

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

THURSDAY, 8 MAY 2008
9.48 A.M.
TRIAL

TRIAL CHAMBER I

Presiding

Before the Judges:	Benjamin Mutanga Itoe, Bankole Thompson Pierre Boutet
For Chambers:	Ms Peace Malleni Mr Felix Nkongho
For the Registry:	Ms Advera Kamuzora
For the Prosecution:	Mr Peter Harrison Mr Joseph Kamara
For the accused Issa Sesay:	Mr Wayne Jordash Ms Sareta Ashraph
For the accused Morris Kallon:	Mr Charles Taku Mr Kennedy Ogeto Ms Lois Mbafor
For the accused Augustine Gbao:	Mr Scott Martin

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1 [RUF_08MAY08A-BP]

2 Thursday, 8 May 2008

3 [Open session]

4 [The accused present]

09:25:50 5 [Upon commencing at 9.48 a.m.]

6 [The witness entered Court]

7 WITNESS: DMK-162 [Continued]

8 [The witness answered through interpreter]

9 PRESIDING JUDGE: Learned counsel, good morning, good
09:48:52 10 morning, everybody. We are resuming the session. Mr Ogeto,
are

11 good morning.

12 MR OGETO: Good morning, My Lords.

13 PRESIDING JUDGE: Yes. We -- it's just to put you in
the
14 proper perspective of what -- of what happened on Tuesday.

09:49:13 15 MR OGETO: Yes, My Lords.

16 PRESIDING JUDGE: It is that there were certain
questions

17 which were put by Mr Harrison to the witness relating to the

18 contents of exhibits 357A and 357B and the book itself and the

19 pages which were cut off. And since we thought it was your

09:49:41 20 witness, and since there might be a possibility for you to
Harrison's
21 re-examine him, we did decide that we should defer Mr

22 cross-examination to this morning so as to enable you to be

23 present and to follow-up your witness on these exhibits which

to 24 were tendered in the course of your examination-in-chief, and
09:50:08 25 see what stand you need take in re-examination if at all it
26 becomes permissive for you to put any questions across to him.
27 So this is where we are.
28 MR OGETO: Thank you very much, My Lords, for that
29 position. We are grateful.

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do 1 PRESIDING JUDGE: Okay. So I think -- Mr Harrison, or
2 you have something in reply? No.
3 MR OGETO: Not really, My Lords. I have noted the
4 transcripts and I'm quite comfortable --
09:50:33 5 PRESIDING JUDGE: But I suppose that your colleague,
6 Mr Taku, must have given you a full briefing of what happened.
7 MR OGETO: He has, My Lords, and I also looked at the
8 transcripts -- the draft transcripts.
9 PRESIDING JUDGE: Right. Okay.
09:50:46 10 MR OGETO: So I'm prepared to proceed.
11 PRESIDING JUDGE: Right. Mr Harrison, the Chamber
12 interrupted your cross-examination. You may proceed, please,
you 13 know, within the context that we separated from each other on

14 Tuesday.

09:51:07 15 CROSS-EXAMINED BY MR HARRISON: [Continued]

16 MR HARRISON:

17 Q. Witness, have you been able to hear the Krio translation
of
18 what's been said so far this morning?

19 A. Yes, I have been getting it.

09:51:28 20 Q. Now, witness, I should have asked you a couple of
questions

21 at the outset just to help everyone understand a couple of
basic

22 points. My understanding that because you say you're a radio
23 operator, you would be quite capable of understanding the
English

24 language; is that right?

09:51:56 25 A. Oh, yes.

26 Q. Now, I just want to make sure you understand that even
27 though you may be able to hear and understand everything
that's

28 being said in English, take the time to listen to the Krio
29 translation; you understand that?

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1 A. Yes, I understood you.

to

2 Q. And again when you do want to give your answer, just try
3 remember that there is an interpreter doing his very best to
4 faithfully interpret every word you are saying. So try to go
09:52:46 5 little bit more slowly than you would normally speak, please.

a

6 A. Okay, My Lord.

witness

7 Q. I would ask Court Management to kindly provide the
8 with Exhibit 366 and also 357A and B. Witness, I want to be
9 careful not to try and confuse you, and you have something in
09:55:42 10 front of you which is a booklet, and you're actually looking

at

11 it now; do you agree with me?

12 A. Yes, I agree with you.

13 Q. Just for the time being, just --

14 PRESIDING JUDGE: Witness -- witness -- Mr Witness?

09:56:02 15 THE WITNESS: Yes, sir.

16 PRESIDING JUDGE: Look at it calmly. Look at it calmly.

17 We are not in any hurry; do you understand?

18 THE WITNESS: Yes, sir, I understand.

19 PRESIDING JUDGE: Respond to any questions. Have you

09:56:23 20 understood me?

21 THE WITNESS: Yes, sir, I've understood you, sir.

22 MR HARRISON:

23 Q. I can see that you've got the booklet and you're turning
24 the pages with your left hand, and in your right hand you're
09:56:48 25 holding three smaller pieces of paper; do you agree with me so
26 far?

27 A. Yes.

try
hand

28 Q. so what you have in your left hand, I'm just going to
29 to refer to as the booklet, and what you have in your right

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if

1 I'm going to call the loose papers; are you with me so far?

2 A. Okay, I've understood you, sir.

3 Q. Now, the loose papers that you have in your right hand,

4 you look at the top of those loose papers, you tell me if what

09:57:24 5 I'm reading out is the same as what you see on those loose

(RUF,

6 papers. It says: "From: The leader. To: All commander

7 SL) subdirective," and then date 07/08/99. Do you see that?

8 A. Oh, yes, I've seen that.

yourself

9 Q. And on those loose papers you're saying that you

09:58:00 10 wrote that information down on those loose papers?

11 A. Yes, you are correct, My Lord.

booklet;

12 Q. Now, what I'm going to do now is take you to the

13 are you following me so far?

14 A. Yes, I'm understanding what you are saying.

very

09:58:23 15 Q. Now if you go to the beginning of the booklet -- the

16 first page in the booklet --

17 PRESIDING JUDGE: The booklet is 366?

18 MR HARRISON: Yes. I just want the Court not to be
19 misunderstanding. What the Court actually did was when you
made

09:58:38 20 the exhibit, the exhibit is -- the booklet is 366 and --

21 PRESIDING JUDGE: And the loose papers.

22 MR HARRISON: Are also exhibit --

23 PRESIDING JUDGE: Exhibits; they are part of that
booklet.

24 They are part of 366.

09:58:51 25 MR HARRISON: Well, I think the witness's evidence is
that

26 they are not part of it; that what the witness may have said -

-
27 PRESIDING JUDGE: What I'm saying is this: I remember
very

28 well, that I did ask Mr Ogeto, at the time he was tendering
the

29 booklet, whether he was tendering the booklet and the loose

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1 papers, you know, together, and he said yes. So we did admit
2 that booklet and those loose papers as part of Exhibit 366.
3 Mr Ogeto, is that right?

4 JUDGE THOMPSON: It is a composite document.

09:59:23 5 PRESIDING JUDGE: Is that right?

6 JUDGE THOMPSON: That is a composite document.

7 PRESIDING JUDGE: Yes.

8 MR OGETO: That is the correct position, My Lords.

9 PRESIDING JUDGE: Yes.

09:59:29 10 JUDGE THOMPSON: So 366 comprises two elements.

11 MR HARRISON: Yes. And I think -- yes, I accept that.

12 JUDGE THOMPSON: Yes.

13 MR HARRISON:

14 Q. Now going to the booklet, witness, if you turn to the
very

09:59:47 15 first page in the booklet. I can see what you are doing, I'm
not

16 sure that the members of the Court can, but it's obvious to me

17 you're not at the first page of the booklet. Are you hearing
me

18 all right or is there a problem with the --

19 A. I'm getting you clearly.

10:00:11 20 PRESIDING JUDGE: Look at the first page of the booklet.

21 MR HARRISON:

22 Q. All right. Now on the very first page at the top it
says

23 --

24 PRESIDING JUDGE: Are you on the first page?

10:00:24 25 THE WITNESS: Yes, sir, I'm looking at the first page.

26 MR HARRISON:

27 Q. At the top of the first page it says, "Communication
28 introduction." Do you accept that?

29 A. Yes, My Lord.

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1 Q. And nowhere on that first page is there anything like a
2 message dated 7 August 1999; do you accept that?

