMPSON: Prosecution, re-examination?

27 MS PARMAR: Your Honours, there will be no re-examination
28 of this witness.

29 JUDGE THOMPSON: Thank you. Mr O'Shea, please.

1 MR O'SHEA: Yes, before the luncheon adjournment, I put a
2 question to the Prosecution through the Court. I did it in that
3 way because I felt it was important to have the questions on
4 record having regard to the questions put to the witness by
15:39:26 5 Mr Cammegh. I would therefore invite the Prosecution to provide
6 an answer to the Court to my question. If Your Honour pleases.

7 JUDGE THOMPSON: Yes, certainly a pleasure.

8 MR HARRISON: I conveyed the answer to Mr O'Shea earlier,
9 so as far I am --

15:39:43 10 PRESIDING JUDGE: Maybe he wants it on record.

11 MR HARRISON: Well, so far as I know, conversations between
12 counsel are between counsel. They are not before the Court.

13 MR O'SHEA: I have had a conversation with Mr Harrison and
14 as I indicated earlier, Your Honours, I may have an application
15:40:08 15 based on the answer given, and I think it is important that the
16 answer is on record, in my respectful submission.

17 [Trial Chamber confers]

18 JUDGE THOMPSON: Mr Harrison, could you repeat your
19 response we -- and of course the sequence was -- we don't need to
15:42:16 20 rehearse the sequence. Counsel in open court did make a request
21 through the Court to you. He now reminds us of that and
22 indicated that he has had some response from you. What is your
23 position on that, because we're inviting you for a response to
24 him in open court, having regard to the fact that the question or
15:42:43 25 the request was made before us. Otherwise, all you could have
26 said: Your Honours, after you adjourn for lunch we want to
27 discuss something confidentially." Let's have your response.

28 MR HARRISON: I'm prepared to answer the question if that's
29 what the Court wants.

1 JUDGE THOMPSON: Quite right, because it is in open.

2 MR HARRISON: I had simply indicated to the Court that it
3 was always my understanding that conversations between counsel or
4 a conversation between counsel were not to be subsequently dealt
15:43:15 5 with before the Court unless the Court wishes.

6 JUDGE THOMPSON: Well, no. It would be a different
7 situation if the court's intervention had not been sought. What
8 is the point of asking us, the judges, to give leave for him to
9 make -- put a question to you.

10 MR HARRISON: Frankly, I've never heard of this happening
11 before. This is my first.

12 JUDGE THOMPSON: Well.

13 MR CAMMEGH: Your Honours, can I just interject.

14 PRESIDING JUDGE: No, no, no, please. Mr Cammegh --

15:43:42 15 JUDGE THOMPSON: Mr Cammegh --

16 MR CAMMEGH: With respect, the witness can hear this.

17 PRESIDING JUDGE: Thank you. I didn't know you were
18 standing for that. I'm sorry. I thought you were springing on
19 your feet, you know, to reply to what Mr Harrison was talking
15:44:00 20 about.

21 MR HARRISON: If the court is asking me to respond, I will
22 do it right now.

23 PRESIDING JUDGE: Yes, I think it is -- I mean, it goes
24 back to what our definition was as to what a witness statement is
15:44:23 25 in -- in these circumstances. This request was made, you know,
26 in open court and I think we require the reply, you know, in open
27 court and see where we move from there.

28 MR HARRISON: The question I wrote down was: "Are there
29 handwritten notes by Sharan?" I was later told by Mr O'Shea that

1 that was not the question and, as I understand it, there were in
2 fact two questions. One question is: "Were notes ever taken by
3 Sharan?" And secondly, "Where, if anywhere, are those notes?"
4 So if I can try to answer the two questions that I have
15:45:15 5 subsequently been told were the questions being put, and the
6 answers are --

7 PRESIDING JUDGE: Mr Harrison, Mr O'Shea's application was
8 predicated on the response that was given by this witness to a
9 question that was put to him. "When you were being interviewed
15:45:38 10 by Madam Sharan, were your responses recorded?" He said, "Yes,
11 by pen," by use of the pen. And I think that is what I got on
12 the record.

13 JUDGE BOUTET: Yes, yes.

14 PRESIDING JUDGE: So that is where we stood and that is
15:46:01 15 what I'm sure - you know, Mr O'Shea's - your application is based
16 on that, isn't it?

