

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

TUESDAY, 26 APRIL 2005  
9.42 A.M.  
TRIAL

TRIAL CHAMBER I

Before the Judges: Benjamin Mutanga Itoe, Presiding  
Bankole Thompson  
Pierre Boutet

For Chambers: Mr Matteo Crippa

For the Registry: Mr Geoff Walker  
Ms Maureen Edmonds

For the Prosecution: Mr Peter Harrison  
Ms Boi-Tia Stevens  
Ms Shyamala Alagendra  
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 [Open session]

2 MS EDMONDS: The Court is now in open session.

3 JUDGE BOUTET: Mr Cammegh, can you give me the reference  
4 again? You said 27 July.

17:57:35 5 MR CAMMEGH: Certainly. It's the 27th of July and --

6 JUDGE BOUTET: Page?

7 MR CAMMEGH: Well, I've selected pages 15 to 27 inclusive  
8 and it would have been my respectful submission that perhaps all  
9 interested parties had the opportunity, and by that I include the  
17:57:55 10 witness, to advise themselves or at least to remind themselves as  
11 to what the witness said in oral testimony back in July by  
12 contrast to what the witness stated in his witness statement  
13 which, although undated, we know was taken in late 2003.

14 The purpose of calling this witness of course is to explore  
17:58:35 15 what we say is the likelihood that the testimony contained within  
16 those pages I have just referred to was recent fabrication. The  
17 concern I have is that while calling Miss Hatt to give evidence I  
18 wanted obviously to go as expeditiously as possible. I wanted to  
19 give her the opportunity to know what the witness said, because  
17:59:01 20 it was clearly very different to what he said in his statement,  
21 the statement which she took. In order for the examination to go  
22 smoothly I was going to suggest that it may benefit everybody,  
23 the Bench, the witness and the Prosecution, if they could  
24 familiarise themselves with the points in issue which are  
17:59:22 25 contained within those pages.

26 For that reason, considering the time now, whilst I'm  
27 perfectly happy to go on with this exercise right now, I wonder  
28 whether it would in fact be a false economy calling the witness  
29 now rather than giving everybody an opportunity to digest what is



1 contained within those 12 pages in order that I can do it  
2 hopefully rather more expeditiously and quickly tomorrow  
3 morning -- Thursday.

4 JUDGE THOMPSON: Do sit down, learned counsel.

18:00:14 5 Prosecution, what's your response to Mr Cammegh's request?

6 MR HARRISON: He may well be right. It may be a false  
7 economy. I'm not sure exactly how long each of the Defence  
8 counsel are going to take. It was our preference to complete  
9 this witness this afternoon and I realise now I'd have to be

18:00:33 10 asking the Court's indulgence to sit considerably beyond six  
11 o'clock, but I was hoping that this would be completed within 30  
12 minutes.

13 I didn't clarify one matter with the witness and I'm just  
14 not certain if she's available Thursday or if there was still any  
18:00:53 15 difficulties with travel arrangements.

16 THE WITNESS: [Microphone not activated]

17 MR HARRISON: She has indicated that she thinks it should  
18 be okay.

19 PRESIDING JUDGE: On Thursday. Because we know what  
18:01:13 20 constraints she may have, travelling and having to appear in  
21 court.

22 MR HARRISON: I'm in the Court's hands. I'm prepared to  
23 ask the five minutes worth of questions now, I can do it  
24 Thursday, we can do the whole thing --

18:01:27 25 PRESIDING JUDGE: That's okay. I think we'll take it as a  
26 package. If Miss Hatt thinks she could be available on Thursday  
27 then I think it would be reasonable to grant Mr Cammegh's request  
28 that we adjourn to Thursday and we dispose of this issue from  
29 9.30. I think that by the time it is 10.30 we would be done with



1 it and Miss Hart would be able to meet up with her travel  
2 arrangements. I would think so. Wouldn't you think so?

3 THE WITNESS: [Microphone not activated]

4 JUDGE BOUTET: Would you open your mic, please.

18:02:09 5 PRESIDING JUDGE: Open your microphone, please.

6 THE WITNESS: That's okay for me.

7 PRESIDING JUDGE: That's okay for you.

8 MR CAMMEGH: Can I just say two things out of courtesy. I  
9 too was very much hoping that I could deal with the witness today  
18:02:25 10 and I'm sorry that we've come to quite a late time in the day for  
11 my application.

12 In relation to the 30 minute time estimate, I certainly  
13 would be very disappointed if I'm any longer than about 20  
14 minutes. But of course I can't be sure how long my learned  
18:02:37 15 friends are going to be, so 30 minutes may be unrealistic. I  
16 don't know.

17 JUDGE BOUTET: We've heard that in the past, as you know,  
18 Mr Cammegh.

19 MR JORDASH: I can confirm I will ask no questions.

18:02:58 20 JUDGE THOMPSON: Any commitments by the second accused?