3 A. Yes, on the first page.

4 Q. If you turn to the second page, you'll see the heading

10:00:55 5 "Accuracy."

6 PRESIDING JUDGE: And no message dated 7 --

7 MR HARRISON: August 1999.

8 Q. Witness, I can see you are moving the pages very
quickly,

9 and I can assure you that you'll find this to be a quicker
10 process if you follow my instructions. I had asked you to

10:01:21 10 turn

11 over one page and the heading should be "Accuracy." Do you

see

12 that at the top of the page?

13 A. Yes, it is there.

14 Q. And again you'd agree with me at that there's nothing
like

10:01:41 15 a message dated 7 August 1999 on that page? Let me change
that

7/08/1999 16 question. There's nothing similar to a message dated

17 on that page; do you accept that?

18 A. Yes, yes, it is not there.

19 Q. And if you look at the top of the next page, there's no

10:02:09 20
reply

heading, but the first line reads, "Transmission to you. A

21 is needed or required." Are you looking at that page?

22 A. No, I've not seen the place yet.

23
on

Q. Don't turn the page. If you look at the top of the page

24 the right-hand side you should be reading the words,

10:02:39 25

"Transmission to you. A reply is needed or required." Do you

26 see that? Witness, again I can see what you are doing,

27
hand

unfortunately, the Court can't. You are looking on the left-

28
not

side of the page, and I'm very concerned that you're simply

29 getting a translation here. Are you actually getting a Krio

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1 translation?

2
have

A. I'm getting clearly, but the place you've indicated, I

3 not seen that place, because this area is a communication --

4
the

concerns communication -- and it is written "Accuracy." So

10:03:25 5
to

place where the message is, is not the place you are referring

6 as of now.

7 Q. Okay. With your right hand, put your right hand at the
top
8 of the right side of the page. Your hand is on the left --
okay.

9 Your right hand is on the right page. Put your fingers up to
the

10:03:46 10 top of that page. At the top of that page, I'm suggesting to
you

11 that the words say, "Transmission to you. A reply is needed
or

12 required. Go abroad and transmit." Do you see those words?

13 A. Oh, yes, I've seen -- I've seen the words and I'm able
to

14 analyse them.

10:04:13 15 Q. I'm suggesting to you that there's nothing on that page
16 that in any way resembles a message dated 7/08/1999; do you
17 accept that?

18 A. Yes, My Lord, but this is not a message. That was a
19 personal security information; a note from the security.

10:04:42 20 Q. Okay. Turn over the page, please. On that page the
words

21 at the very top should say, "Good discipline is essential for
22 efficient working of radio net." Did I read that correctly?

23 A. Oh, yes, I've seen that.

24 Q. And do you agree with me there's nothing on that page
that

10:05:10 25 in any way resembles a message dated 7/08/1999?

26 A. Not at all. That is a continuation of a message. I
mean,

27 the information about signallers. It has no relationship
about

28 the message that I've explained about in this Court.

should

29 Q. Please turn over the page. Now, on that page there

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page

1 be a heading of 22/10/2001; is that correct?

2 A. Yes, you are correct.

3 Q. And you'd agree with me that there's nothing on that

4 that in any way resembles a message dated 7/08/99?

10:06:01
information, I

5 A. Not at all because -- because of my personal

6 did not include a message there at all.

7 Q. And please turn over the page. And I believe you are

8 looking at two blank pages; am I right?

9 A. Yes, you are correct, sir.

10:06:32
the

10 Q. Please turn over the page again. Now, on the page on

11 left-hand side the heading is "From: The leader. To: All

international

12 commander info Government Of Sierra Leone and the

13 of ICRC," and it's dated 25 July 1999; do you see that?

14 A. Yes, I've seen that.

10:07:01

15 Q. And on that particular page there's nothing resembling a

16 message dated 7/08/99; do you accept that?

17 A. Yes, I've not seen it here, but it was there when I was

18 copying for the female lady, the lawyer.

19 Q. So it was there when the female lady saw you, and then
it

10:07:30 20 disappeared somehow; is that what you're saying?

21 A. Oh, not at all. It was there when I wrote the first
22 messages on this paper, when I wrote them and gave them to
her.

23 She said maybe the Court may need the document. So, for the
sake

24 of my personal security, that made me to remove my personal

10:07:57 25 details from there.

26 Q. So now you're saying you removed your personal details
from

27 that booklet; is that fair?

28 A. Oh, yes. I removed all information concerning myself.
In

29 fact, it wasn't a single paper.

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1 Q. But you would with agree with me that what you in fact
2 removed was not personal details, but these radio messages
which

3 you are saying that you wrote; do you accept that?

4 A. No, I disagree with you, because I wouldn't take that

10:08:44 5 decision to remove message papers that I have -- on which I have

6 documented information. I wouldn't do that.

7 Q. All right. Well, you've agreed with me that on that page

8 there is no message dated 7/08/99; do you accept that?

9 A. Yes, it is not here.

10:09:12 10 Q. Now, if you go to the very next page on the right side, I'm

11 suggesting to you that at the top of that page are the words

12 "Security is provided for all relief organisation." Do you see

13 that?

14 A. Yes, I've seen that area in fact. I have some doubt a

10:09:43 15 little bit because of the message should have the heading

16 together with this.

17 Q. When you say you have doubt, what are you trying to say?

18 A. This is because this other message was taken out from this

19 book and the heading is not there, and I don't really know.

So

10:10:14 20 from there, I transfer all the information, before ever I removed

21 my personal information. Actually, I did not check.

22 Q. So are you trying to say that someone else other than you

23 removed these messages from the booklet?

24 A. I wouldn't blame anybody.

10:10:39 25 Q. Well, let's just stay on that same page, witness, because

26 if you look down roughly eight lines, you will see a date of

27 7/08/99; do you see that?

28 A. Yes, I have seen the 7/8/1999.

29 Q. So the heading for that, where it says "From: Regional

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are

1 commander Colonel T2. All stations sub infos date 7/08/99";

2 we looking at the same thing?

3 A. Yes, sir, you are correct, My Lord.

like

4 Q. But you'd agree with me that that message is nothing

10:11:41 5 that?

5 the one that you wrote onto the loose papers; do you accept

lawyer;

6 A. Yes. Earlier I said not all the messages -- not all the

7 messages in this book that I wrote and gave to the female

8 I only wrote two messages from this book and gave them to the

9 lawyer.

10:12:10 10 to

10 Q. All right. And you can satisfy yourself, but I'm going

will

11 suggest to you, that if you look at the remaining pages you

12 not find any other messages with the date 7/08/99 such as you

13 wrote onto the loose papers; do you accept that?

14 A. Yes, I would with agree with you to some extent because

10:12:49 15

15 this one, it was on 7/8/1999 from Colonel T.

going

16 Q. Now, to be fair to you, witness, the Prosecution is

four 17 to advise you that, based upon its reading of the very top
that 18 lines on that page on the right side that you're looking at,
19 those four lines are the same as the second half of the words
10:13:27 20 used in the message of 7/8/99 that you copied onto the loose
21 papers; do you accept that?
22 A. Which one? I would want you to clarify that area again.
23 PRESIDING JUDGE: Take the question again.
24 MR HARRISON:
10:13:50 25 Q. If you looking -- your hand is on the correct page --
26 PRESIDING JUDGE: Maybe you should make is shorter, you
27 know. You can break it off into parts so that he can follow.
28 MR HARRISON:
29 Q. The top four lines on that page, do you see them?

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that 1 A. Yes. Where it is stated "security is provided for all
2 organisations," I have seen that.
3 Q. Yes. And what the Prosecution is suggesting to you,
part 4 those four lines are in fact copied onto the loose pages as
10:14:40 5 of that message dated 7/8/99; do you accept that?

6 A. No, sir, I wouldn't admit to that.

admit 7 Q. All right. Well, that's fine, if you don't wish to

appears 8 to it. The Prosecution just wants to make clear that it

them 9 to us that they are identical words, and I will in fact read

10:15:08 10 off the loose pages where it says, "Security is provided for
all

11 relief organisation. I don't want to hear any story about

12 looting of relief organisation or harassing them. Absolute

13 discipline and good conduct are called for." And those words,

14 we're suggesting, are found at the top of that page that I've

10:15:32 15 been referring to?