17 MR O'SHEA: Your Honour, yes.

18 PRESIDING JUDGE: Are those not the notes which were
19 written in pen that you're referring to.

15:46:19 20 MR O'SHEA: Your Honour, exactly. I can just remind --

21 JUDGE THOMPSON: I would like to confirm that it triggered
22 off your inquiry, didn't it.

23 MR O'SHEA: Yes. And if I could just remind the Court
24 briefly, because I've taken a copy of the stenographer's note,
15:46:36 25 just so that we're all clear as to what was said. I think the
26 witness's earphones are off. Yes. This is Mr Cammegh:

27 MR CAMMEGH: Yes, well, I think I will leave it
28 there. Your Honour, I'm helpfully reminded of question
29 which I meant to put.

1 Q. Mr Witness, I want to ask you one more question
2 about your relationship with people from the OTP.
3 When you were being interviewed by Sharan and a
4 statement was being taken from you, was this lady
15:47:00 5 typing on a computer as you were speaking or writing
6 notes down on a paper with a pen.

7 A. She was writing with a pen, yes.

8 PRESIDING JUDGE: Who was writing?

9 MR CAMMEGH:

15:47:11 10 Q. Just please confirm who it was who was writing?

11 A. Sharan.

12 Q. Finally on this point, when you were talking
13 about Augustine Gbao was Sharan writing with a pen.

14 A. Yes.

15:47:27 15 So that, Your Honour, is the context --

16 JUDGE THOMPSON: Mr O'Shea, that is fresh in all our minds.
17 The question really is: How do you make that in open court, and
18 realising that your request was triggered off by those questions
19 and answers, the question now is for the Prosecution to respond
15:47:52 20 to the inquiry that you've made in open court. And of course, my
21 bewilderment was when the Prosecution said this was a privileged
22 conversation and said this was the first time that he has ever
23 seen this happen in court. And thus the insistence from the
24 Bench that if he agreed to respond to your inquiry and did
15:48:21 25 undertake to come back, it would seem to me that he is now
26 estopped from taking the position he is taking and therefore the
27 Bench is inviting a response in him.

28 MR HARRISON: It has gotten terribly convoluted here.

29 First of all, we've gone from a request to an application to

1 somehow introduced estoppel. I'm happy to answer the question so
2 we can get on. But there was never any attempt to withhold any
3 information.

4 JUDGE THOMPSON: Well, when you mentioned privilege.

15:48:58 5 MR HARRISON: I never mentioned privileged. I did not say
6 privileged.

7 JUDGE THOMPSON: You said conversation between counsel.
8 You did not say privileged?

9 MR HARRISON: No, I did not.

15:49:09 10 JUDGE THOMPSON: All right, then I got you wrong. But I
11 thought the mention of conversation between counsel, something
12 like privilege, you used the word.

13 MR HARRISON: No.

14 JUDGE THOMPSON: I think the Court is entitled to hear your
15:49:18 15 response in the open.

16 MR HARRISON: Shall I make it now?

17 JUDGE THOMPSON: Go ahead, yes.

18 MR HARRISON: As I understand it, there are two questions.
19 The first one: Were notes ever taken? The answer is: There
15:49:27 20 were several meetings. Notes were taken, probably on occasion
21 with pen, probably on occasion by computer. I should also
22 indicate that it is clear from one of the notes, at least, that
23 there were two women present at the interview, one of whom being
24 named Sharan. Another woman's name is clearly on there. The
15:49:49 25 second question that I understand that is being asked is: Are
26 those notes in existence? And the answer is: No, they are not.
27 They have been destroyed. The destruction of those documents is
28 pursuant to a policy that exists within the Office of the
29 Prosecution.

1 JUDGE THOMPSON: Thank you, very much. Learned counsel,
2 response?

3 MR O'SHEA: Your Honour, in the light of that response --

4 JUDGE THOMPSON: Let us take you back to your original
15:50:17 5 position. Otherwise, we'll prolong a matter that needs to be
6 dealt with expeditiously.

7 PRESIDING JUDGE: Excuse me. I would like to get
8 Mr Harrison properly on my record, please. Mr Harrison the first
9 question which you asked was whether notes were taken. You said
15:50:36 10 there were many meetings. That is the first.

11 MR HARRISON: This is precisely what I'm concerned about.
12 I'm becoming a witness.

13 PRESIDING JUDGE: No, no, no, you are not a witness.
14 Please, you are replying to an inquiry, please. Calm that off
15:50:49 15 your mind. You are not a witness the all. Were any notes taken?
16 You said there were many meetings and notes were taken in which
17 at least two women were present.