21 MR TOURAY: We leave our options open.

22 JUDGE THOMPSON: I know, thanks.

23 PRESIDING JUDGE: That is even much more slippery and much  
24 more unreliable than others, Mr Touray.

18:03:16 25 MR O'SHEA: Mr Cammegh's estimates are unusually accurate  
26 as compared to other lawyers, in my experience.

27 PRESIDING JUDGE: Unusually accurate? Leave the judgment  
28 to us. We would, by the time we get to a certain stage in the  
29 trial, be able to publish not only the verdicts on the trials we



1 are holding but the verdicts on the individual performances and  
2 how everybody has kept his word on both sides of the aisle. Yes,  
3 Mr Harrison.

4 MR HARRISON: I understand it's the Court's preference to  
18:03:55 5 adjourn this matter until Thursday. If I could just indicate  
6 that following this witness on Thursday the Prosecution is faced  
7 with somewhat of a conundrum. Witness 272 had been intended to  
8 testify in Trial Chamber II today. They adjourned without  
9 hearing that witness. 272 is going to begin testifying  
18:04:08 10 theoretically on Thursday in Trial Chamber II. After this  
11 witness the Prosecution is suggesting that the witnesses to be  
12 heard will be 113 and 114, both of which the Prosecution  
13 anticipates will be relatively short. Then on Friday -- if not  
14 late Thursday on Friday the Prosecution hopes to have witness 272  
18:04:34 15 testify before this Chamber.

16 JUDGE BOUTET: Can I ask you, Mr Harrison, this witness  
17 272, what you know of that witness, is it a relatively short  
18 witness? I say relatively. I will not hold you to what you may  
19 estimate to be the cross-examination but, based on what we've  
18:04:55 20 seen up to now, is this likely to be a day and a half or a week  
21 and a half?

22 MR HARRISON: That, of course, is my concern. I've been  
23 advised by my colleagues that it would be an hour to two hours in  
24 direct examination but there is some concern that -- the  
18:05:12 25 Prosecution has not always been accurate in their estimates. So  
26 I'm very concerned that if she begins Friday it may not finish  
27 Friday, but obviously it's our intention to try and facilitate  
28 that.

29 JUDGE BOUTET: Okay.



1           PRESIDING JUDGE: What's the response from the Defence  
2 about taking witnesses 113 and 114 on Thursday? Mr Harrison says  
3 they are short witnesses.

4           MR JORDASH: I have not heard of 113 being called until  
18:05:52 5 just now, unless I've forgotten but I can't recall it. But 114 I  
6 would imagine would be all day including chief and  
7 cross-examination.

8           JUDGE BOUTET: All day, you mean Thursday?

9           MR JORDASH: Thursday. I imagine that witness would take a  
18:06:09 10 day.

11          PRESIDING JUDGE: Do we then agree that we take 114?

12          MR JORDASH: Yes.

13          PRESIDING JUDGE: Mr Touray, do we agree, and Mr Wilson?

14          MR TOURAY: We have no objection.

18:06:31 15          PRESIDING JUDGE: Mr Cammegh?

16          MR CAMMEGH: Again, no objection.

17          MR HARRISON: I see no problem with that but I just have to  
18 remind the Court that in the past we've had problems where  
19 witnesses have been ill and in fact last week we had a bit of a  
18:06:38 20 crisis because one witness was ill and one lawyer to deal with  
21 another witness was not present. I'm just asking that, if at all  
22 possible, the parties could be prepared for two witnesses; 113  
23 and 114.

24          PRESIDING JUDGE: May we suggest that the Defence makes an  
18:06:54 25 extra effort to prepare to take on 113 in case 114 is not  
26 present. But preferably we would start with 114. Are there any  
27 other issues to be resolved? I don't think so.

28          Well, Miss Hatt, we are happy to have had you. We're sorry  
29 we have not been able to deal with issues that relate to you but



1 I hope that you have followed the assurances from this arena that  
2 you will be able to testify on Thursday and we will be done with  
3 you maybe before it is 10.30. So we thank you for coming and we  
4 look forward to seeing you on Thursday.

18:07:58 5 THE WITNESS: Thank you.

6 PRESIDING JUDGE: So the Court will rise and we'll resume  
7 the session on Thursday at 9.30.

8 [Whereupon the hearing adjourned at 6.10 p.m.,  
9 to be reconvened on Thursday, the 28th day of  
18:08:27 10 April 2005, at 9.30 a.m.]

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EXHIBITS:

Exhibit No. 25 62

WITNESSES FOR THE PROSECUTION:

WITNESS: TF1-362 2  
CROSS-EXAMINED BY MR JORDASH 2  
CROSS-EXAMINED BY MR NICOL-WILSON 68  
CROSS-EXAMINED BY MR O'SHEA 89