16 A. Well, the way you read the sentence, let me read the

17 sentence clearly to you. "Security is provided for all relief

or 18 organisations. I don't want to hear any story about looting

and 19 relief organisations or harassing them. Absolute discipline

10:15:55 20 good conduct are called for." That was the sort of advice.

but 21 Q. All right. I don't think we're going to dwell on this,

not 22 what I'm suggesting to you is that in that booklet you have

and 23 been able to locate this message which is on the loose papers

24 is dated 7/08/99; do you accept that?

10:16:23 25 A. Yes, because it is not there. But the time I was
there,

I 27 and it was in the book, and I transferred it on this paper so

28 don't know really.

29 Q. When you say you don't know, you're saying that somehow

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1 something disappeared from the booklet that you have no
2 explanation for; is that right?

3 A. No, I disagree with that, sir. Because, one, as I was
4 saying, I wouldn't write a message which is very important and

I

10:17:09 5 look at that message which has no problem and I remove it
away.

6 I will never do that.

7 Q. But witness, you're certainly agreeing with me, that you
8 cannot find in the booklet this message of 7/8/99 on the loose
9 papers?

10:17:33 10 A. Yes, I said only two messages. If you look at the
headings

11 of the message -- the paragraphs -- you would observe that
only

12 two messages; those were the examples which I gave to the
female

13 lady, apart from all the messages that you've seen that were
14 entered.

10:17:55 15 Q. All right. Just listen to the question again: I'm
16 suggesting to you that in the booklet you cannot find this

accept 17 message dated 7/08/99 that is on the loose papers; do you
18 that?
be 19 A. Oh, yes, because I didn't write it there, so it wouldn't
10:18:28 20 there at all.
how 21 Q. Well, if you didn't write this message in the booklet,
22 were you able to copy it onto the loose papers?
23 A. What I meant, the time I was presenting this particular
what 24 message to the female lawyer, it was in this book. That's
10:18:54 25 I'm trying to say. To say that the message is in these loose
26 papers. It is not there at all but it is in the book. I only
27 wrote two messages which are contained in these papers.
28 PRESIDING JUDGE: So is that -- you actually transcribed
29 that message in your loose papers but you cannot now find the

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1 papers. You cannot find that transcription in your papers, in
2 your documentation now; is that what you're saying?
3 THE WITNESS: Oh, yes, sir. Yes, sir. That's what I'm
4 trying to say.
10:19:32 5 PRESIDING JUDGE: Then what happened to them?

I've
the
6 THE WITNESS: Well, I don't know. This was a document
7 kept ever since -- ever since. Just imagine, from the time
8 war ended.

9 MR HARRISON:
10:19:49 10 Q. Witness, I'm putting it to you that you fabricated that
11 booklet and you invented it to assist the accused in this
trial;
12 do you accept that?

13 A. No, sir, I disagree with that. In fact, no operator
14 wouldn't be able to testify to the messages I have. There
would
10:20:15 15 be no operator within the RUF movement, so I wouldn't do that.

16 Q. And I'm putting it to you that you have torn out pages
from
17 that booklet when you thought the information would harm the
18 accused in this trial; do you accept that?

19 MR OGETO: My Lords, I just want to --

10:20:49 20 PRESIDING JUDGE: Yes.

21 MR OGETO: The proposition -- the latter proposition
22 contradicts the earlier proposition. If this witness is
making
23 up this book to assist the accused person, why would he then
put
24 information in that book that is incriminating to the accused
10:21:03 25 person? It's a total contradiction, really.

26 PRESIDING JUDGE: How is it a contradiction, Mr Ogeto?

27 MR OGETO: The first -- the first proposition that he
puts
28 to the witness --

29 PRESIDING JUDGE: The first proposition was that he tore

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1 the messages.

2 MR OGETO: No, the first proposition, My Lords, is that
he made up this book to assist the accused person.

3 PRESIDING JUDGE: Yes.

4
10:21:26 5 MR OGETO: Then the second proposition is that he has
6 removed certain information from that book which is
incriminating
7 to the accused person. Now, the question is: If in the first
8 place the witness is making up this book -- is drafting the
9 message in the book to assist the accused person, why would he
10:21:46 10 then include in the book information that would incriminate
the
11 accused person? It doesn't make sense.

12 PRESIDING JUDGE: The whole thing is -- the whole thing
is
13 in the issue of these missing pages -- the missing link --
which
14 he himself says he cannot account for. I don't see any
real
10:22:18 15 contradiction in the questions, you know, which have been put
by
16 Mr Harrison. I don't see any contradiction.

17 MR OGETO: Maybe I'm not being clear, My Lords.

18 PRESIDING JUDGE: Yes.

19 MR OGETO: The first proposition that he makes is that
this

10:22:30 20 witness has sat down and made up the messages that are in this
21 book with the sole purpose --

22 PRESIDING JUDGE: Of helping the accused.

23 MR OGETO: -- of helping the accused.

24 PRESIDING JUDGE: Yes.

10:22:43 25 MR OGETO: How can there then be messages in the book
which

26 will incriminate the accused person? It doesn't make sense.

27 Because he has sat down, very carefully thought about the

28 contents of the book, in order to --

29 PRESIDING JUDGE: I think it is related to those
messages

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1 which are missing.

2 MR OGETO: I --

3 PRESIDING JUDGE: Which he is suggesting to him, you
know,

4 that if those messages cannot be traced if they have been torn

10:23:07 5 out it is because, you know, they incriminated the accused

6 person. That is why they are not there. That's the way I

7 understand it.

8 MR OGETO: Yeah, but then how did they come into the
book?

9 The allegation by the Prosecution is that this witness made up
10:23:21 10 the messages.

11 JUDGE BOUTET: Should we indeed have these discussions
in

12 the presence of the witness who understands English and knows
13 exactly what you are saying now. I don't think it is fair. I
14 think the witness should be excused from the Court if you are
to

10:23:30 15 raise these kind of argument. I'm not saying you should not
but.

16 PRESIDING JUDGE: I think --I think we should get
along.

17 The objection is overruled. Mr Harrison, please, you can
proceed

18 with your examination.

19 MR JORDASH: Can Mr Sesay use the bathroom, please?

10:23:46 20 PRESIDING JUDGE: Yes, please, he may. Mr Harrison, you
21 may proceed.

22 MR HARRISON:

23 Q. Witness, I'm putting it to you that you tore pages out
of

24 that booklet in order to assist the accused; do you accept
that?

10:25:48 25 A. No, no, I disagree. Because the examples: One, I did
not

26 see any message relating to the person talking on his behalf.
So

27 I don't think if I have any hidden agenda to remove vital
28 information from this book. My Lord, I never did that. I
only

29 removed my own personal data, and it was a document which I --

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same

1 had been in my custody, although we had not be living in the
2 place.

of

3 Q. But witness, you do accept that you removed at least one
4 the messages that you wrote out for the lawyer for Kallon?

10:26:49

about

5 A. I did not remove it. It was in the book. I copied just
6 two books as reference. These were examples because I was
7 to destroy the book based on my personal security. Only two
8 messages I tried to get out from that book.

today

9 Q. And finally, I'm suggesting to you that you're lying

10:27:17

10 as to what your conduct was and that, in fact, you yourself
11 removed information from the booklet to assist the accused; do
12 you accept that?

13 A. No, My Lord, I disagree.

and

14 Q. Now, I'm not going to refer to those exhibits any more,

is

10:27:45

15 I'm asking Court Management to remove them so that the witness
16 not distracted by them any further. Now, I first want to take
17 you back to -- I see you're trying to locate something in your

18 pocket. If there's something you want, please take the time
to
19 do it if you're not comfortable or if there's something you're
10:28:33 20 trying to do.
21 A. No, no, My Lord. Let us forge ahead.
22 Q. I want to take you back to your time when you're at or
near
23 Freetown during the junta; do you understand me?
24 A. Yes, I understood you, sir.
10:28:56 25 Q. And you had given some evidence that you were, for the
most
26 part, near the Grafton area during the junta?
27 A. Yes, you are correct, sir.
28 Q. And you had a radio there?
29 A. Oh, yes, I was with a radio -- communication radio.