18 MR HARRISON: No, no. On at least one occasion by looking
19 at the statements that were disclosed two women were present.
15:51:14 20 You can see that by looking at the statement. Two women may have
21 been present on other occasions, but you would not know that by
22 looking at the statement. And it is probably the case that on
23 some of those occasions notes were taken by pen and on other
24 occasions recorded into a computer.

15:52:32 25 PRESIDING JUDGE: Yes, then the second one you say the
26 notes have now been destroyed following an internal policy.

27 MR HARRISON: Yes, you have me right on the second one.

28 PRESIDING JUDGE: Where are these notes now? They have
29 been destroyed following a policy of the OTP.

1 MR HARRISON: Correct.

2 JUDGE BOUTET: But this policy applies to notes taken by
3 hand as well as notes taken by computer?

4 MR HARRISON: Yes, it is all notes.

15:52:59 5 JUDGE BOUTET: All notes, regardless of the way they were
6 taken?

7 MR HARRISON: All right. I think we're going to have to
8 call some computer expert because I don't know if you can delve
9 into a computer and somehow resurrect files that have been
15:53:15 10 deleted.

11 JUDGE BOUTET: Well, without going that far.

12 JUDGE THOMPSON: You shouldn't preempt us. All we were
13 asking for is the response to the inquiries you made during the
14 lunch time. That is what we want to know, just the response,
15:53:30 15 because I recall that Mr O'Shea did say that depending on the
16 response he may well not make an application and I think that is
17 where we need to go and --

18 PRESIDING JUDGE: Mr Harrison, thank you. I have got you
19 right.

15:53:44 20 JUDGE BOUTET: May I, Presiding Judge. Mr Harrison, I was
21 not trying to impute anything. All I was saying, because
22 obviously on a computer you can just press delete and it deletes.
23 Whether it is deleted forever or not -- I'm not an expert either.
24 It may or may not. But if the policy was for you to delete, to
15:54:01 25 the same extent you would delete a piece of paper, that is fine.
26 That is all I was asking.

27 MR HARRISON: Let me be frank, the last time I read that
28 policy is quite a long time ago. Whether it actually says in
29 that policy words to the effect that: "Delete anything created

1 under the sun, and especially you, Harrison, because you don't
2 know computers. Make sure you delete your files." I don't know.
3 If you want me to go and get the policy, I can go and look for
4 it.

15:54:31 5 PRESIDING JUDGE: No, no, no. Mr Harrison, we do not want
6 to bother you to that point.

7 JUDGE BOUTET: I am satisfied with the answer as well.

8 PRESIDING JUDGE: I think the Chamber is satisfied with the
9 answer you've supplied. Mr O'Shea.

15:54:50 10 MR O'SHEA: Your Honours, I'm also satisfied with the
11 information supplied, however, it does raise questions. What I
12 deem from the response which has been given by the Prosecution,
13 is two significant things. First of all, that there were
14 probably handwritten notes taken while this witness was being
15:55:21 15 questioned. That is the first thing that I have adduced, I think
16 fairly, from the response which has been given. That assertion
17 is corroborated by the answers of the witness himself.

18 The second thing that I draw from this response is that
19 these handwritten notes, which if they existed, have been
15:56:00 20 destroyed. The Prosecution is unable to say on what occasion --
21 from the use of the word "probably" by Mr Harrison, I think I'm
22 fair in making the inference that the Prosecution - and they can
23 correct me if it is not the case - the Prosecution are unable to
24 identify what these notes were that they have destroyed. And
15:56:25 25 perhaps that they have no record when they destroy material as to
26 what they are destroying so that if it becomes an issue later,
27 the issue can be resolved.

28 Now respectfully, Your Honours, that does create, in my
29 respectful submission, a serious difficulty, and the difficulty

1 is this. In Your Honours' decision of the 16th of July of 2004,
2 decision on disclosure of witness statements and
3 cross-examination in the case of Norman et al, Your Honours
4 embarked upon the definition of a witness statement. And in
15:57:16 5 doing so referred most helpfully to the appeals decision in
6 Blaskic, which I can paraphrase perhaps badly, because I'm doing
7 it from memory.

8 PRESIDING JUDGE: We know what we wrote there. Don't take
9 us there. We know what he wrote.

15:57:34 10 MR O'SHEA: Very well. So we're faced, in my submission,
11 with a situation where --

12 PRESIDING JUDGE: Remember I referred to it when I was
13 making -- that's right.

14 MR O'SHEA: Yes, yes. Your Honours, it puts us in a
15:57:54 15 situation where we may be faced with a situation where Rule 66
16 material has been destroyed, and possibly, although we cannot
17 prove it, Rule 68 material. The fact that we cannot prove it
18 means that we cannot make an issue out of the Rule 68. However,
19 the fact that the notes have been destroyed means that it is
15:58:27 20 impossible for anybody, including the Prosecution themselves to
21 verify whether there is any Rule 68 material there.

