

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

MONDAY, 16 MAY 2005
10.05 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 Mr Alain Werner 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 Ms Rachel Irura
For the accused Augustine Gbao:	Mr John Cammegh

1 Monday, 16 May 2005

2 [Open session]

3 [The accused Gbao not present]

4 [HS160505A - AD]

5 [Upon commencing at 10.05 a.m.]

6 WITNESS: TF1-125 [Continued]

7 FURTHER CROSS-EXAMINATION BY MR JORDASH:

8 PRESIDING JUDGE: Good morning, learned counsel. We are
9 resuming the proceedings.

10:09:48 10 JUDGE BOUTET: Mr Jordash.

11 MR JORDASH: Thank you. Morning, Mr Witness.

12 A. Good morning.

13 Q. Just a few more questions please. You told us that
14 suspects would be investigated and if there was no evidence they
10:10:16 15 would not be charged. Do you remember telling us that?

16 A. I do.

17 Q. Thank you. During the time that we have been talking about
18 it was unusual, was it, for people to be arrested suspected of
19 being collaborators with the Kamajors?

10:10:44 20 A. I didn't get you clear.

21 Q. During the time of the junta in Kenema people would be
22 arrested, suspected of collaborating with the Kamajors. Is that
23 correct?

24 A. Correct.

10:11:06 25 Q. And they would be investigated --

26 PRESIDING JUDGE: Mr Jordash, please. In the time of the
27 junta in Kenema people would be arrested for being collaborators
28 of the Kamajors.

29 MR JORDASH: Suspected.

1 PRESIDING JUDGE: Suspected of being collaborators.

2 MR JORDASH:

3 Q. And ordinarily they would be investigated, and if there was
4 no evidence they would be released.

10:12:03 5 A. Depending on the circumstance.

6 PRESIDING JUDGE: What you are saying is ordinarily they
7 would be investigated and, depending on the circumstances, they
8 would be released if there was no evidence.

9 THE WITNESS: Yes, but when the situation is chaotic and
10:12:34 10 the police is forced to detain without release, that is when the
11 order comes from the SOS that a man must be detained. We suggest
12 release, but if there is no approval the man remains in custody.

13 MR JORDASH: If there is no?

14 A. Approval from the SOS, political detainee.

10:13:03 15 JUDGE BOUTET: So you had two types of detainees: Criminal
16 detainees and political detainees. Is that what you are saying?

17 THE WITNESS: Collaboration with any subversive person is
18 criminal. What I am saying with regards to people who are held
19 as collaborators, when there is no evidence we have to refer the
10:13:28 20 issue to the SOS. Normally if he says release, we release; if he
21 says we don't release, we don't release. At times we bail people
22 and they still request that we re-arrest them. So the decision
23 was theirs at the material time.

24 MR JORDASH:

10:14:29 25 Q. So the SOS administration kept a close eye on those
26 detainees who were suspected of being collaborators with the
27 Kamajors.

28 A. The people were arrested according to the orders of the
29 then government. We investigate and recommend to them, but --

1 PRESIDING JUDGE: Don't make the government sound like an
2 absurd entity. The government on the spot at the time was
3 represented by the SOS.

4 THE WITNESS: True.

10:15:13 5 PRESIDING JUDGE: Is that not true?

6 THE WITNESS: True.

7 PRESIDING JUDGE: So when you are talking of the government
8 it is the SOS you are referring to.

9 THE WITNESS: True.

10:15:23 10 PRESIDING JUDGE: Can you then maintain replies and talk of
11 the SOS instead of globally referring to the government, please.

12 THE WITNESS: I am referring to the SOS, who was the
13 overall administrator.

14 MR JORDASH:

10:15:48 15 Q. And what you have just described generally was effectively
16 what happened with BS Massaquoi; that the SOS intervened with the
17 arrest of BS Massaquoi.

18 A. The SOS did not intervene. He ordered the arrest. In
19 fact, they were arrested and detained at the AFRC secretariat for
10:16:16 20 six days before they were released to the police for continuation
21 of investigation.

22 MR JORDASH: Thank you. Can I just ask for the witness
23 please to be given a copy of Exhibit 28? If I can work from the
24 original so I can have a better chance of reading what it says.

10:16:59 25 [Exhibit No. 28 shown to witness]

26 Q. Would you turn, Mr Witness, to page 34, please -- entry 50.
27 Is it right that this relates to the Saturday, the 17th of
28 January 1998?

29 A. Correct.

1 Q. And there is a reference at No. 50 to --

2 PRESIDING JUDGE: Saturday the?

3 MR JORDASH: The 17th of January 1998, Your Honour.

4 Q. There is a reference there to -- I am not interested in the
10:18:12 5 names -- but personnel returning to the office from

6 BS Massaquoi's residence, and I am reading now directly from the
7 entry: "At No. 3 Jenneh Street, Kenema, where a search was

8 conducted on a warrant. In the process of search two expired
9 pistol licences were discovered, three letters dated 24-8-97,

10:18:44 10 6-0-97 and 1-12-97. A list of contributors towards Kamajors
11 initiation were also discovered. Otherwise no serious report."

12 A. Correct.

13 Q. Can you confirm that the start of the investigation into
14 BS Massaquoi was a search upon a warrant of his premises?

10:19:25 15 A. This would have been the beginning of the investigation.
16 This must have been at the time BS Massaquoi and the others were
17 handed over to police for continued investigation.

18 Q. Right. And would you agree that there was certainly
19 something to investigate given that there was, it appears, some
10:19:51 20 evidence of BS Massaquoi's association with Kamajors at some
21 stage?

22 A. It is spelt out here.

23 Q. Yes, thank you.

24 PRESIDING JUDGE: Mr Jordash, please.

10:20:54 25 MR JORDASH:

26 Q. And is it fair to say that the investigation into
27 BS Massaquoi whilst under the custody of the police progressed in
28 an ordinary and orderly fashion?

29 A. To some extent; at the initial stage.

1 Q. At the initial stage?

2 A. Yes.

3 Q. But for the intervention of Mosquito it would have
4 continued, presumably, in an orderly fashion.

10:21:36 5 A. I cannot categorically say it was the intervention of
6 Mosquito. It was at the time of intervention generally in
7 Freetown.

8 Q. What I mean is that when you saw BS Massaquoi he told you
9 that he had been tied up by Mosquito; is that right?

10:22:03 10 A. True.

11 Q. And the chief police officer wanted to bail BS Massaquoi
12 and, following permission from Eddie Kanneh, did in fact bail
13 BS Massaquoi.

14 A. I didn't get you clear.

10:22:43 15 Q. After BS Massaquoi had been in police custody, the chief
16 police officer requested from the secretary of state that
17 BS Massaquoi be released on bail.

18 A. Correct.

19 Q. And it was the intervention of Mosquito by way of his
10:23:11 20 ordering the chief police officer to re-arrest BS Massaquoi that
21 led to BS Massaquoi coming back into custody.

22 A. I cannot remember saying that.

23 Q. Let me read you something you said just to see if you
24 remember. This is something you said last week on the 12th of

10:23:40 25 May: "Yes, General Mosquito ordered the chief police officer to
26 re-arrest the two people who were bailed; that is, BS Massaquoi
27 and Brima Kpaka." Do you remember that?

28 A. I did not say General Mosquito; I said the SOS.

29 Q. Okay, the SOS. You remember it now as the SOS.

1 A. Yes, I can remember vividly.

2 Q. Okay. Following his re-arrest you were later told that
3 BS Massaquoi had been killed by General Mosquito; is that right?

4 A. Yes, it was rumoured in town.

10:24:42 5 Q. Right, thank you. This happened -- let me start again.

6 You never got to see the -- you were in hiding at the time that
7 BS Massaquoi was killed; is this right?

8 A. I was living covertly. I come into the station, when the
9 station would get out of hand I go, intermittently. So I cannot
10:25:56 10 say I was hiding. It was only when the combatants came to town
11 that I actually took to the bush.

12 Q. Are you able to confirm, Mr Witness, that the junta were
13 thrown out the Kenema on and around the same day that they were
14 thrown out of Freetown?