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1 Q. And was that radio transported to Kono?
2 A. Yes, I retreated with the radio that I was operating.
3 Q. So you yourself took a radio to Kono?
4 A. Oh, yes. I myself went along with the radio.
10:29:55 5 Q. And you'd agree with me that in Freetown itself during
the
6 junta, there were radios operating; do you accept that?

7 A. I want you to repeat that question, please, sir.

8 Q. I'm talking about the time of the AFRC junta; do you
follow

9 that?

10:30:23 10 A. Yes.

11 Q. And I'm suggesting to you that during that time, there
were

12 RUF radios in Freetown?

13 A. Yes, there were radio -- RUF radios in Freetown.

14 Q. And you'd agree with me that there were RUF radios at
10:30:46 15 Hastings during the junta?

16 A. Yes, when we came, there was one radio station at
Hastings.

17 Q. Do you agree with me that there was an RUF radio at
18 Benguema?

19 A. Initially it was there, but later it was removed from
10:31:18 20 there.

21 PRESIDING JUDGE: Yes, Mr Taku.

22 MR TAKU: Your Honours, my colleague will agree that he
23 asked all this series of questions to the witness last week.
The

24 same questions. Except he want to repeat the cross-
examination

10:31:35 25 he did. But he asked this set of questions, he can remember,
and

26 the witness answered. Indeed, Your Honour will remember that
the

27 Honourable Judge Boutet even asked the type of radio that they
28 had, whether it was the one that they carry on the back or in
the

29 vehicle and he gave an explanation. It's the same set of

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1 questions that were asked.

was

2 JUDGE BOUTET: It's not last week it was this week. It

3 on Tuesday.

4 MR TAKU: On Tuesday, Your Honours.

10:32:08
question.

5 JUDGE BOUTET: It was on Tuesday that I asked the

6 Whether or not the same questions were asked, I don't know.

think

7 MR TAKU: Well, my colleague himself, Your Honours, I

8 he should admit that he asked this series of questions to the

9 witness.

10:32:23
questions I

10 MR HARRISON: No it's not admitted. They were asked by

11 Mr Jordash and they were not the same questions. The

Exhibit

12 asked was only yesterday and the only topic I got to was

13 366. I completely deny the assertion made by Mr Taku. It is

14 wrong 100 per cent.

10:32:42
but

15 MR TAKU: Well, if I'm wrong then I'm sorry about that

16 I thought I heard --

17 PRESIDING JUDGE: You don't need to be sorry about that.

18 If you made the assertion and you can produce it from the

19 records, I mean, we will go with you. We will go with you.

10:33:02 20 Yes, Mr Jordash.
21 MR JORDASH: Since my name was mentioned I thought I
might
22 come into the fray. I think what happened was that my learned
23 friend -- I didn't ask the questions but my learned friend
asked
24 the questions of the other radio operator. I think that was
the
10:33:15 25 situation. I think -- I remember a series of questions.
26 JUDGE BOUTET: You mean not of this witness.
27 MR JORDASH: Not of this witness. I remember a series
of
28 questions about Benguema, Hastings and another place in
Freetown
29 and it was of a radio operator and it wasn't of this witness.
It

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1 wasn't me.
2 PRESIDING JUDGE: I see.
3 MR TAKU: I'm sorry about that, Your Honours.
4 PRESIDING JUDGE: Right. Okay, Mr Taku. Yes, Mr
Harrison.
10:33:41 5 MR HARRISON:
6 Q. Witness, you were asked about Benguema and you said

7 something, I think, about a radio being there for part of the
8 time and then being removed. Did I understand you correctly?

9 A. Yes.

10 10:34:00 PRESIDING JUDGE: He said the radio was there for a
11 certain -- at a certain point in time, during a certain
period,
12 yes.

13 MR HARRISON:

14 Q. And when that certain period -- are you able to say when
it
15 was removed from Benguema?
10:34:11

16 A. No, I'm unable to say now. But when we went there
17 initially, our deployment area was not big. So they went with
a
18 set. While some people were with radio at Benguema and as
times
19 went by, we removed our own radio before we went to our own
20 respective area of deployment.
10:34:40

21 Q. And when you're talking about going to your own
respective
22 area of deployment, are you talking about your time in Grafton
or
23 the time when you are going towards Kono District?

24 A. No, it was the time when I was with Komba Gbundema at
10:35:06 25 Grafton.

26 Q. And would you agree with me that there was an RUF set at
27 Waterloo during the time of the junta?

28 A. Well, I'm unable to confirm that. I would only confirm
29 about Hastings and Grafton.

set
1 Q. And would you agree with me that there was an RUF radio
2 at Bo during the time of the junta?

concern
3 A. No. No radio set was there as far as my knowledge
4 me, because you are aware that it was a joint operation.

Maybe

10:35:55 5 they were trying to use the SLA's radio because it was a joint
6 operation as far as we were coming together. It was a joint
7 operation. The radio for the SLA would use that and the radio
8 for the RUF would use that, so I will not say as to which
radio
9 station was there at that particular time.

10:36:20 10 Q. But in any event you do agree with me that there was a
11 radio set operating at Bo during the time of the junta?

wasn't
12 A. Well, I am unable to confirm that to you because I
13 in Bo so I don't know much about Bo.

RUF
14 Q. And I'm going to suggest to you that there was also an

10:36:42 15 radio set operating at Makeni during the time of the junta; do
16 you accept that?

17 A. Even that I am unable to confirm that to you because the
18 time I went there, when I pulled out from Freetown, I did not
19 meet a radio set in Makeni.

10:37:08 20
radio

21 operator to take his radio set with him whenever he leaves an
22 area?

23 A. Yes. In some situations. Not in all situations. For
24 example, if at all you were trying to leave an area entirely
and

10:37:36 25 trying to go to a different location, you should go along with
26 your set. But an operator will not be operating and being
27 transferred elsewhere while going there, you go with the
radio.

28 You can be -- interchange with another radio operator.

29 Q. Fair enough. And I'm suggesting to you that there would

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were

I

10:38:33 5 have been at least three or four RUF radio sets taken to Kono
6 District right after the intervention; do you accept that?
7 A. No, no, because the sets which some of us went with,

then:

8 the set that we're operating with while we were in the jungle.
9 I
10 did not see any other sets. Superman was with his. The one
11 which I went with was with me so I can only testify to that.
12 Q. All right. So you're talking about at least two sets

8 The one that went with Superman and the one that went with
you;

9 is that fair?

10:38:49 10 A. Yes. The time when I went to Kono when I retreated,
that's

11 what I'm trying to explain to you.

12 Q. And I'm going to suggest to you that in addition to
those

13 two, Ibrahim Massaquoi also took a radio set to Kono District
14 immediately after the intervention; do you accept that?

10:39:13 15 A. Maybe he went with it, but I did not see, and I knew
16 Ibrahim very well, but I did not see a set with him.

17 Q. Now, as you're going from Freetown to Kono, you've
already

18 told us about your trip to Masiaka; do you remember that?

19 A. Yes.

10:39:51 20 Q. And I'm going to suggest to you that you yourself saw
the

21 RUF take part in looting at Masiaka; do you accept that?

22 A. No, sir, My Lord; I disagree with that. Even the time
when

23 I arrived there, I did not see something like this going on.
24 Although I did not spend a whole day in that place, but I did
not

10:40:26 25 see that happen, the moment I went there.

26 Q. And I'm going to suggest to you that Operation Pay
Yourself

27 was ordered in Masiaka; do you accept that?

28 A. Well, I did not hear that. I heard the information but
I

29 did not hear that. In fact, it happened when I was going to

information

1 Makeni. I did not see. I only heard information and

2 -- there may be an information that you take for granted.

3 Q. Well, when you say that you heard the information or

4 perhaps your words were "had the information," are you saying

10:41:25 place?

5 that you were aware that Operation Pay Yourself was taking

heard

6 A. Well, I heard about it, but I did not observe it. I

7 people saying it. In fact, I had less time to sit and discuss

family,

8 about that because I was trying to speed up to go with my

9 so I had no time to discuss that.

10:41:52

10 Q. Well, I'm suggesting to you, witness, that there was no

saw

11 need to discuss anything; that looting was widespread and you

12 it taking place in Masiaka; do you accept that?

13 A. Well, that's the information you got, but what I saw and

you

14 what I'm trying to explain to you was what I observed. Maybe

10:42:22

15 got the information from other people.