22 In my respectful submission, if notes have been destroyed
23 which have been taken down while a witness has been answering
24 questions to the Prosecution, the clear possibility of that
15:58:54 25 material being Rule 66 material, means that if material is
26 destroyed and the Prosecution cannot remember what that material
27 was, then we have, in my submission, a breach of Rule 66. I say
28 that because it puts the Defence in an impossible position,
29 effectively. Because normally what we can do is we can say to

1 the Prosecution: Well, what is the position? What is this
2 material which you've destroyed or what is this material which
3 you have in your possession? And the Prosecution will say:
4 Well, it is not Rule 66 material because of A, B, C. In this
15:59:41 5 case, they cannot give that answer.

6 [Trial Chamber confers]

7 PRESIDING JUDGE: Sorry, to have interrupted you. You may
8 continue.

9 MR O'SHEA: Your Honour, thank you. Prima facie, I would
16:00:46 10 submit, this is Rule 66 material by virtue of the fact that we
11 know that it is handwritten notes taken during the course of
12 questioning a witness, and I say that in the context of the
13 definition of which Your Honours have referred to previously.
14 And in my submission, we do not have to prove that is Rule 66
16:01:05 15 material definitively simply because it has been destroyed and
16 nobody in this courtroom is able to shed any light as to
17 exactly --

18 JUDGE BOUTET: What are you proposing, Mr O'Shea?

19 MR O'SHEA: Well, I'm proposing, Your Honour, that we've
16:01:21 20 been caused prejudice by virtue --

21 JUDGE BOUTET: I should draw your attention to a decision
22 of this Court of 1 October 2004 on that very issue, so what are
23 you proposing?

24 MR O'SHEA: I'm not sure if I'm aware of the decision that
16:01:45 25 Your Honour is referring to.

26 PRESIDING JUDGE: Yes, please, Mr O'Shea, you may continue.

27 MR O'SHEA: Yes, I am not sure if I am aware of the
28 decision that Your Honour is referring to, but I have not, for my
29 part, seen any decision relating to the exact point that I'm

1 raising. I do not know if I'm wrong about that.

2 PRESIDING JUDGE: No, no, no. I think all we want is for
3 you to conclude and we will know how to move from there.

4 MR O'SHEA: Yes, very well. Well, that is my submission,
16:02:15 5 Your Honour, that this is prima facie.

6 PRESIDING JUDGE: That you suffered the prejudice?

7 MR O'SHEA: Yes.

8 PRESIDING JUDGE: And what remedy do you want then? Are
9 you just raising it to leave it there, or do you want a remedy?

16:02:30 10 MR O'SHEA: I want a remedy and the remedy which I request
11 is the exclusion of the evidence in relation to Witness 141.

12 PRESIDING JUDGE: The exclusion?

13 MR O'SHEA: Exclusion of the evidence in relation to
14 Witness 141 on the basis that material that we say we should have
16:02:52 15 seen, we have not seen and it is impossible to verify,

16 definitively, even from the Prosecution, whether it is material
17 which falls within the category that I assert. Your Honours
18 heard the questions from my learned friend Mr Cammegh in relation
19 to why has the witness not mentioned Mr Gbao for such a long

16:03:22 20 period of time? These notes, for example, might have shed light
21 on that question. We have in our possession documents which are
22 described as proofing notes, which are written in the third
23 person. I'm aware, Your Honours, that Your Honours have

24 indicated in previous decisions that you don't have a difficulty
16:03:45 25 with material being written in the third person. But what I do
26 say is that because these proofing notes are written in the third
27 person and appear to be a summary of what was said, it may be
28 very material for us to know the content of the actual notes
29 which were taken during the course of the interview.

1 PRESIDING JUDGE: Right. Well, we've -- you've made your
2 submission and you've coupled that with a remedy which exists in
3 the tribunal excluding the entire evidence of witness TF1-141.

4 MR O'SHEA: Well, in my submission, it is sufficiently
16:04:18 5 serious.

6 PRESIDING JUDGE: Well, that is what you're saying, you
7 know, because that is why you're seeking -- you're seeking that
8 the evidence of this witness be completely, you know, expunged
9 from the records, or be completely disregarded. That is what
16:04:41 10 you're saying.