10:27:06 15 A. Not exactly. The junta was thrown out of Freetown, but at
16 that material time there was no other force to counter the regime
17 of Mosquito and the SOS for some days. It was only at the time
18 that Prince Brima, the BBC journalist, announced over Focus on
19 Africa that the ECOMOG contingent in Liberia was five miles close
10:27:40 20 to Kenema, together with Kamajors, that the rebels took to the
21 bush. But they were there for some days. In fact, it was during
22 that period that they had Operation Pay Yourself.

23 Q. We will come to that in a minute, Mr Witness. Can you
24 confirm then that the intervention in Kenema was a few days after
10:28:09 25 the intervention in Freetown?

26 A. Correct.

27 Q. Thank you. Are you able to put a number on those days,
28 approximately?

29 A. Within the period -- not more than four days, maybe.

1 Q. Thank you. Are you able to confirm this: That for the
2 evidence you saw and heard, BS Massaquoi met his death in the
3 period of those four days?

4 A. Must have been.

10:29:03 5 Q. Thank you.

6 JUDGE BOUTET: He said "most likely"?

7 PRESIDING JUDGE: He said "must have been."

8 THE WITNESS: I did not see him die; he was taken away. I
9 only heard about his death by rumour.

10:29:59 10 MR JORDASH:

11 Q. I want to refer now, Mr Witness, to some evidence you gave
12 last week, Thursday, in response to questions from the gentlemen
13 sat to your left. Do you remember that?

14 A. Yes, I do.

10:30:21 15 Q. At the moment I am looking at the transcript of the 12th of
16 May, page 137. You do not have the transcript, Mr Witness.
17 Hopefully we can -- I will read what was said to you, and if we
18 get into difficulties we can get you a copy.

19 A. Okay.

10:31:03 20 Mr HARRISON: Would you like the witness to have this copy?
21 I leave it up to you; I am not making a suggestion.

22 MR JORDASH: Certainly, thank you.

23 Mr HARRISON: Is it just the page?

24 MR JORDASH: I will probably be referring to 137 through to
10:31:36 25 142. So if those pages are available --

26 Q. So you understand, Mr Witness, this is -- everything you
27 and I are saying at the moment is being recorded and then it is
28 typed into a transcript. What you have is a transcript of what
29 you said on the 12th of May. Okay? So, now I am looking at --

1 actually I want to go to page 138, please.

2 A. Okay.

3 Q. And if you look at the left-hand side of the page, line 10.

4 A. Okay.

10:32:22 5 Q. It is the start of the evidence you gave about when you saw
6 Issa Sesay. You see at line nine that the Prosecutor asked you
7 did you see Mr Sesay do anything else. That is the line
8 beginning with "Q".

9 A. Yes, I can remember and I have read the proceeding.

10:32:51 10 Q. You say, "Actually, at one time in fact that was my first
11 time really of seeing him clearly and that was the only time in
12 fact." Do you remember saying that that incident where you
13 observed Issa Sesay with the CPO -- sorry with, yes, the CPO and
14 the senior assistant commissioner -- was the only time you had
10:33:31 15 seen Issa Sesay?

16 A. I told you after the senior officers were handed --

17 Q. I will come to that question.

18 A. I kept a low profile. I avoided --

19 Q. The question I am asking you is do you recall seeing --

10:33:57 20 A. What I am saying is -- please listen to me. The first time
21 I saw him was the time they invited the chief police officer and
22 the original commander. The way they were handled and --

23 Q. Mr Witness.

24 A. I kept a low profile.

10:34:12 25 MR JORDASH: Mr Witness.

26 A. I was avoiding throughout.

27 Q. Mr Witness, I am asking you a very specific question: Do
28 you recall saying to the Court last Thursday that the first and
29 only time you'd seen Issa Sesay was at the time you say he

1 arrested the CPO and the senior assistant commissioner? Do you
2 recall saying that?

3 A. I actually recall saying that the first time I saw him was
4 the time -- I knew he was there; he was in the building.

10:34:44 5 Q. No, Mr Witness. Concentrate on what I am asking you. Look
6 at the transcript, line 10. This is a recording of your words
7 and I am simply asking you whether you recall saying this.

8 A. That was actually -- I said at that time.

9 Q. Right, thank you. You were standing in your room; is this
10:35:11 10 correct?

11 A. Upstairs, yes.

12 Q. Upstairs. Is that your bedroom?

13 A. Yes, my bedroom.

14 Q. Were you alone?

10:35:23 15 A. I was alone.

16 Q. Thank you. How long had you been living at that apartment?

17 A. I was living at the apartment since before the overthrow of
18 President Tejan Kabbah.

19 Q. And you remained there until you went into hiding as a
10:36:03 20 consequence of the Kamajors advancing on Kenema?

21 A. True.

22 PRESIDING JUDGE: Until the advance of the Kamajors to
23 Kenema.

24 MR JORDASH: Yes, Your Honour.

10:36:33 25 Q. The compound which you lived in consisted of how many
26 apartments?

27 A. Multiple apartments.

28 Q. Approximately how many?

29 A. A big area owned by one man. We have been living -- 15

1 apartments, buildings, storey houses.

2 Q. Let me understand this: 15 apartments or 15-storey houses?

3 A. There are various apartments. I don't actually want to
4 deliberate this to the extent that my identity will be revealed.

10:37:16 5 Q. I am not asking you where you lived within that compound.
6 I am simply asking you to try to give us a picture of the size of
7 this compound. Do you understand?

8 Mr HARRISON: I think the problem may well be that there
9 may not be similar compounds in that area, and one could then
10:37:38 10 make references and inferences as to who resided in that one
11 particular compound. That would be the concern of the identity.

12 MR JORDASH: Let me ask the question if I can.

13 Q. Is this a particularly distinct compound or are there many
14 compounds like it in Kenema?

10:38:01 15 A. Kenema is a diamond area and you have rich people there. A
16 lot of people own very large compounds that comprise five-storey
17 buildings; I mean different kind of storey buildings. This
18 particular compound even had an Arab hospital in one of the
19 apartments. A very large compound; more than 10 apartments.

10:38:19 20 Q. Pause there then. Are you able to answer this question
21 without giving away the location of the compound? How many --

22 A. I have already given away the location of the compound some
23 time ago. I told you the compound is opposite the shop of a
24 businessman, Kamal Manso [phon].

10:38:45 25 Q. That is true, you did say that. If at any stage you feel
26 uncomfortable speaking about this please say because obviously we
27 don't want your identity to become known to the public. Okay?

28 A. Yes. I am comfortable to this point. But I don't want the
29 description to go beyond.

1 Q. I want to ask this question first.

2 Mr HARRISON: A question could be written if that is
3 helpful, rather than going into closed session -- a written
4 question and a written answer.

10:39:19 5 MR JORDASH: Perhaps I can ask just ask this question and
6 perhaps the witness could write the answer with Your Honours'
7 leave.

8 PRESIDING JUDGE: Why don't you write it?

9 MR JORDASH: If no-one --

10:39:33 10 PRESIDING JUDGE: Why don't you write the question,
11 Mr Jordash?

12 MR JORDASH: I can, but if no-one knows the answer it is
13 not going to --

14 PRESIDING JUDGE: He will give the answer.

10:39:39 15 JUDGE BOUTET: But the question again has to do with the
16 number of apartments.

17 MR JORDASH: Number of apartments.

18 JUDGE BOUTET: I think he has already answered that twice.

19 PRESIDING JUDGE: He has already given the number 15, then
10:39:46 20 he moved to 10, 15 and so on.

21 JUDGE BOUTET: I don't think that is really a big issue
22 now. My understanding was that there was more concern about
23 where his own apartment within that.

24 MR JORDASH: Right, okay. Thank you.

10:40:00 25 JUDGE BOUTET: You can see. You can try again if you
26 haven't got the answer, but it did not appear to me to be a
27 problem.