16 Q. And I'm suggesting to you that you yourself saw looting

accept

17 take place as you travelled from Masiaka to Makeni; do you

18 that?

arrived

19 A. No, I did not see looting going on in Makeni when I

10:42:48 20 there,

because I met the brothers there, but when I entered

21 I did not see looting going on.

moving

22 PRESIDING JUDGE: As you were on your way. You were

23 towards Masiaka or, rather, from Masiaka to Makeni, you saw

24 looting along the way. Looting was going on, you know, as you

10:43:08 25

were moving.

26 THE WITNESS: No, sir, My Lord, I did not observe that.

27 MR HARRISON:

place

28 Q. And I'm suggesting to you that you saw looting take

29 in Makeni; do you accept that?

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time

1 A. Well, I did not see looting going on in Makeni at the

2 I was there, and I did not stay there for long, so I wouldn't

3 say.

4 Q. Again I'm putting it to you that you observed looting

10:43:46 5

taking place as you travelled from Makeni to Kono District; do

6 you accept that?

others

7 A. I disagree, sir. Because, in fact, I travelled with
8 and, when we were going, I did not see anybody from that group
9 that took somebody's property or looted, no, because everybody
10:44:12 10 was afraid because the Kamajors were attacking and there were
11 ambushes so we had no time for that.

telling

12 Q. Witness, I'm going to put it to you that you're not
13 the truth to this Court when you say that you did not observe
14 looting as you travelled from Masiaka to Kono District; do you
10:44:36 15 accept that?

any

what I

16 A. I disagree with you, sir. Nothing that happened after I
17 have sworn to the Holy Koran then I decide not to say that
18 observed, so I can't do that.

10:45:05

19 Q. Now the term Operation Pay Yourself, that is a term that
20 you are familiar with; am I right on that?

party

21 A. Yes, I used to hear about it, but I don't know what they
22 meant by that, Operation Pay Yourself, because I was not a
23 to that.

what

10:45:24

24 Q. Witness, I'm suggesting to you that you knew very well
25 that term meant; do you accept that?

26 A. I disagree with you, sir, My Lord.

27 Q. Witness, did you get a monthly pay cheque from the RUF?

28 A. I did -- never did I receive a monthly pay during the
29 period of the RUF.

1 Q. And you'd agree with me that the RUF was a self-reliant
2 movement. That's the way it described itself; correct?

3 A. Yes, you are correct, sir. It was a self-reliant
struggle.

4 Q. And in order for the members of the RUF to survive, they
10:46:17 5 had to exercise their own initiative to obtain things; do you
6 accept that?

7 A. Like which things you are trying to -- you are referring
8 to? Would you give me an example?

9 Q. Well, if you didn't get a pay cheque, how were you able
to
10:46:47 10 live from day-to-day?

11 A. Well, that was why we named it self-reliant struggle; we
12 were not paid at all.

13 Q. So what did you do to be self-reliant?

14 A. Well, really, we embarked on our -- we embarked on
10:47:19 15 agriculture, so we were able to get food in order to sustain
our
16 lives, so we embarked on agriculture, like more farming.

17 Q. Well, I'm suggesting to you that the RUF would go on
18 something called food-finding missions; were you aware of
that?

19 A. No, I disagree with that, sir. We never prepared
missions

10:47:54 20 that we called food-finding missions, no.

21
misunderstand

Q. Witness, I just want to make sure you didn't

22
23
accept

anything. I'm suggesting to you that it was common within the
RUF for its members to go on food-finding missions; do you
that?

10:48:15 25
don't

A. I don't understand, sir, the language you've used; I

26 understand it. I have not seen people organised for that; we
27 were concerned with military targets.

28 PRESIDING JUDGE: The RUF used to organise -- used to go
29 out to look for food; that's what the lawyer is saying.

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1
2
food.

THE WITNESS: Well, as far as I know, I did not see they
organised people in order for them to go out in search for

3 As I said, they mainly embarked on farming, agriculture.

4 MR HARRISON:

10:49:04 5
not

Q. Witness, I'm suggesting to you that you're consistently
6 telling the truth to this Court today; do you accept that?

7 A. I'm saying the truth, sir. I disagree. What made me to
8 take oath, sworn on the Koran?

9 Q. Now, you did say that you saw Denis Lansana in Makeni as

10:49:38 10 you passed through there on your way to Kono District; do you
11 remember that?
12 A. Yes, I said that.
13 Q. And there's no doubt in your mind that as you're going
from
14 Masiaka to Kono, after the intervention, that you see Denis
10:50:07 15 Lansana in Makeni?
16 A. Well, it was in Makeni I met him. I only met him in
17 Makeni, sir.
18 Q. I'm going to suggest to you that at that time xxxxxxxxxx
had
19 been shot in the hand which ended up in him spending two
months
10:50:48 20 in hospital at Buedu; do you accept that?
21 A. At what time? Because it is only now that I'm getting
this
22 information. Would you tell me the time or date?
23 PRESIDING JUDGE: But if you are only getting the
24 information it means you do not know. Why do you want a date
to
10:51:10 25 know?
26 THE WITNESS: Well, I was not aware of that. I don't
know
27 anything concerning that, sir.
28 MR HARRISON:
29 Q. Now, I'm going to suggest to you that the RUF and the
AFRC

1 entered Koidu Town together; do you accept that?

2 A. Well, I will not be able to testify to that because I
was

3 not the first person who entered Koidu Town. I met Superman
and

4 others have already gone there, and I met they captured Koidu
10:52:03 5 Town already, so I'm unable to testify to that.

6 Q. And I'm going to suggest to you that throughout your
time

7 in the RUF you know that children under the age of 15 were
used

8 as combatants by the RUF; do you accept that?

9 A. No, sir, I disagree with that. In fact, the struggle
which

10:52:46 10 we -- we had during the movement, I don't think if children
would

11 have been able to withstand that struggle; it wasn't easy.

12 Q. Now, do you know if Issa Sesay was in Kono District when
13 you arrived there after the intervention?

14 A. Yes, Issa Sesay pulled out. We met them in Magburaka,
so

10:53:25 15 he went to Kono, but he was not based in Kono at all the
moment

16 -- or the time we went to Kono.

17 Q. So are you saying that you did see him in Kono District
18 when you arrived there?

19 A. Yes, Koidu Town, when we reach there. We pulled out and
10:53:55 20 everybody used that route, so everybody used that route, which

to 21 was a safety zone, and it was during that time that I was able

22 see him.

23 Q. And when you saw Sesay in Koidu Town, was he with Johnny

24 Paul Koroma?

10:54:18 25 A. I did not find out much about that because when we
arrived,

based 26 I did not go where they were, so I and my family went and

monitor 27 in a different area, so I cannot tell you and I did not

28 their activities, so I cannot say much.

took 29 Q. And is it the case that you're aware that Issa Sesay

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1 Johnny Paul Koroma to Kailahun District?

Issa 2 A. Yes, I got that information that they travelled. He,

3 Sesay, together with Paul Koroma, they went to Buedu, but I

4 cannot say the actual dates they left, and I was not there and

10:55:17 5 the very time they left I wasn't present.

I 6 Q. There may have been a mistake in interpreting or perhaps

Buedu 7 just heard words wrong. Did you just say that they went to

8 or Koidu?

Koidu, 9 A. I said Buedu. They crossed and went to Buedu, not
10:55:44 10 sir.

Sesay 11 Q. And you'd agree with me that Morris Kallon escorted
12 and Johnny Paul Koroma to Kailahun, but he was not away from
13 Koidu for more than a week?

14 A. My Lord, I wouldn't say lies. I can't say about their
10:56:19 15 movement during that time. As I'm trying to inform you, the
time
16 we arrived in Koidu Town, everybody was trying to find a
safety
17 area. So maybe all of them travelled together, but I cannot
say.
18 But, if that happened, I would have got the information, but I
19 don't know. I never got that information.

10:56:40 20 Q. Witness, I'm suggesting to you that again you're not
21 telling the truth. This is what your summary of additional
22 information states: "The witness states that Kallon escorted
23 Issa Sesay and JPK to Kailahun but was not away for more than
a
24 week. He returned to Koidu where his family was based." Is
that
10:57:13 25 statement true?