11 MR O'SHEA: Yes. It may sound --

12 PRESIDING JUDGE: Because of the prejudice which you
13 suffered from the destruction of the notes -- the alleged notes
14 which you consider to be Rule 66 material.

16:04:55 15 MR O'SHEA: Yes.

16 PRESIDING JUDGE: And possibly Rule 68 material as well.
17 Is that not what you're saying?

18 MR O'SHEA: Yes, yes.

19 PRESIDING JUDGE: Thank you.

16:05:07 20 MR JORDASH: I would like to support my learned friend's
21 application. The Rule 41 of the Rules of Procedure and Evidence
22 oblige the Prosecution to secure, store and preserve information.
23 My learned friend, I would respectfully submit, is correct in his
24 submissions.

16:05:34 25 PRESIDING JUDGE: Rule 41.

26 MR JORDASH: Rule 41, preservation of information. But I
27 think my learned friend's submissions are correct. In due course
28 Your Honours are going to be asked to consider the credibility of
29 this witness. Throughout the cross-examination of this

1 witness --

2 [Trial Chamber confers]

3 PRESIDING JUDGE: Mr Jordash, I've been consulting with my
4 colleagues on this and I think they -- the remedy that Mr O'Shea
16:06:58 5 is putting forward, you know, for us to apply in this situation
6 is -- has very significant legal consequences. We thought we
7 could dispose of this application, you know, orally. It started
8 from nowhere and it has mushroomed to very gigantic proportions,
9 so we will direct that if you want to pursue this matter, that we
16:07:31 10 would entertain it by way of a written motion -- a written
11 motion. We'll suspend whatever we're doing here and then you can
12 retire and come to the Chamber by written motion so that the
13 Prosecution can also be given the opportunity to reply and for
14 you to reply to whatever the Prosecution may have said. True
16:07:57 15 enough, you know, the arguments have been very exhaustive, but we
16 think the remedy sought has very, very serious legal consequences
17 and we need to address the issues, you know, with all the
18 seriousness that it deserves. Having -- of course, having heard
19 or read from all the parties concerned.

16:08:27 20 MR JORDASH: Your Honours, it may be that the application
21 is slightly premature, because it is within the knowledge of the
22 Prosecution or certainly they can investigate as to whether the
23 material might have been on the hard drive of their computers.
24 In my experience of hard drives of computers is that they are not
16:08:51 25 easily wiped. My learned friends might wish to have a look at
26 their computers. I'm sure they have considerable technical
27 expertise in the Prosecution camp to check whether these notes
28 exist still on the hard drive of the computer.

29 PRESIDING JUDGE: That is why we want it in a written form.

1 So that when they would be replying, they would have reflected on
2 this and taken the necessary steps to do what you are asking them
3 to do.

4 MR JORDASH: But I would invite the Court to order the
16:09:27 5 Prosecution to investigate whether those notes still exist.

6 PRESIDING JUDGE: No, we will not order the Court to
7 investigate -- the Prosecution to investigate. File the motion,
8 please, and let us get -- we have to proceed progressively.

9 MR JORDASH: But there is no motion if the notes still
16:09:45 10 exist. And they may still exist, according to what the
11 Prosecution have told us.

12 PRESIDING JUDGE: The Prosecution says they have destroyed
13 the notes.

14 JUDGE BOUTET: They certainly have destroyed, according to
16:09:58 15 what they say, whatever handwritten notes they may have taken.
16 So their position and their disclosure has been that there was
17 handwritten notes and computer-taken notes. So what is not clear
18 is whether or not those that were recorded on computer have been
19 completely -- I use the word destroyed or deleted or are gone
16:10:21 20 forever. If you're talking of handwritten notes, that is a
21 different issue unless those handwritten notes were eventually
22 transcribed on the computer and so on, which I don't know.

23 MR JORDASH: Their position appears to be that it is
24 probably the case that some notes were taken by pen and on other
16:10:39 25 occasions recorded onto a computer. That leaves open the
26 possibility, I would respectfully submit, that all the notes were
27 taken on computer. Now, if that is right and the Prosecution can
28 retrieve them, then we are being asked to draft a motion on a
29 false premise, which is that the notes have been destroyed, when

1 in fact they may be sitting on the Prosecution's hard drive. It
2 seems, I would respectfully submit, somewhat unfair for us to be
3 asked to draft a motion when the Prosecution can simply go to
4 their camp and find out if indeed the notes still exist.