28 MR JORDASH: I see, thank you.

29 Q. More than 10 apartments, but around 10; would you agree?

1 A. Let me describe exactly. You have three large buildings
2 within the compound.

3 PRESIDING JUDGE: Don't go into too much of a description.
4 We understand.

10:40:35 5 MR JORDASH:

6 Q. Perhaps you can write down.

7 A. Roughly 14.

8 PRESIDING JUDGE: Roughly 14, yes.

9 MR JORDASH: I don't know. With Your Honours' leave, I
10:40:52 10 could ask him to write down a description of the makeup of the
11 compound.

12 PRESIDING JUDGE: That would be a whole essay. My God!

13 MR JORDASH: I am simply trying to establish the size of
14 this place and the number of persons who live within this place.
10:41:14 15 But I think we've got already now the number of large buildings
16 and we have within that approximately 10 apartments.

17 Mr HARRISON: I think he said 14.

18 MR JORDASH: I beg your pardon, sorry -- 14 apartments.

19 Q. Are you able to confirm or give us a picture of how big the
10:41:50 20 area taken up by the compound was in terms of, say, for example
21 this room? Is it bigger than this room?

22 A. One of the houses is bigger than this whole building.

23 Q. Right. Much bigger or --

24 A. I am actually telling you about giant buildings, not very
10:42:15 25 small buildings.

26 Q. Are we talking twice as big as this room, or three times as
27 big as this room?

28 A. One of the buildings is three storeys and it has six
29 apartments and another one, a similar one, behind and another.

1 It is a large area, really. Nothing less than 50 people.

2 Q. 50?

3 A. More than; it can be more. I cannot exactly say. There
4 was a XXXXXXXXX there.

10:42:45 5 Q. Okay. And you were living in your apartment on a daily
6 basis.

7 A. Throughout I was living; while I was living covertly.

8 Q. What do you mean you were living covertly?

9 A. In the sense I kept a low profile. After the incidents of
10:43:10 10 my CPO I kept a low profile. I left the apartment at 6.00 to
11 6.15 a.m. every day and I returned after 12 midnight throughout.

12 Q. You told us that there were 20 RUF combatants living there
13 in the compound.

14 A. Not less than; it could have been more.

10:44:27 15 Q. Okay.

16 A. Because we were sharing the same facilities initially.

17 Q. Let me just ask you this: Were you keeping a low profile
18 from the eyes of the RUF combatants?

19 A. I did not want any episode, so I kept a low profile.

10:45:01 20 Q. Episode with the RUF combatants?

21 A. Yes. I didn't want any confrontation, because at times you
22 can be in the toilet and they go in there and they want know if
23 you are there. I did not want any problem.

24 Q. Right. Did you speak to any of these 20 or more
10:45:54 25 combatants?

26 A. Well, normally I move -- not a particular kind of
27 relationship.

28 Q. Right. How long were they there?

29 A. Up to the time of the intervention -- the arrival of ECOMOG

1 and the Kamajors. Because everybody ran away; the compound was a
2 target. Everybody had to run at the time they realised that the
3 Kamajors and the ECOMOG were coming.

4 PRESIDING JUDGE: Including yourself?

10:46:56 5 THE WITNESS: Even myself. We ran together but we went in
6 different directions.

7 PRESIDING JUDGE: Let's get this clear. Was it a combined
8 intervention of the ECOMOG and the Kamajors? What was it? Make
9 it clear.

10:47:59 10 THE WITNESS: A combined intervention of ECOMOG and the
11 Kamajors. The ECOMOG that was driven from Liberia by
12 Charles Taylor. When they came they were at the Mano River
13 bridge. They had some Kamajors whom they were --

14 PRESIDING JUDGE: That's all right; that's okay. I have
10:48:13 15 gotten the clarification.

16 MR JORDASH:

17 Q. Now you told us that combatants were being sent to Tongo to
18 fight the Kamajors. Do you remember telling us about that?

19 A. True.

10:48:49 20 Q. And you say that -- you said on the 12th last week that
21 these 20 or more combatants were being sent to Tongo to fight the
22 Kamajors.

23 A. True.

24 Q. And you also told us that the Kamajors had remained in
10:49:42 25 Tongo until the time when General Issa and General Mosquito came
26 to Kenema.

27 A. Initially there were both Sierra Leone Army personnel and
28 the Kamajors there; they were prosecuting the war against the
29 RUF. But after the overthrow of the junta, Foday Sankoh

1 announced that all RUF should join the soldiers and operate as
2 one.

3 Q. Do you remember saying the Kamajors remained in Tongo up
4 until the time General Issa and General Mosquito came to Kenema?

10:50:32 5 Do you remember saying that?

6 A. I can remember.

7 Q. What I want to ask you is this: You only saw General Issa
8 the once; so is it right you didn't see him come to Kenema with
9 General Mosquito?

10:50:50 10 A. I realised from the combatants, because normally I listen
11 to them and as they say a lot of things. I keep a low profile. I
12 never wanted either General Issa or General Mosquito to know who
13 I am, so I --

14 Q. You never saw General Issa --

10:51:09 15 A. I saw General Issa.

16 Q. -- come with General Mosquito.

17 A. I did not see them coming together, but I was told it.

18 Q. You were told it. You have told us that you simply said
19 hello and exchanged greetings with the 20 or more combatants in

10:51:31 20 the compound. So who told you about General Issa's arrival with
21 General Mosquito?

22 A. I had a CID personnel. You can see his name written on
23 page 50 of this --

24 Q. Page what?

10:51:54 25 A. 50.

26 JUDGE BOUTET: Of Exhibit 28?

27 THE WITNESS: Yes. Saturday, 14th, 3.34, the entry No. 50,
28 which you referred me to.

29 MR JORDASH:

1 Q. The CID man --

2 A. DPC5604; he was the brother of Mosquito. He was spying on
3 our activities. My CID personnel.

4 Q. He was the brother of Mosquito?

10:52:28 5 A. He was purported to have been the brother of Mosquito and
6 he was giving situation reports, kind of --

7 Q. What was his name?

8 A. It was Baba Tarawallie -- DPC5604.

9 PRESIDING JUDGE: So he was spying on you. For whom?

10:52:52 10 THE WITNESS: For Mosquito.

11 PRESIDING JUDGE: He was one of your staff.

12 THE WITNESS: He was one of my staff, a constable. He was
13 spying on us and reporting to General Mosquito every morning.

14 PRESIDING JUDGE: What was the date of that entry on 50?

10:53:42 15 THE WITNESS: The 17th of January 1998.

16 MR JORDASH:

17 Q. You didn't see General Issa giving any orders to the
18 combatants within your compound.

19 A. I never saw him giving orders but --

10:54:23 20 PRESIDING JUDGE: Wait. The combatants in that house --

21 MR JORDASH: Yes.

22 PRESIDING JUDGE: You said but what?

23 THE WITNESS: But I couldn't have seen him because --

24 PRESIDING JUDGE: You did not see him.

10:55:01 25 THE WITNESS: I did not see him.

26 PRESIDING JUDGE: That is okay.

27 MR JORDASH:

28 Q. Even though you saw the 20 or so combatants, you didn't see
29 General Issa.

1 A. I saw them every day; I saw the combatants every day; when
2 they go in their vehicles I see them; whenever they come back I
3 see them. I was not worried with the junior combatants.

4 Q. Thank you. When you saw the CPO and the senior assistant
10:56:09 5 commissioner being taken away, how did you know it was General
6 Issa taking them away?

7 A. The way he was speaking authoritatively; in fact, he
8 opened --

9 PRESIDING JUDGE: That is not the question. That is not
10:56:29 10 the question. How did you know it was General Issa taking them
11 away? The issue is identity.

12 THE WITNESS: Because at the material time he was occupying
13 the building. At that time General Mosquito was at NIC.

14 MR JORDASH:

10:56:51 15 Q. Am I right that you were in your bedroom alone; yes?

16 A. I was in my bedroom alone.

17 Q. What you see is somebody in a car who then roughly handles
18 the CPO and the assistant commissioner into a vehicle and then
19 drive away.

10:57:18 20 A. True. Not only a single man.