I 26 A. Well, My Lord, I cannot confirm this to you, because if
27 were present while these people were going, I would have been
28 able to explain the details about that, but something that I
29 don't know, I wouldn't say.

1 Q. But you see, witness, I'm suggesting to you that you in
2 fact said those words; do you accept that?

3 A. I disagree, sir.

4 Q. Now, witness, do you agree with me that it was Issa
Sesay
10:57:59 5 who led the attack on Koidu in December of 1998?

6 A. In 1998 attack I was in a different -- I was in a
different
7 battalion in Yomandu. I was in a different battalion in
Yomandu.

8 I only got an instruction that my commander should move to go
to
9 the Guinea Highway, but I did cannot know the mission
commander

10:58:30 10 during that time, because it was not sent through a radio
11 message. If it were a radio message, I would have got the
12 information, but I can't say.

13 Q. So your position was such that you weren't privy to even
14 information as significant as who led the attack on Koidu Town
in
10:59:01 15 December '98; is that what you're saying?

16 A. Yes, that's what I'm saying; that I'm unable to confirm
17 that to you, sir.

18 Q. I'm going to suggest to you, witness, that you're
19 repeatedly lying to this Court and that was information that
was

10:59:23 20 widely known in the RUF; do you accept that?
21 A. Well, maybe, because RUF was a large organisation.
Maybe
22 information had been flowing in other areas. Well, that
23 information did not reach me at all.
24 Q. And just remind us again how far Yomandu was from
Superman
10:59:53 25 Ground?
26 A. Yomandu is about 12 miles -- 12 good miles from Koidu
Town.
27 Q. And I'm suggesting to you that at that time, in December
28 1998, Issa Sesay was the battlefield commander of the RUF; do
you
29 accept that?

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1 A. I disagree with that, sir.
2 Q. So in December of 1998, what assignment do you say Issa
3 Sesay had?
4 A. In fact, when we left -- since we arrived and Issa Sesay
11:00:44 5 went to Buedu, he did not come to Koidu Town to take up
6 responsibilities there, so I did not know the assignment he
had.
7 So everything was in the hands of Mosquito.
8 Q. Now, was it the case that Komba Gbundema's battalion was

9 also referred to as the Red Lion Battalion?

11:01:17 10 A. No. No. We formed that battalion. This information is
11 new to me. We did not have any Red Lion Battalion at all. We
12 had the 4th Battalion.

13 Q. Now I'm going to suggest to you that you're aware that
14 Morris Kallon was the senior commander in Kono District in
1998;

11:01:54 15 do you accept that?

16 A. I disagree with that, sir.

17 Q. Do you agree with me that Morris Kallon ordered members
of
18 the RUF to go on missions in Kono District?

19 A. Repeat the statement, sir. I did not get you clearly,
sir.

11:02:26 20 Q. Do you agree with me that Morris Kallon ordered members
of
21 the RUF to go on missions?

22 A. No, sir. No, sir.

23 Q. Do you agree with me that Morris Kallon gave out orders
at
24 muster parades?

11:02:50 25 A. I disagree with you because, more especially when you
talk
26 about Koidu area, Morris Kallon was not there as commander, so
he
27 had no right to pass a command to anybody. As far as I know,
it
28 was Brigadier Superman.

29 Q. And I'm going to suggest to you that Morris Kallon gave

1 orders for persons to go on food-finding missions in Kono
2 District; do you accept that?

3 A. No, My Lord, I disagree, sir.

4 Q. And you've given us some evidence the other day about
Komba

11:03:57 5 Gbundema receiving instructions to go to Koribundu; do you
6 remember that?

7 A. It wasn't Koribundu at all. He did not get instruction
to
8 go to Koribundu. The time we were at Yomandu, Komba Gbundema
did
9 not get instructions to go to Koribundu.

11:04:22 10 Q. I thought that you had said that he and Superman
received
11 instructions to go to Kurubonla?

12 A. No, My Lord. I said Superman came and collected Komba
13 Gbundema in order for them to go at the Kurubonla axis. That
was
14 what I said in my testimony.

11:04:50 15 Q. So you're agreeing with me if I suggest to you that
16 Gbundema and Superman went together to Kurubonla?

17 A. Yes, yes. Both of them went together. They went to
18 Kurubonla, Superman and Komba Gbundema.

19 Q. And they were ordered to go there by Bockarie; is that
11:05:18 20 right?

talking

21 PRESIDING JUDGE: Let's get the names clear. Is he

22 of Kurubonla? Are you talking of Koribundu?

23 MR HARRISON: No, sorry, I was talking about Kurubonla.

Kurubonla?

24 PRESIDING JUDGE: I see. You were talking about

11:05:30 25

MR HARRISON: Yes.

ears

26 PRESIDING JUDGE: Because what was filtering into my

27 was Koribundu.

28 MR HARRISON: I'm sorry, that's my error.

the

29 Q. I obviously caused a confusion. I was meaning to say

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1 word Kurubonla and I may have been mispronouncing it.

2 A. Yes, that's what I'm trying to say. Superman and Komba

3 Gbundema moved together and they went to Kurubonla. It wasn't

4 Koribundu, sir.

11:06:07 5

Q. And they were ordered to go there by Bockarie; right?

through

6 A. Well, I did not get information from them saying that it

7 was Bockarie who sent them there. I did not receive it

so

8 the radio. But I only saw Superman, and he told my commander

9 that they could go together, so both of them prepared and they
11:06:37 10 went together.

11 Q. Witness, I'm going to suggest to you that Koidu Town was
12 burned down; would you accept that?

13 A. The burning of Koidu Town? You wouldn't just say it was
14 burned down because the time when ECOMOG were heading for
Koidu
11:07:09 15 Town, they launched some missiles which destroyed some houses.
16 In fact, almost all the houses were on fire; that I saw
myself.
17 Apart from that, I did not, since I did not spend a long time
in
18 Koidu Town, I cannot say much, but the time the ECOMOG were
19 trying to advance, I was in Koidu Town and I saw the missile
they
11:07:30 20 were launching and those missiles destroyed the houses.

21 Q. So you are aware of property being destroyed in Koidu
Town?
22 A. Oh, yes, sir. The bombs that were dropped there they
23 destroyed because they were not meant for a particular area.
24 They would blast in a particular area wherein two or three
houses
11:08:00 25 will be demolished so those were the destruction that were
going
26 on there.

27 Q. What I'm suggesting to you is that an order was given by
28 Bockarie and Sesay to burn down Koidu Town; do you accept
that?
29 A. I disagree, and I did not ever receive that through a

1 message.

2 Q. And I'm going to suggest to you that Morris Kallon made
3 sure that order was carried out; do you accept that?

4 A. No, no, I disagree, sir. I did not see Kallon carry
that
11:08:47 5 sort of operation.

6 Q. And I'm going to suggest to you that it was widely known
7 within the RUF that persons would get promotions in rank based
8 upon how many properties they burned down; do you accept that?

9 A. Repeat that statement. Repeat the statement once more.
I
11:09:16 10 did not get the context of the statement clearly.

11 Q. I'm going to suggest to you that it was widely known
within
12 the RUF that members would get promotions in rank based upon
the
13 number of properties they burned down?

14 A. No, no. RUF only gave promotion to people throughout
11:09:50 15 effort. But people were not given promotions because they
were
16 destructive. That never happened.

17 Q. Witness, I think we've understood a bit about your
18 appreciation of the ideology of the RUF. You understand the
19 ideology, don't you?

11:10:33 20 A. Yes, I understood the ideology, sir.

21 Q. And it seems as if you wholly accepted that ideology; is

22 that fair?

23 A. Yes, because it governed the movement, so I accept that.

24 Q. And when you use the terms that it governed the
movement,

11:11:11 25 are you trying to explain to the Court that from your

26 observations, the members of the RUF that you knew accepted
the

27 ideology?

28 A. Yes, yes. They went by the ideology because the
movement

29 was a well recognised movement. It was not operated without

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1 discipline or without an ideology, never at all.

2 Q. So it was a -- or is it fair to say that your
observation

3 was that it was a very well-organised movement?

4 A. Yes, it was a well-organised movement.

11:11:57 5 Q. And there was commanders and there were rank and file
6 troops in the movement; is that right?

7 A. Yes, we had enough commanders and the fighting forces
were

8 also there.