16:11:18 5 PRESIDING JUDGE: I think we need a computer expert here,
6 you know, to let us know what you're saying is --

7 MR JORDASH: They have computer experts.

8 PRESIDING JUDGE: -- feasible, you know, whether the notes,
9 as you say, may be hanging out somewhere. But, I think that at
16:11:46 10 any stage, you know, in the course of the exchange of -- of
11 submissions on this, many situations will be clarified and the
12 Tribunal will be able to know what stand to take on this matter,
13 but -- yes, Mr O'Shea.

14 MR O'SHEA: Your Honour, I agree with the wisdom of the
16:12:15 15 course that you proposed. It would be helpful, of course, for
16 the Prosecution to check their bases. I'm sure they will do that
17 any way to avoid unnecessary litigation. But I agree that
18 this --

19 PRESIDING JUDGE: Let me put it -- but what is wrong in
16:12:36 20 starting the litigation and seeing that somewhere, somehow there
21 is no need to pursue the litigation following whatever the
22 Prosecution will later disclose in the course of their replies
23 and so on which they will provide to whatever the Defence may be
24 asking for.

16:12:56 25 MR O'SHEA: The Prosecution can also informally come to us
26 and indicate that they found certain notes, and that may modify
27 the position. I agree with the wisdom of dealing with this by
28 way of written motions. It is serious. I submit it is serious.

29 PRESIDING JUDGE: We would rise, please.

1 [Break taken at 4.10 p.m.]

2 [HS190405 4.20 p.m. - AD]

3 [On resuming at 4.43 p.m.]

4 MR JORDASH: Apologies for the lateness.

16:45:35 5 PRESIDING JUDGE: That is okay.

6 MR O'SHEA: I apologise also.

7 PRESIDING JUDGE: The Chamber would like to confirm its
8 directive that a proper motion be filed to address this issue to
9 be served on the Prosecution. There is no acceleration about it.
16:46:01 10 It should take the normal time limits that are provided for by
11 the rules. In the cause, the Chamber is making no order as to an
12 investigation by the Prosecution on whether the information
13 exists in the hard disk or not. But, in replying to the argument
14 that will be presented by the Defence, the Prosecution can make
16:46:33 15 the position clear as to what the reality is. Is it the same
16 information? Can it be retrieved from the hard disk or whatever?
17 We will have to leave it at that. It is only after we have
18 gotten all the replies that the Chamber would come out with a
19 ruling - a reasoned ruling - on this very, very important issue.

16:47:08 20 Thank you.

21 Before I forget, I think we have a communication here from
22 the administration of the Special Court. The judges of the two
23 Chambers have been advised not to sit on Thursday the 21st of
24 April because this is a Muslim holiday. The judges have also
16:47:45 25 been advised not to sit on Wednesday the 27th of April, which is
26 Independence Day for Sierra Leone. So, please, we would like
27 counsel and staff and, of course, the accused persons to take
28 note of this.

29 [Trial Chamber confers]

1 PRESIDING JUDGE: Can we have the witness TF1-141 on the
2 monitor please? Put on your microphone. Yes. Mr Witness.

3 THE WITNESS: Yes, Your Highness.

4 PRESIDING JUDGE: We have come to the end. He is out; I am
16:48:58 5 not seeing him again. I am no longer seeing him. Have you
6 disappeared? You don't want to see me. Right, good.

7 We have come to the end of your evidence and we would like
8 to thank you for assisting the tribunal with the evidence you
9 have given to assist us in arriving at the truth in this matter.
16:49:23 10 We thank you very much and we wish you a safe journey to wherever
11 you are staying and, above all, a happy pursuit of your career -
12 the career that you are following. We wish you all the best.
13 Although we are discharging you now, we might well develop or
14 have the necessity of having you back here for further
16:49:54 15 clarification of your testimony or for something that is
16 essential for us to determine the truth in this matter. I am not
17 saying it has happened yet. Now you are free, but if necessity
18 arises we will always get in touch with you. This is what we do
19 to all witnesses; it is not only to you. Do you understand me?

16:50:23 20 THE WITNESS: Yes.

21 PRESIDING JUDGE: It is not only to you. Every witness is
22 on hold in case the tribunal needs him or her. So may we need
23 you, and when we do we hope that you will be very happy to come
24 to us again so that we see you once more before us. Is that all
16:50:43 25 right?