21 Q. A single man and some other armed men?

22 A. True.

23 Q. How far away from this are you?

24 A. Just at the base of the building. I was upstairs and I was
10:57:37 25 looking. Roughly -- at least in the distance of distinct vision.

26 Q. Sorry, the distance of what?

27 A. Distinct vision.

28 Q. Can you use this room to give us an indication of the --
29 one moment, Mr Witness, wait for the judges to -- can I briefly

1 take instructions?

2 PRESIDING JUDGE: Mr Jordash, are you almost through?

3 MR JORDASH: I am 10 minutes away from finishing.

4 PRESIDING JUDGE: We hope. Please take your instructions.

10:59:48 5 Mr Jordash, we have a slight consultation, which will not take us
6 a very long time. We will rise and we will be resuming as soon
7 as we are through with the consultation, please. It has nothing
8 to do with this matter anyway.

9 MR JORDASH: Thank you.

11:00:20 10 [Break taken at 10.58 a.m.]

11 [HS160505B - CR]

12 PRESIDING JUDGE: We're resuming the session. Thank you,
13 Mr Jordash.

14 MR JORDASH:

11:24:37 15 Q. I'm nearly finished, Mr Witness. I think the last question
16 I asked you was how far away were you from the arrest you
17 observed?

18 A. I said it was within the -- at least a distance of 16 feet,
19 say around -- say from here to slightly beyond that door. But
11:25:06 20 upstairs. I was up and they were down.

21 Q. Right.

22 PRESIDING JUDGE: Can we measure the distance? He was
23 upstairs, they were downstairs.

24 MR JORDASH:

11:25:26 25 Q. So a distance of?

26 A. Let's say roughly 15 metres.

27 Q. Fifty?

28 A. Fifteen -- 15 metres. Within my range of clear vision.

29 Q. Yes. Through the window?

1 A. Through the window. The window overlooked the street.

2 Q. Was it safe to observe without hiding?

3 A. Eventually I was in my room. I wanted to keep a low
4 profile. I was not actually hiding, because I had not done
11:26:27 5 anything at that time, but I wanted to keep a low profile and I
6 tried to observe what was happening.

7 Q. Yes. I'm not suggesting you didn't, but were you
8 concealing yourself so that you wouldn't be seen watching?

9 A. I never wanted to be seen.

11:26:41 10 Q. Thank you.

11 A. Because I never wanted to go there.

12 Q. Now, you didn't know when you were watching that it was
13 General Issa, because you hadn't seen him before; is that right?

14 A. I had not seen him before, but when everybody embarked the
11:27:21 15 vehicle, there was one of the combatants who was beckoning to his
16 friends to get on board as General Issa is now coming. I still
17 continued looking. I came outside and boarded the vehicle and
18 sat in the front, so I clearly saw. Initially I had a
19 description of him from my CID personnel.

11:27:50 20 Q. Who was that?

21 A. I don't want to reveal names.

22 Q. Well, would you mind writing it down? Could the witness be
23 given a piece of a piece of paper, please?

24 A. Even DPC5604, Baba Tarawallie, give me a description.
11:28:13 25 Before the incidents.

26 Q. Sorry?

27 A. What I am seeing.

28 PRESIDING JUDGE: Baba Tarawallie gave you a description of
29 who?

1 THE WITNESS: Both General Issa and General Mosquito before
2 this incident.

3 MR JORDASH:

4 Q. Let me try to understand this. You knew it was
11:28:45 5 General Issa because he matched the description given by
6 Tarawallie?

7 A. And from the statement of the combatant that they had been
8 waiting for General Issa, he's now coming, so all other
9 combatants should go on. Everybody was with him and he came and
11:29:00 10 entered. As soon as he entered the vehicle, he left. I was
11 authoritative in [indiscernible].

12 Q. Well, as near as you can remember, what were the words
13 spoken by this combatant?

14 A. He said, "General Issa is coming, so everybody should
11:29:24 15 board. General Issa is coming, everybody should board, go on
16 board the vehicle." They all went on board and I saw him coming
17 out, he entered the vehicle and as soon as he entered, he left.

18 Q. The combatant who said that was who?

19 A. I cannot remember. I did not know much of them because I
11:30:30 20 not too sure. I did not have any close relationship with them,
21 so I cannot remember his name.

22 Q. But you were able to hear that through the window, were
23 you?

24 A. Yes, because at least it was closed -- within the same
11:30:49 25 compound. Only thing I was upstairs. It was one storey. The
26 particular building is a one storey building.

27 Q. Mr Witness, let me make myself clear to you. I'm
28 suggesting that during the break you've had a think about this
29 and have invented that last piece of information to explain how

1 it was you knew it was Issa.

2 A. Well, I don't think it is wrong for me to recall, because
3 what is in my head is in my head. I have not been fed by
4 anybody. I have the right to think.

11:31:26 5 Q. You didn't think that last week though, did you?

6 A. I don't really see anything wrong in thinking now.

7 Q. But the problem is, Mr Witness, that last week you said it
8 was General Issa, but appeared to have completely forgotten that
9 a combatant had actually called out General Issa's name. Do you

11:31:47 10 understand my point?

11 A. Yes, well, I can remember that now. For me, you see, the
12 brain is such that you keep on recalling anything.

13 Q. Perhaps I should stop questioning you now then.

14 A. Something escaped me now, then I can pick up later.

11:32:01 15 Q. Well, I suggest also --

16 A. I'm not a perfect human being. I have no more recall.

17 Q. I also suggest, Mr Witness, Issa Sesay was not a general at
18 that time, so you couldn't have heard somebody calling him a
19 general. He became a general after, in 2000.

11:32:28 20 A. You see the more we deliberate on the issue, the more my
21 identity will be revealed. I really don't want my identity to be
22 revealed.

23 Q. Mr Witness, all I'm suggesting to you is that Issa Sesay
24 was not a general and that is another reason why you did not hear
11:32:44 25 somebody call him a general.

26 A. They used to call him general, colonel. I don't know exact
27 time he got his rank. They used to call him -- some used to call
28 him colonel, some used to call him general.

29 Q. Just give me a moment. I want to know when it was that

1 this combatant called out General Issa's name. At what stage was
2 this?

3 A. At that time, the commissioner, the chief police officer,
4 the combatants were by the vehicle. He was the only one waiting.

11:33:54 5 He was upstairs at the material time. At the time of our
6 arrival, the commissioner was upstairs in his own apartment.

7 Q. Right. Well let me understand this: "Commissioner pushed
8 into the vehicle"; yes, you recall that?

9 A. Roughly, kind of.

11:34:13 10 Q. "CPO roughly pushed into the vehicle"?

11 A. Yes.

12 Q. "By combatants who then stand waiting for General Issa"?

13 A. Correct.

14 Q. Somebody calls out to -- one combatant calls out to another
11:34:33 15 that they're waiting for General Issa?

16 A. Yes, so we should come on board, we should come on board,
17 because they were departing.

18 Q. Was this person calling out to General Issa to "Come now,
19 they're ready"?

11:34:45 20 A. This kind of prefect was calling to junior combatant, not
21 calling to Mr Issa.

22 Q. Sorry, can you repeat that, please?

23 A. Kind of junior manager to General Issa was admonishing this
24 man to come on board as general is now coming.

11:35:06 25 Q. Right. Then there was a brief pause where General Issa
26 emerges from somewhere within the compound?

27 A. Yes, he passed by my window and I saw him clearly until he
28 entered the vehicle.

29 Q. Had you seen the car pull up at the compound before the

1 commissioner and CPO were pushed into the vehicle?

2 A. The vehicle was outside at the front. As they passed
3 between the two big buildings, if you go I was waiting.

4 Q. So the first time then -- well, the first and only time you
11:35:55 5 see General Issa is when he emerges from the compound?

6 A. I used to avoid him. I never wanted him to see me.

7 Q. In relation to this incident, the first time you see him as
8 you're standing at your window is when he emerges from somewhere
9 within the compound?

11:36:15 10 A. That's true.