9 Q. And it was really the backbone of that organisation to
have

11:12:27 10 a chain of command; was that your understanding?

in 11 A. Yeah, there was a chain of command, provided if you were

12 a place -- you were in a place and you were unable to maintain

13 that area satisfactorily according to the movement, you'll be

14 changed and replaced by another person.

11:12:58 15 Q. And that's what this ideology meant, wasn't it: That

you 16 were loyal to -- or obeyed the chain of command; is that

right? 17 A. That was not only the basis of the ideology. It was not

18 only based on that alone, sir.

19 Q. But you'd agree with me that that was an important part

of 20 the ideology of the RUF?

11:13:29 21 A. No. There were other important parts with regard to the

22 ideology. You have a pamphlet where in it it is indicated the

23 motions. If you go through the pamphlet you would know

exactly 24 how the RUF operated. Whosoever did things that were in

conflict 25 with that pamphlet, punishment would be meted out to that

11:14:03 26 person.

27 So that was one of the examples.

28 Q. Just going back to what I'm trying to ask you: It was

your 29 understanding that it was important for you and others in the

RUF 30 to follow the chain of command?

1 A. Yes, you follow the chain of command in two ways: One
2 constructively, not destructively.

3 Q. I'm not wanting to cut you off. I think you were saying
4 there was two ways and you talked about constructively. Did
you
11:15:04 5 want to say there was another way?

6 PRESIDING JUDGE: [Indiscernible] not destructively.

7 MR HARRISON:

8 Q. Is that -- I'm sorry, I'm not trying to confuse you. I
9 thought you were wanting to say something else. Did you want
to
11:15:16 10 or not? Had you finished your answer?

11 PRESIDING JUDGE: [Indiscernible] but not destructively.

12 THE WITNESS: No, I haven't any other thing. Only
13 constructive and destructive. When you asked me about the
chain
14 of command.

11:15:31 15 MR HARRISON:

16 Q. So when you talk about there being loyalty in the RUF,
it's
17 loyalty to the organisation, isn't it?

18 A. Oh, yes. You are loyal to the organisation.

19 Q. And that's what was important -- or that was your
11:15:54 20 observation as to what was important within the RUF was the
need
21 for loyalty to the organisation of the RUF; is that fair?

the
not
11:16:16
that

22 A. Oh, yes. That's a fair comment, because it was one of
23 important areas. If you were not loyal to somebody you will
24 accept that person's command at all.
25 Q. And the loyalty is really to the position or rank that's
26 being held; is that fair?
27 A. Oh, no, no. Not only those people who had high ranks
28 you should be loyal to. Whosoever was within the RUF movement
29 would be loyal to him inasmuch as the person was trying to put

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to

1 order in the movement, so that aside, if you were subordinate
2 a particular person so you had to be loyal to that person, so
3 that was what obtained.

4 MR HARRISON: That concludes the questions.

11:17:34 5 PRESIDING JUDGE: Thank you, Mr Harrison. Any
6 re-examination, Mr Ogeto, Mr Taku?

7 MR OGETO: No re-examination, My Lords.

8 PRESIDING JUDGE: No re-examination.

9 MR OGETO: No.

11:18:30 10 PRESIDING JUDGE: All right. Do you want to drink
water?

11 You may.

12 THE WITNESS: I've taken some water, sir.

13 PRESIDING JUDGE: We've finished with you, Mr Witness.
We

14 thank you -- want to thank you for coming.

11:18:46 15 THE WITNESS: No problem, sir.

16 PRESIDING JUDGE: To testify before the Tribunal and to
17 assist us to arrive at a decision in this matter. Again we
18 thank you and we wish you a safe journey back to your place of
19 abode.

11:19:06 20 THE WITNESS: By God's grace, thank you. Yes, My Lord.

21 PRESIDING JUDGE: Please, can he be assisted out of
Court.

22 THE WITNESS: Yes, My Lords.

23 PRESIDING JUDGE: Yes, you wanted to say something.

24 THE WITNESS: Yes, yes. How would I be able to get ease
of

11:19:25 25 my document? Say for instance from the 22nd. That is very
26 important to me. How would I be able to get that? Because
27 that's a record that should be with me.

28 PRESIDING JUDGE: For the documents, Mr Witness.

29 THE WITNESS: Yes, sir.

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1 PRESIDING JUDGE: We are ordering that they can make
2 photocopies of these documents and give them back to you. But
3 what we have, including that book, Exhibit 366, will be kept
here
4 for purposes of the proceedings. But copies of everything
that
11:20:54 5 is there, including the flying copies and so on and so forth,
6 which are in Exhibit 366 and even of Exhibit 357A and 357B,
will
7 be made and given to you. So let the Court Management please
8 give him copies of these documents for his records which he
was
9 keeping. The originals which we have here, including the book
he
11:21:19 10 brought from his place, remains in Court.

11 THE WITNESS: Okay. Thank you very much.

12 PRESIDING JUDGE: You are welcome. Please, can you
assist
13 him out. Incidentally, it's getting to 11.30. I think we may
14 well take the break here and -- but before we rise, how are we
11:22:26 15 proceeding? Mr Harrison, how is Mr Fynn.

16 MR HARRISON: Yes, he did appear in Court this morning.
He
17 is not feeling well though so I advised him to go home. What
--

18 PRESIDING JUDGE: That is okay.

19 MR HARRISON: I'll allow Mr Taku and Mr Ogeto to discuss
11:22:41 20 this with you further, but what we had been advised by them is
21 that there is two of the UNAMSIL witnesses who they would very
22 much like to be heard today, because there is a concern, not
only
23 for them to return to their residence, but also for
interpreters

and 24 who were brought here from Arusha who must go back tomorrow,
11:23:02 25 the Prosecution is able to deal with those two witnesses if
assure 26 that's what Mr Taku and Mr Ogeto wish to do. And I will
so 27 the Court now that I will prepare tonight to deal with DMK-116
28 that even if Mr Fynn does not come --
would 29 PRESIDING JUDGE: To be fair to you, Mr Harrison, we

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come 1 prefer to have Mr Fynn. Who handles you know -- if he can
2 on board tomorrow that's fine.
can. 3 MR HARRISON: But that's the concern, I'm not sure he
4 He didn't start the cross-examination so far as I remember.
11:23:41 5 PRESIDING JUDGE: No, he did not.
6 MR HARRISON: So it wouldn't be a disadvantage to the
to 7 witness of having two people cross-examining and I'm wishing
8 assure the Court that I'm prepared to prepare tonight so that
9 that questioning can take place tomorrow morning so that
there's

11:23:54 10 no further inconvenience to the Defence. If Mr Fynn is here
of
11 course he can do it but in the event he is not, I'm prepared
to
12 go ahead.
13 PRESIDING JUDGE: Let's hear from the -- Mr Taku, how do
we
14 proceed?
11:24:18 15 MR TAKU: Indeed, Your Lordships.
16 PRESIDING JUDGE: First of all, the first question: How
17 many more local witnesses do you have.
18 MR TAKU: We have two more, Your Honours.
19 PRESIDING JUDGE: Local witnesses.
11:24:27 20 MR TAKU: Yes.
21 PRESIDING JUDGE: Not the UN witnesses.
22 MR TAKU: Yes. We have two more.
23 PRESIDING JUDGE: Two more local witnesses?
24 MR TAKU: Yes, sir.
11:24:33 25 PRESIDING JUDGE: Are they around the corner? Can we
take
26 them on any time we wanted?
27 MR TAKU: The problem we face, Your Honour, is that it
is
28 yesterday that they came.
29 PRESIDING JUDGE: They came just yesterday. So you
haven't

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1 had time to vet them?

2 MR TAKU: Yes, Your Honours, we will do so this night.

3 PRESIDING JUDGE: But you have the UNAMSIL witnesses
ready?

4 MR TAKU: We have two of them, Your Honours, and they
are

11:25:01 5 fairly short witnesses.

6 PRESIDING JUDGE: And they are in Court right now?

7 MR TAKU: They told me they were bringing them. I think
8 they should be in Court right now.

9 PRESIDING JUDGE: Right. Well, we will recess and when
we

11:25:19 10 do come back, we hope that we'll have one of the witnesses.

11 MR TAKU: Yes, 145, Your Honour.

12 PRESIDING JUDGE: Before us. We will take down --
that's

13 DMK-105?

14 MR TAKU: Yes, Your Honours, 145.

11:25:40 15 PRESIDING JUDGE: Right. We will recess and resume in
the

16 next couple of minutes. The Chamber will rise, please.