26 THE WITNESS: Yes.

27 PRESIDING JUDGE: Thank you very much. We wish you all the
28 best. Bye.

29 THE WITNESS: Bye.

1 [The witness withdrew]

2 JUDGE THOMPSON: Learned counsel for the Prosecution, on
3 the assumption that you are proceeding sequentially, it would
4 seem as if your next witness, or next two witnesses, would be
16:51:09 5 TF1-360 and TF1-362. Which one are you --

6 MR HARRISON: No, 360 was one that I had previously
7 informed the Court would be skipped over.

8 JUDGE THOMPSON: I see.

9 MR HARRISON: And it is 362. The backup witness that is
16:51:25 10 here today is 114. Sorry -- 362 is ready and 114 is here and
11 also ready.

12 JUDGE THOMPSON: So 362 is --

13 MR HARRISON: If it helps you, that is the category C
14 witness - 362. And if it is of guidance to the Court, we
16:51:45 15 anticipate that to be a relatively lengthy witness. The direct
16 examination is likely to be at least a half a day.

17 JUDGE THOMPSON: Half a day.

18 MR HARRISON: Half a day.

19 PRESIDING JUDGE: Half a day. No, I am consoled. I
16:52:01 20 thought you were going to say about three days.

21 JUDGE THOMPSON: And --

22 MR HARRISON: I could say that.

23 JUDGE THOMPSON: The records do not indicate that you may
24 want to apply for closed session for this witness. Have you
16:52:10 25 changed your mind?

26 MR HARRISON: This was one of the ones at the status
27 conference where it was mentioned that for this particular
28 witness we would be wishing to apply for closed session.

29 JUDGE THOMPSON: Well, that is fine then.

1 MR HARRISON: It will be for the entirety of this
2 particular witness's testimony.

3 JUDGE THOMPSON: I see. Good. Learned counsel for the
4 Defence, do you have any comment on the sequence that we will be
16:52:38 5 taking this time - not 360 but 362? In other words, the
6 Prosecution is taking witnesses out of turn.

7 MR JORDASH: We have been informed that 362 would be next.

8 JUDGE THOMPSON: And you are comfortable with that?

9 MR JORDASH: Indeed, yes.

16:52:59 10 JUDGE THOMPSON: Do we have all your concurrence?

11 MR CAMMEGH: Yes. No objection, Your Honour.

12 JUDGE THOMPSON: Professor O'Shea?

13 MR O'SHEA: Likewise, Your Honour.

14 JUDGE THOMPSON: So, is the Prosecution ready to go?

16:53:09 15 MR HARRISON: We are, but I should indicate that because it
16 is category C, this is one where voice distortion is required and
17 it requires some reconfiguration of the courtroom. I am not sure
18 how much time that will occupy.

19 JUDGE THOMPSON: Well, let us ask the technicians to advise
16:53:27 20 us. But perhaps we should defer to the Presiding Judge given the
21 time.

22 PRESIDING JUDGE: I was thinking that there was an
23 application for a closed session hearing, which we thought we
24 would take before we rise for the day instead of taking on a new
16:53:41 25 witness. Is there any closed session application, you know, that
26 we had in respect of --

27 MR HARRISON: I am not sure we ever got to the point of
28 someone saying that there should be, or that they were going to
29 make the application. There were comments that I had made where

1 that if the Court did wish to go into closed session there would

2 be certain comments --

3 PRESIDING JUDGE: It is not the Court which wishes to go
4 into closed session.

16:54:07 5 MR HARRISON: I understand that.

6 PRESIDING JUDGE: We want everything to be open. It is the
7 Prosecution that takes us to closed sessions.

8 MR HARRISON: Not always. If the Defence are content to
9 proceed without a closed session, that's fine, and we can just go
16:54:18 10 on to the next witness. If they do wish to raise certain issues
11 though about information that is disclosed regarding witnesses in
12 general then I think that conversation should take place in
13 closed session. I had understood that Mr Nicol-Wilson raised
14 that matter.

16:54:39 15 JUDGE BOUTET: Yes, but if I may on this, I think we might
16 be confusing issues here. What you are talking about is an issue
17 that was raised this morning; that is, of the general nature
18 about conversation and so on - what more or less came out as part
19 of the evidence of the previous witness. But what the Presiding
16:54:58 20 Judge is asking is, with your next witness you have indicated
21 that this witness is to give evidence completely in a closed
22 session.

23 MR HARRISON: Exactly.

24 JUDGE BOUTET: If that is the case then we would like to
16:55:07 25 hear the application now.

26 MR HARRISON: I apologise now; I misunderstood.

27 PRESIDING JUDGE: We take the application, dispose of it,
28 and then we just start off whenever.

29 MR HARRISON: You are right, I am wrong. I misspoke.

1 PRESIDING JUDGE: Yes. Closed session applications are in
2 closed session. We would appeal to our gallery to please leave;
3 rather regrettably you may have to leave. What of tomorrow? Are
4 we taking -- please, just hold on. What of tomorrow? Tomorrow
16:55:50 5 are we taking the witness in closed session?