11 Q. Thank you. Could I then refer you to your evidence of last
12 week, 12 May, page 138. You should have that in front of you to
13 your right, Mr Witness. Looking at the bottom of the page, line
14 26 -- if you just read silently to yourself. I don't think we
11:37:14 15 need to go over this information in public. You're describing
16 there something to do with the resident; yes? This is line 19,
17 "I saw the CPO and the senior assistant commissioner arrive in
18 the car of the CPO and parked the said car opposite our
19 residence." Do you see that?

11:37:34 20 A. Hold on, let me make it clear. Initially I was sitting
21 down at the verandah.

22 JUDGE BOUTET: Yes, Mr Witness, you were asked to look at
23 the transcript. What you have there is a transcript of your
24 evidence of 12 May.

11:37:53 25 MR JORDASH:

26 Q. Read line 19 down to the bottom of the page, just read it
27 to yourself, to remind you of what you said. Just to check we're
28 on the same page, does it say at line 20, "17:44:25" on the
29 left-hand column of the page?

1 A. This is not actually clear. It is a bit variant to what I
2 said at the time.

3 Q. Well, have a look at line 19 and understand this,
4 Mr Witness: this is a direct recording of what you said in Court
11:38:32 5 on 12 May last week. So, these are your words, "I saw the CPO
6 and the senior assistant commissioner, Mr DF Konneh and Mr FJ
7 Issa arrive in the car of the CPO and park the said car opposite
8 our residence." Do you see that?

9 A. Okay, I see. That's true.

11:38:56 10 Q. Just moving on down the page, you can see an address is
11 given there at line 25; yes? Do you see that, the left-hand side
12 of the page.

13 JUDGE BOUTET: The spelling of the name of the street may
14 not be accurate, but that's the name of the street.

11:39:23 15 THE WITNESS: XXXXXXXX.

16 MR JORDASH:

17 Q. Do you see that? I'm not interested in the address. I
18 want to make sure we're working together in the same place. Are
19 you following me?

11:39:30 20 A. Yes, okay.

21 Q. Now, the last line of that page, line 29, can you find the
22 words, "So that was where the CPO...?"

23 A. As he parked his car.

24 Q. Mr Witness, I'm nearly finished. I just want to take you
11:39:52 25 through something you said on Thursday last week. These are your
26 words. "So that was where the CPO" -- look at the page,
27 Mr Witness -- "that's where the CPO parked the vehicle, his
28 vehicle, his undercar and he disembarked. Both himself and the
29 commissioner disembarked. I stood. I was in my room watching.

1 I wanted to know what was happening, so they came out of the car
2 and they crossed over to our residence." Are you with me so far?

3 A. Okay.

4 Q. "At that time, General Issa and his men were in a kind of
11:40:38 5 jeep, white jeep, so General Issa ordered the commissioner to on
6 board his vehicle, to go on board his vehicle, the said white
7 jeep. The commissioner was shoved in, actually, a rough manner
8 and General Issa sat by his side at the front."

9 A. That was at the latter stage.

11:41:03 10 Q. A moment ago, you've told us the CPO and the commissioner
11 were in the car and the combatants were there waiting for General
12 Issa to come down from his location. How does this fit in to the
13 latter stage?

14 A. Actually, the latter stage is the case.

11:41:21 15 Q. When did this happen? When did the commissioner and CPO,
16 get out of the car?

17 A. At the time he got out of the car, General Issa was
18 upstairs. At the time they entered the vehicle and all the other
19 combatants -- the other combatants were those who actually placed
11:41:41 20 the chief police officer and the commissioner in the vehicle. At
21 the time General Issa came down from his residence, the other
22 combatants, because he -- "The general is coming, let us on
23 board. The general is coming, let us on board."

24 Q. Line 5, Mr Witness, on this page, "At that time, General
11:42:09 25 Issa and his men were in a kind of jeep, white jeep."

26 A. No, you see, this issue after a long time --

27 Q. "So General Issa ordered the commissioner to on board his
28 vehicle." How is it that General Issa ends up in the car with
29 the commissioner outside the car when what you've told us a few

1 minutes ago was that the commissioner was in the car and General
2 Issa was coming down from his location and was called from his
3 location?

4 A. General Issa was not called from his location. Somebody
11:42:39 5 beckoned to his friends -- combatant beckoned that the general is
6 coming so let him board the vehicle. Actually, the latter is the
7 case, because as soon as he came, the commissioner -- the CPO was
8 put at the back of the car and the commissioner was put in front.
9 He was sitting down in front together with the commissioner.

11:43:05 10 Issa Sesay can testify.

11 Q. Well, he's not. Where was General Issa then at this point?

12 A. Initially General Issa was upstairs.

13 Q. General Issa then was not in a kind of jeep, white jeep
14 when the commissioner was pushed into the van?

11:43:26 15 A. The commissioner and his chief police officer were standing
16 by waiting for him.

17 Q. Okay. So they weren't in the van then when General Issa
18 was coming out of his location?

19 A. Okay, as soon as he came down, they ordered the men to
11:43:51 20 enter. He said, "Commissioner, Commissioner enter here." That
21 was the first time I got his outside voice.

22 Q. Mr Witness, think carefully.

23 A. I'm thinking.

24 Q. You didn't know that that man was Issa or who he was, did
11:44:11 25 you?

26 A. If they say, for example, "The President is coming, let us
27 be patient, he's now coming, he's now coming," if somebody comes
28 out of where I expect the president to come from, and he comes
29 and behave in an authoritative manner and I move away, I will

1 presume.

2 Q. I have four or five questions left and then I'm finished.

3 A. Carry on.

4 Q. Let's just have a look at what you said. It's not true

11:44:39 5 then what you said last week when you said, "At that time,

6 General Issa and his men were in a kind of jeep, white jeep";

7 that's not true?

8 A. It could have been an error.

9 Q. That was an error?

11:44:46 10 A. Yes.

11 Q. "General Issa ordered the commissioner to on board his

12 vehicle to go on board his vehicle."

13 A. Yes, that was my first time of hearing him speak.

14 Q. So that bit is true?

11:45:01 15 A. Is true, yes; he ordered, yes, I can remember.

16 Q. So what you said to us about five minutes ago about the

17 commissioner and the CPO being in the vehicle as you waited for

18 Issa is not true either?

19 A. I have already clarified that it was an error.

11:45:14 20 Q. And, "The commissioner was shoved in, actually, in a rough

21 manner and General Issa sat by his side at the front"; is that

22 true?

23 A. True.

24 Q. Now, you tell us that you were told later on that the

11:45:39 25 commissioner, I think, had been flogged?

26 A. True.

27 Q. And who told you that?

28 A. My personnel.

29 Q. Who was that?

1 A. I cannot recall the name.

2 Q. You can recall it or you don't want to say it here?

3 A. General -- it was not one man. I cannot remember a single
4 one. It was very open.

11:46:04 5 Q. Do you know why they were arrested, these men?

6 A. Better we go into closed session.

7 MR HARRISON: Perhaps in lieu of that, the answer might
8 just be written down on a piece of paper.

9 MR JORDASH: Yes, because I've almost finished with this
11:46:27 10 witness.

11 PRESIDING JUDGE: Mr Jordash, don't you worry. We're used
12 to this. It's no problem. I think we may proceed that way. The
13 question may be put in writing.

14 THE WITNESS: Because you're asking me to explain this
11:46:42 15 story. It will be long writing. I don't want to mention certain
16 names, what -- an incident after --

17 PRESIDING JUDGE: Leave it at that. How shall we get
18 around this, Mr Jordash, what's your suggestion?

19 JUDGE BOUTET: The question was a fairly direct question:
11:47:09 20 whether or not you knew why they had been arrested.

21 THE WITNESS: That's what I was trying to explain.

22 MR JORDASH: Do you know why?

23 A. Yes, they told me later. I was told later. I was not
24 aware of the incident recalled in my absence, but I was told
11:47:28 25 later, by some of my personnel.