17 [Break taken at 11.28 a.m.]

18 [RUF08MAY08B-BP]

19 [Upon resuming at 12.05 p.m.]

12:04:52 20 [The witness entered the Court]

21 PRESIDING JUDGE: We are resuming the session, and I
22 understand that we have interpreters to be sworn in. The
Court

23 has been advised that there's some interpreters who have to be

24 sworn in.

12:05:58 25 MS KAMUZORA: Yes, My Lord.

26 PRESIDING JUDGE: And they are to be translating from
27 English to Swahili and vice versa?

28 MS KAMUZORA: Yes, My Lord.

29 PRESIDING JUDGE: Can you swear them in, please.

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1 MS KAMUZORA: Yes, My Lord.

2 [Interpreters sworn]

3 PRESIDING JUDGE: Thank you. Can you please take your
4 places in the cabin, thank you. Wait for them to install
12:08:20 5 themselves properly in the cabin, please, and let us be
advised
6 when you are properly installed, please.

7 THE INTERPRETER: Your Honour, the interpreters are
ready.

8 PRESIDING JUDGE: Yes, they are ready. Thank you.

9 THE INTERPRETER: Thank you, Your Honour.

12:09:08 10 PRESIDING JUDGE: Yes, may we proceed, please. Whose
11 witness is this?

12 MR TAKU: It's my witness, Your Honour.

13 PRESIDING JUDGE: It's your witness, yes. Can you swear

14 the witness in, please.

12:09:22 15 WITNESS: DMK-145 [Sworn]

16 PRESIDING JUDGE: This is what witness again? What
number?

17 I've lost my count.

18 MR TAKU: Fifteen, Your Honour. And the number is --

19 PRESIDING JUDGE: DMK-145?

12:10:20 20 MR TAKU: 145, Your Honour.

21 PRESIDING JUDGE: Is this the fifteenth witness?

22 MR TAKU: The fifteenth, Your Honour.

23 PRESIDING JUDGE: I hope you are right, Mr Taku. Yes.

24 MR HARRISON: It's just that before the break Mr Taku
had

12:10:53 25 indicated it would be DMK-146. Are we with 146 or have we

26 changed it to 145?

27 PRESIDING JUDGE: Was it 146 or 145?

28 MR TAKU: 145, Your Honour.

29 PRESIDING JUDGE: I had 145.

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1 JUDGE THOMPSON: I wrote it down.

2 PRESIDING JUDGE: Yes, the witness is sworn in.

3 MR OGETO: Your Honour, we have a short application to
make
4 in regard to the testimony of this witness.
12:11:19 5 PRESIDING JUDGE: Yes.
6 MR OGETO: And it relates to the communications that
we've
7 been having between us and the United Nations legal office.
As
8 the Chamber is aware, the United Nations waived the immunity
in
9 respect of this witness, but imposed the condition that his
12:11:48 10 testimony and that of the others be taken entirely in closed
11 session.
12 JUDGE BOUTET: Should this application and these
comments
13 be made in public? I notice that you have attached some of
the
14 correspondence, the information that is all confidential, so
why
12:12:04 15 is this confidentiality in this respect not taken care of?
16 MR OGETO: I'm not going to disclose anything that is
17 confidential --
18 JUDGE BOUTET: No, you are disclosing now communications
on
19 this subject matter.
12:12:18 20 PRESIDING JUDGE: Are you making an application for a
21 closed session?
22 MR OGETO: Yes, My Lords.
23 PRESIDING JUDGE: Yes. We will take the application in
a
24 closed session, so let us move into a closed session and then
we
12:12:27 25 will hear you, Mr Ogeto. We are sorry in the gallery, it's a
26 pity we're going into a closed session, and you cannot be here

27 this time. You may come in later on when we are through. The
28 witness was sworn on the Koran?

29 MS KAMUZORA: Yes, My Lord.

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session]

1 [At this point in the proceedings, a portion of the
2 transcript, pages 42 to 91, was extracted and sealed under
3 separate cover, as the proceeding was heard in a closed

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1 [Open session]

2 MS KAMUZORA: My Lord, Court is set for open session.

3 PRESIDING JUDGE: Thank you. The Chamber will now

4 resume the hearing in a public session and this is our ruling

in

16:14:06 5 respect of the closed session application that was made by

6 learned counsel for the second accused, Mr Ogeto.

7 Consistent with the general requirement that criminal

78 8 proceedings are to be conducted in public as enjoined by Rule
taking 9 of the Rules of Procedure and Evidence of this Court, and
16:14:32 10 into consideration Article 17(2) of the Statute of the Court,
but 11 exceptionally as authorised by Rule 79(A)(ii) of the said
Rules, 12 and the need to protect witnesses as provided for in Rule 75
this 13 Chamber, on the application of counsel for the first accused,
held 14 Mr Ogeto, for the testimony of witness number DMK-145 to be
16:15:15 15 in a closed session did, by way of an exceptional procedure,
for 16 grant the said applications in the interests of justice and
which 17 purposes of confidentiality, as enumerated in the waiver,
stake, 18 is supported by international conventions on the issues at
will 19 having come to the end of the testimony of the witness, we
16:16:11 20 tell you, Mr Witness, that we have come to the end of your
21 testimony. We know you've been around to assist the Tribunal
able 22 with your testimony all along and we are happy that you were
23 to make a transcontinental effort, I would say, to come from
24 where you live to this other end of the continent. We're very
16:16:45 25 grateful that you were able to come and assist the Tribunal
with 26 your testimony, and we wish you a safe journey back to your
27 station and a successful pursuit of your military career. We
28 thank you very much. Can the witness please be assisted out
of 29 Court.

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1 [The witness withdrew]

2 [The witness entered Court]

3 PRESIDING JUDGE: Yes, Mr Taku.

4 MR TAKU: Yes, the next witness is DMK-146, Your Honour.

16:18:47 5 PRESIDING JUDGE: DMK-14 --

6 MR TAKU: DMK-146, Your Honour.

7 PRESIDING JUDGE: Mr Taku, your witness will be
testifying

8 in what language?

9 MR TAKU: Swahili.

16:20:56 10 PRESIDING JUDGE: Swahili as well?

11 MR TAKU: Yes, sir.

12 PRESIDING JUDGE: And this will be your sixteenth
witness?

13 MR TAKU: It is the sixteenth witness, Your Honour.

14 Your Honour, can Mr Kallon leave the room for a while?

16:21:52 15 PRESIDING JUDGE: Yes, he may.

16 MR TAKU: Your Honours, we make the same application for
17 closed session as this other witness.

18 PRESIDING JUDGE: Well, let's -- let's -- let's go to --
19 can you take us to the closed session, please.

16:25:11 20 Mr Taku, I have your exhibit here "UN restricted."

21 MR TAKU: It may be long after I will finish the trial I
22 will actually go to the UN headquarters for them to give me
23 further lecture on this. Yeah, because I've had to argue this
24 with regard to General xxxxxxxx [phon] at the ICTR and the
Court

16:25:43 25 [indiscernible] open session so at the end of this and the
26 Belgians were in Tigali.

27 PRESIDING JUDGE: The circumstances may not have been
quite
28 the same.

29 MR TAKU: Perhaps. Perhaps.

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1 PRESIDING JUDGE: Anyway, I don't think it was of much
use
2 in this case anyway.

3 MR TAKU: Exactly, sir.

4 PRESIDING JUDGE: I mean.

16:26:33 5 MS KAMUZORA: My Lords, Court is set for closed session.

6 [At this point in the proceedings, a portion of the
7 transcript, pages 95 to 109, was extracted and sealed under
8 separate cover, as the proceeding was heard in a closed
session]

p.m. 9

[Whereupon the hearing adjourned at 5.56

17:55:42 10

to be reconvened on Thursday, 9 May 2008 at

11

9.30 a.m.]

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EXHIBITS:

Exhibit No. 368

94

WITNESSES FOR THE DEFENCE:

WITNESS: DMK-162

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CROSS-EXAMINED BY MR HARRISON

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WITNESS: DMK-145

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CROSS-EXAMINED BY MR HARRISON

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EXAMINED BY MR TAKU

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WITNESS: DMK-146

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