6 MR HARRISON: Yes, that is what I tried --

7 PRESIDING JUDGE: We are taking it in closed session.

8 MR HARRISON: The witness we are talking about is 362, and
9 if the Court accedes to the application, what we are suggesting
16:56:05 10 is that the entirety of 362's evidence be heard in closed
11 session. And the estimate I have given for the Prosecution's
12 case is a half day. Defence counsel, of course, can give you
13 their own estimates of how much time they feel will be required
14 for cross-examination.

16:56:22 15 PRESIDING JUDGE: I won't ask the gallery not to come
16 tomorrow. They will come and they will be informed as to how we
17 are going to proceed. So, that is it. If you wish to come,
18 please come.

19 JUDGE THOMPSON: In the morning.

16:56:34 20 PRESIDING JUDGE: In the morning you will be informed as to
21 how we will proceed.

22 JUDGE THOMPSON: May we now have the technology for a
23 closed session hearing in place? Will the technical experts
24 assist us to get the --

16:57:14 25 MS EDMONDS: It will just take a few minutes, sir.

26 JUDGE THOMPSON: Right. Please advise us when that is
27 done.

28 MR HARRISON: The pretty simple point was made to me by the
29 Trial Chamber Officer that if the session is a closed session

1 there is obviously no need for voice distortion.

2 JUDGE THOMPSON: Well, that is it, quite.

3 MR HARRISON: She is right and I am wrong - once again.

4 JUDGE THOMPSON: Yes, this is a standard practice.

16:58:39 5 MR HARRISON: This particular witness, 362 --

6 PRESIDING JUDGE: TF?

7 MS EDMONDS: The Court is not yet in closed session.

8 MR HARRISON: I am sorry.

9 JUDGE THOMPSON: We are not yet in closed session.

17:01:31 10 PRESIDING JUDGE: Maureen is giving up.

11 [At this point in the proceedings, a portion of the transcript,
12 pages 96 to 106, was extracted and sealed under separate cover,
13 as the session was heard in camera.]

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1 [Open session]

2 MS EDMONDS: The Court is now in open session.

3 JUDGE THOMPSON: This is the ruling of the Trial Chamber on
4 the Prosecution's application to hear the whole of the testimony
17:28:59 5 of witness TF1-362 in closed session.

6 [By order of the Court, this portion of the transcript, page 107,
7 lines 6 to 29 and page 108, lines 1 to 7, has been extracted and
8 filed under seal]

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[HS190405F 5.30 p.m. - SV]

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PRESIDING JUDGE: Yes, what's the Defence?

17:32:03 10

MR JORDASH: Yes, we agree.

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JUDGE BOUTET: Maybe an alternative would be to delete

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those portions of the ruling that would allow the identity of

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that witness and leave the remainder.

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PRESIDING JUDGE: [Inaudible] the entire thing. It's

17:32:33 15

difficult to --

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MR HARRISON: The Prosecution would be content with the

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suggestion made by Mr Justice Boutet.

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PRESIDING JUDGE: Yes. Mr Jordash has expressed his

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opinion. Second accused, is there any objection because we don't

17:33:36 20

have that here?

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MR NICOL-WILSON: No. We do support the application made

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by the Prosecution for the ruling to be kept under seal or

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alternatively for certain portions to be deleted.

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MR CAMMEGH: I support the application made by my learned

17:34:05 25

friend. I am entirely neutral as to how it's done.

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[Trial Chamber deliberates]

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PRESIDING JUDGE: The Chamber, after a further

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deliberation, rules that the ruling and the transcripts in their

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entirety shall be placed under seal so as to ensure the

1 protection of this witness, that the exceptions considered by the
2 Prosecution are not accepted by the Chamber. So this is our
3 position on the matter.

4 We would take this witness tomorrow and we would resume the
17:39:10 5 session at 9.30. The Court will rise, please.

6 [Whereupon the hearing adjourned at 5.39 p.m., to be
7 reconvened on Wednesday, the 20th day of April 2005, at 9.30
8 a.m.]

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EXHIBITS:

Exhibit No. 24 64

WITNESSES FOR THE PROSECUTION:

WITNESS: TF1-141 2
CROSS-EXAMINED BY MR TOURAY 2
CROSS-EXAMINED BY MR CAMMEGH 15