26 Q. Did you ever speak to the commissioner about the incident?

27 A. No, no. I just recall it was an ugly situation. I did not
28 want to remind me. I kept out of the situation.

29 Q. You didn't speak to the CPO either then?

1 A. Neither.

2 Q. So what you heard about it was basically double hearsay?

3 A. Yes or not. I saw him entering the vehicle in a rough
4 manner. He did not return until roughly at 6.00 p.m., from

11:48:18 5 12.00 p.m. to 6.00 p.m.

6 Q. So that was the evidence you heard at the scene and later
7 on you were told by somebody who had spoken to someone else about
8 what happened?

9 A. Yes. The only thing, when they came they were not happy
11:48:36 10 mood.

11 MR JORDASH: Thank you, I have no further questions.

12 PRESIDING JUDGE: Mr Jordash, there was a question you were
13 pursuing. You were asking him whether he knew why those two were
14 arrested. Are you abandoning that? He said he got to know why
11:49:17 15 he was told.

16 MR JORDASH: I better deal with that, actually.

17 JUDGE BOUTET: You will not be allowed to reopen your
18 cross-examination, as you know, so you better do it now.

19 MR JORDASH: Can I apply to go into closed session then,
11:49:34 20 please, on the basis of what the witness has just said.

21 PRESIDING JUDGE: What if we adopted Mr Harrison's
22 suggestion, you know, the question is put to him and he takes
23 sometime and writes something. Wait for the question, please,
24 don't write.

11:49:54 25 MR JORDASH: If the witness then could write an answer. It
26 may be that I don't need to pursue it much further once I've seen
27 the answer, but obviously I might need to.

28 JUDGE BOUTET: May I suggest, Mr Jordash, that you repeat
29 the question so there is no doubt and ambiguity as to what

1 question he needs to provide an answer to.

2 MR JORDASH: Certainly.

3 Q. The question was do you know the reason for why the two men
4 were arrested?

11:50:23 5 A. It is a story, really.

6 Q. If you could write down on the piece of paper --

7 A. It's long, up to half the page. To me, it's a long story.
8 It's better to closed session and I explain it.

9 PRESIDING JUDGE: Summarise it. Why was, that is it. You
11:50:43 10 don't need to go into a long story.

11 THE WITNESS: Okay, I can do that. I can do that.

12 MR JORDASH:

13 Q. Can you mention, Mr Witness, who it was who told you this
14 information?

11:50:58 15 A. My personnel.

16 Q. By name.

17 A. I cannot reveal the name.

18 Q. You can on the piece of paper.

19 A. Because it will be detrimental to reveal whosoever might
11:51:05 20 have been in the precinct.

21 Q. You can on the piece of paper, because the public won't
22 know what is on that piece of paper.

23 A. I cannot remember exactly. Normally when something
24 happens, I come to the office and ask the rest of the personnel.

11:51:22 25 Q. If you can't remember, just say you can't remember, that's
26 fine.

27 A. I cannot remember one person, it was -- it was kind of
28 open, everybody was discussing.

29 Q. Okay.

1 A. Can I write at the back?

2 PRESIDING JUDGE: Yes, you can continue on the back, yes.

3 Mr Jordash, I didn't think he was through.

4 THE WITNESS: I'm not through.

11:58:56 5 PRESIDING JUDGE: Please, endeavour not to go beyond.

6 THE WITNESS: It is the story if I explain. I'm almost
7 finished.

8 PRESIDING JUDGE: I hope page 2 will be the last.

9 THE WITNESS: Yes, it's nearly the last. I'm finished.

12:02:58 10 MR JORDASH: I will pass it down the row, Your Honours.

11 Your Honours as far as I can see, there is nothing that would
12 relate to this witness's identity. With Your Honours' leave, and
13 after I've shown it to the Prosecution, I suggest we can read
14 this into the record. I will obviously show it to the

12:05:03 15 Prosecution first and it will then make its way to Your Honours.

16 [Trial Chamber confers]

17 JUDGE THOMPSON: Mr Harrison, what's your response to
18 Mr Jordash's first point that the answer doesn't reveal the
19 witness's identity? If that is right, then what's your response
12:09:47 20 to his proposal?

21 MR HARRISON: The only suggestion I can give to the Court
22 is that perhaps the witness needs to give some guidance as to
23 what the concern is in his mind. Reading it at face value, I'm
24 inclined to the view that Mr Jordash has expressed.

12:10:06 25 JUDGE THOMPSON: Mr Witness, you heard Mr Jordash's point,
26 that the answer that you've given would not in any way reveal
27 your identity. In the light of that, do you want to respond?

28 THE WITNESS: I respond.

29 PRESIDING JUDGE: Go ahead.

1 THE WITNESS: As the name that is mentioned there, this
2 person is in Court, so he knows me. So I don't want that name to
3 be revealed.

4 MR HARRISON: That being the case, the Prosecution would
12:10:44 5 ask that the document be made an exhibit in these proceedings and
6 that it be made a sealed exhibit.

7 JUDGE THOMPSON: Mr Jordash, your response?

8 MR JORDASH: Well, I don't quite follow what the witness
9 has said about the person being in Court who knows the witness.
12:11:06 10 If the witness's evidence is correct, the only person who knows
11 this witness in this Court is Mr Sesay, but there's nothing on
12 that document which connects any of those events to this witness,
13 nor is there anything on that document which relates to this
14 witness's job or -- well, just generally his identity. I don't
12:11:37 15 see the problem. It's not a big issue, but I would like to ask
16 some questions on that document. I don't believe the questions
17 will go to the witness's identity either.

18 PRESIDING JUDGE: It should be marked as an exhibit for a
19 start and we can then move from there.

12:12:08 20 JUDGE BOUTET: Court Management, can we have this document
21 marked as an exhibit.

22 [Exhibit No. 29 was admitted]

23 MR JORDASH: May I see the document again, please?

24 JUDGE BOUTET: I've written on the back of the document
12:13:19 25 TF1-125. This is my handwriting.

26 [HS150505C-JM]

27 MR JORDASH:

28 Q. If I can then pick up on a few questions,

29 Mr Witness -- well, just this to start with: Who were the CID

1 personnel -- sorry. Is Abdul Kareem Koroma [phon] the person who
2 had the fight? Is that the person, Mr Witness, who had the fight
3 with the police sergeant, the brother-in-law of the commissioner?

4 JUDGE BOUTET: Mr Jordash, I think before you get into
12:14:43 5 these kind of details, I suspect, and I just observe the
6 uneasiness of the witness that it may have been some of these
7 names that the witness is concerned about and, therefore, not
8 necessarily your time per se. You have now made reference to two
9 different names as such. And my understanding of his reluctance
12:15:02 10 at the beginning had to do, I think, with these names and the
11 identity of these persons.

12 MR JORDASH: I'm simply asking --

13 MR HARRISON: I really think that is the witness's concern,
14 and that was the purpose of asking that it become a sealed
12:15:17 15 document. There's no question that Mr Jordash has a right to ask
16 questions. The only question is whether it should be in open or
17 whether it should be in a closed session. And the Prosecution is
18 asking the Court to err in favour of the witness in these
19 particular circumstances. He has expressed his concern. And
12:15:35 20 we're asking that if there is to be further questions, that it be
21 in a closed session or, again, reverting to writing the questions
22 down and asking that the answers be written down.

23 MR JORDASH: I would respectfully disagree. The issue of
24 identity is not simply one which relates to a -- is not simply to
12:15:55 25 be decided, I would respectfully submit, by a witness saying "I
26 don't want to talk about this in public." The question I asked
27 was whether this Mr Koroma was a person who had had the fight
28 with General Issa Sesay. In no conceivable way does that
29 question relate to -- sorry, in no conceivable way does it

1 disclose the witness's identity. It might, I don't know, relate
2 to the witness, but it doesn't disclose his identity.

3 JUDGE BOUTET: But it might to his colleagues at his own
4 occupation as such. And yes, it might. I don't know how many
12:16:39 5 people were working with them. It might have been 20, 25.
6 And it's only by putting these things together that one can say,
7 well -- I'm just giving you one scenario where it could.

8 MR JORDASH: It could, if this particular named person --

9 JUDGE THOMPSON: Perhaps this can be a proper subject for
12:16:57 10 some legal argument. Because clearly, it would seem as if the
11 Chamber has been invited to interpret the answer in the light of
12 his concerns and also in the light of some objective principles
13 of law. And I would like to keep an open mind on this. And the
14 only way I can keep an open mind on it is by suggesting that we
12:17:28 15 have the argument on it in the absence of the witness and then
16 hear what -- see what position we can take.

17 MR JORDASH: Your Honour, of course, I don't disagree with
18 that. But I'm mindful of the time. And if it's --

19 JUDGE THOMPSON: That's the point.

12:17:42 20 MR JORDASH: I'm willing to concede and go into closed
21 session --

22 JUDGE THOMPSON: Yes, quite.

23 MR JORDASH: I don't wish to prolong this, and I'm happy to
24 continue the questioning --

12:17:51 25 JUDGE THOMPSON: The interests of justice demand that we
26 sacrifice nothing. I certainly want to keep an open mind on
27 that, and I think the best thing is to argue it or go into closed
28 session.

29 MR JORDASH: What I'm suggesting, Your Honour, it's not a

1 big point for us. If the witness is concerned, then I'm happy to
2 concede the Prosecution's application to go into closed session,
3 and I can just question him about the subject matter of this
4 rather than prolonged argument as to whether we should go into
12:18:17 5 closed session. It's not important from our point of view.

6 JUDGE THOMPSON: Quite, yes.

7 JUDGE BOUTET: And this was your initial suggestion in any
8 event before we reverted to the piece of paper.

9 MR JORDASH: Yes.

12:18:34 10 JUDGE BOUTET: So I mean --

11 JUDGE THOMPSON: It would seem as if we have no alternative
12 than to go into closed session because I don't want to appear to
13 curtail your cross-examination on matters which you consider very
14 important.

12:18:45 15 MR JORDASH: Certainly.

16 JUDGE THOMPSON: And of course, it's entirely up to you
17 what level of importance you put on these issues.

18 MR JORDASH: And could I just suggest something. There's
19 another subject which I very briefly need to deal with, and it
12:18:58 20 can be dealt with open. Perhaps I could deal with that first, we
21 could move into closed session, and then I'll have finished,
22 rather than going closed now and coming back and we continue in
23 open.

24 PRESIDING JUDGE: [Microphone not activated]

12:19:14 25 JUDGE BOUTET: I do, I do.

26 PRESIDING JUDGE: [Microphone not activated]

27 JUDGE BOUTET: I do have a concern. If it is a matter that
28 can be dealt with publicly, it should be dealt with publicly.
29 Matters of closed session is closed session. If you're saying

1 this issue is not for closed session --

2 MR JORDASH: No, it's not.

3 JUDGE BOUTET: At least it's my point of view.

4 MR JORDASH: I can deal with it in about four or five

12:19:41 5 questions, I hope.

6 Q. We're just moving on this subject, Mr Witness, because I
7 want to ask you something else while we're still in open session.
8 But we will return to this subject in closed session.

9 It's basically what happened when you go into hiding. When
12:20:02 10 the announcement over "Focus on Africa" is made that the Kamajors
11 and ECOMOG were five miles away from Kenema; you follow me? That
12 is what I want to just to ask you about quickly now.

13 A. If you want me to explain --

14 Q. No.

12:20:24 15 A. -- the movement from that house to elsewhere, let it go
16 also --

17 Q. Right --

18 A. -- in closed session.

19 Q. What I want to ask you about this: You hear the
12:20:34 20 announcement on Focus on Africa? Yes?

21 A. Yes, I heard that announcement.

22 Q. And early in the morning the next day, you, like the RUF
23 combatants, start to run away from Kenema?

24 A. That was one of the reasons. There was another reason, but
12:20:57 25 that should be closed session.

26 JUDGE BOUTET: Mr Witness, I don't think --

27 THE WITNESS: It is really closed session --

28 JUDGE THOMPSON: That's the difficulty. I thought the
29 better thing to do was to let this witness retire temporarily,

1 and we address these issues that are clearly matters of law.
2 Even the question of going into closed session/open session seems
3 to be not for the witness to decide, but the kind of approach
4 here seems to be taking us nowhere.

12:21:24 5 MR JORDASH: Well --

6 JUDGE THOMPSON: Well, I mean I don't know why in a matter
7 like this, even though the concern of the witness is important,
8 why we should not address the arguments in the absence of the
9 witness and take a very definitive position as a Court and come
12:21:43 10 here and give our orders and directives, rather than being
11 interrupted.

12 MR JORDASH: Well, I'm --

13 JUDGE THOMPSON: I think the procedure is untimely.

14 MR JORDASH: I'm completely in Your Honours' hands. I'm
12:22:08 15 happy either way.

16 [Trial Chamber confers]

17 JUDGE THOMPSON: It is the decision of the Bench that the
18 witness will retire temporarily while we address certain issues
19 pertinent to Mr Jordash's application and further
12:23:14 20 cross-examination.

21 [The witness stands down]

22 JUDGE THOMPSON: Mr Jordash, please proceed. I'm assuming,
23 I hope rightly, that we may well in fact proceed in closed
24 session in respect of the response in Exhibit 29. In other
12:25:41 25 words, further questions that you may wish to ask in respect of
26 Exhibit 29. Am I getting you right?

27 MR JORDASH: Well, any -- I'd like to make a few brief
28 points about --

29 JUDGE THOMPSON: Go ahead, then, please.

1 MR JORDASH: -- this because it does relate to both
2 subjects. Simply this, that I would respectfully submit that
3 protective measures should not be -- well, closed session should
4 not be granted as a means of protective measures simply because a
12:26:18 5 witness expresses some fear of further discussion on a particular
6 topic. Now, I accept, of course, from the outset that we should
7 err on the side of caution because once the horse is out of the
8 stable, it's too late. So if there's any doubt, even the
9 slightest of doubt, then we should go into closed session, I
12:26:43 10 would respectfully submit.

11 But witnesses are not the best judge objectively of what
12 will reveal their identity. And what the witness has provided on
13 this piece of paper, I would respectfully submit, in no way
14 connects him to his role, nor thereafter to his identity. It
12:27:13 15 describes a version of events which he claims to have heard,
16 providing we weren't to go into any detail which explained why he
17 heard it but simply limited our questions to who he heard it from
18 and other such details, there would be no risk, in my respectful
19 submission, that his identity would be disclosed.

12:27:45 20 I accept, of course, picking from His Honour Judge Boutet,
21 that in a certain context, questions which on the face of them
22 don't reveal identity could be used to piece together his
23 identity. But what is on this piece of paper is a prime example,
24 I would submit, of why -- is a good example of how this does not
12:28:12 25 apply in this case. We know in this Court what this man does.
26 We know where he was when he was doing it. We know what his
27 activities were. But putting it together - and those are details
28 of course the public doesn't know; we know it in this courtroom -
29 but even putting that together with what is on here, I would

1 submit, without more would not disclose this witness's identity.

2 Well, actually, that's maybe putting it too high. But let
3 me put it this way, the public doesn't know what we know. And
4 without that information, this wouldn't reveal his identity.

12:28:51 5 JUDGE THOMPSON: You mean Exhibit 29 would not reveal his
6 identity? Is that what you're saying?

7 MR JORDASH: Well, it could be read in such a way that it
8 wouldn't. There is one part of it which might, but it could be
9 read in such a way that it didn't.

12:29:12 10 JUDGE THOMPSON: In respect of that, how do we proceed? Do
11 we err on the side of caution or do we take the risk?

12 MR JORDASH: I would simply propose that with something
13 like this, it could be read in a way to expunge the dangerous
14 portions, if you like.

12:29:33 15 JUDGE THOMPSON: Right.

16 MR JORDASH: But I mean, my main point is simply this, that
17 a witness ought not to be --

18 JUDGE THOMPSON: Yes. Well, I agree with you on that. The
19 difficulty, of course, I have is not just simply legal but
12:29:48 20 practical. What precipitated Exhibit 29 from the witness's
21 perspective and from the Prosecution's perspective? What
22 precipitated or what culminated in Exhibit 29?

23 MR JORDASH: Well, a question from me.

24 JUDGE THOMPSON: A question from you which could not be
12:30:10 25 asked in --

26 JUDGE BOUTET: Could be asked but could not be answered.

27 JUDGE THOMPSON: Could not be answered in open session.
28 Isn't that what precipitated 29?

29 MR JORDASH: Yes.

1 JUDGE THOMPSON: That's it. So that's what precipitated
2 29, the need to protect identity and collateral matters. So if
3 you're going to cross-examine further on 29 to elicit some
4 further details from this witness, would the witness be wrong in
12:30:41 5 saying "Some of those questions that you're going to ask me best
6 on 29 are likely to, in fact, divulge information that might lead
7 to my identity"? Isn't he entitled to that say that?

8 MR JORDASH: Having looked at this more closely, I concede
9 this should be in closed session. What I do not concede is --

12:31:14 10 JUDGE BOUTET: The witness deciding.

11 JUDGE THOMPSON: Yes, that's what we're agreed upon. You
12 can see how -- the Bench is definitely with you on that.

13 MR JORDASH: And secondly, I don't concede that the
14 questions I was asking him about his exit from Kenema could have
12:31:24 15 been such as to reveal his identity. He was asked at length
16 about --

17 JUDGE THOMPSON: Unless he wants to give some detailed
18 answer which probably may not be -- may contain some matters
19 which are unrelated to what you're trying to get.

12:31:41 20 JUDGE BOUTET: That's true. You see, he may have left
21 accompanied by some personnel from the station as such. And if
22 he says who it was, then you're going to know -- they are going
23 to know that he's the one giving this information. So I mean,
24 we're in a vacuum. We don't know what the information he has.

12:31:58 25 MR JORDASH: I suppose I just limit my comments to this,
26 that that in some ways supports my argument as to why we cannot
27 leave this decision in the hands of the witness. Because he was
28 asked at length by the Prosecution about this subject. He never
29 once says --

1 PRESIDING JUDGE: Mr Jordash, there's no argument about
2 that.

3 JUDGE BOUTET: We unanimously agree.

4 PRESIDING JUDGE: It is not for him to decide --

12:32:23 5 JUDGE THOMPSON: We'll not concede --

6 PRESIDING JUDGE: -- for when we should move to closed
7 session or not. It is for us to decide, following arguments
8 which have been presented to us by the two parties.

9 MR JORDASH: I've got nothing further. Thank you.

12:32:42 10 JUDGE THOMPSON: So we've reached a position where we will
11 at your instance move to closed session.

12 MR JORDASH: Yes, please.

13 JUDGE THOMPSON: Well, then, let's hear the application,
14 and then we'll invite the witness to come back.

12:33:00 15 MR JORDASH: I fear, though, my application will be simply
16 sending back to you what you've just sent to me.

17 JUDGE THOMPSON: For the records.

18 PRESIDING JUDGE: We will reconvene in --

19 JUDGE THOMPSON: Can I reconvene in closed session? Could
12:33:21 20 Court -- go ahead.

21 MR JORDASH: I was simply going to say, if we're moving
22 into closed session, could we adjourn for Mr Kallon to go to the
23 toilet, please.

24 [Defence counsel and accused confer]

12:34:04 25 PRESIDING JUDGE: Mr Jordash, yes, Mr Kallon can visit the
26 restroom. But we will be adjourning to sometime in the
27 afternoon. Because he needs nothing less than 10 minutes, that
28 will be 12.45. And for us to get through this in 15 minutes does
29 not appear feasible.

1 MR JORDASH: Can we then presume we'll be beginning after
2 lunch in closed session?

3 PRESIDING JUDGE: Yes, that is it. That is it. We'll
4 arrange that in the afternoon. We'll rise, please, and resume at
12:34:58 5 2.30.

6 [Luncheon recess taken at 12.35 p.m.]
7 [At this point in the proceedings, a portion of
8 the transcript, pages 44 to 81, was extracted
9 and sealed under separate cover, as the session
10 was heard in camera.]

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1 [Open session]

2 [HS160505E 4.36 p.m.]

3 PRESIDING JUDGE: We are resuming the session, please.

4 JUDGE THOMPSON: Is it a fair presumption that we are in
16:38:49 5 open session now?

6 MS EDMONDS: The Court is in open session.

7 JUDGE THOMPSON: Quite, then we will proceed.

8 MR TOURAY: Now, Mr Witness --

9 A. Yes, sir.

16:39:00 10 MR TOURAY: In answer to a question --

11 PRESIDING JUDGE: Where are we? Let me see where we are.
12 Mr Jordash, had you cross-examined in open session?

13 MR JORDASH: No, but I had finished.

14 JUDGE THOMPSON: You have finished?

16:39:15 15 PRESIDING JUDGE: You have finished?

16 MR JORDASH: Yes.

17 PRESIDING JUDGE: I see. Okay; all right. Yes, Mr Touray.

18 FURTHER CROSS-EXAMINATION BY MR TOURAY:

19 MR TOURAY:

16:39:52 20 Q. Mr Witness, in answer to a question from my learned friend
21 Jordash you did say you were asked by the Prosecution about
22 Morris Kallon, and you said you did not know anything about him.
23 That is true?

24 A. True. I've never met him before. I used to hear over the
16:40:28 25 radio about him -- Morris Kallon.

26 Q. He used to hear over the radio about him. And you further
27 said you were not aware of his presence in Kenema during the
28 junta period.

29 A. I was not aware whether he was there at that time; I cannot

1 tell.

2 Q. And that is the position up to the time you left Kenema in
3 August 1999.

4 A. True. I can never remember any episode in relation to
16:41:42 5 Morris Kallon in Kenema.

6 Q. Thank you. That will be all for this witness. No further
7 questions.

8 JUDGE THOMPSON: Mr Cammegh, your turn.

9 FURTHER CROSS-EXAMINATION BY MR CAMMEGH:

16:43:02 10 MR CAMMEGH: Thank you.

11 Q. Mr Witness, I will not be long with you either. Can I take
12 you to February 1998 when Kenema fell to CDF forces?

13 A. I am aware.

14 Q. I think it was the other day when you said that it was when
16:43:26 15 the Kamajors came to town that you went into the bush. Would
16 that be right?

17 A. Not exactly; I was in bush already before the Kamajors came
18 to town.

19 Q. All right. It's right, isn't it, that Kamajors entered
16:43:47 20 Kenema shortly before ECOMOG entered Kenema?

21 A. True.

22 PRESIDING JUDGE: Mr Cammegh, please.

23 MR CAMMEGH:

24 Q. I know that you left Kenema shortly before it fell, or
16:44:27 25 shortly before the RUF forces lost control. But I am going to
26 ask you, please, a little of your knowledge of what happened
27 immediately thereafter.

28 A. I don't want to agree --

29 PRESIDING JUDGE: The counsel has laid the foundation for

1 the questions he wants to ask you. He has not called for a reply
2 from you. Okay?

3 THE WITNESS: Yes, sir.

4 PRESIDING JUDGE: Follow his question then.

16:45:07 5 MR CAMMEGH:

6 Q. On Friday -- in fact, no it was Thursday -- you mentioned
7 that in your absence, after you had left, it came to your
8 knowledge that four policemen had been murdered by the Kamajors.
9 Do you recall giving that evidence?

16:45:32 10 A. I did not say four policemen; I said a policeman. I saw it
11 on my return. I saw the body of one Bobor Lansana. I could
12 identify him because he had a police ID card on his chest. At
13 the material time there was no RUF in Kenema. I was told by
14 civilians that they were killing police officers. I saw his dead
16:46:08 15 body, but I was not present when he died. I was told that he was
16 killed by Kamajors.

17 Q. Don't you recall telling Mr Harrison very shortly before we
18 finished on Thursday evening -- it would have been about quarter
19 to six in the evening -- about the four policemen who had been
16:46:47 20 murdered?

21 A. Not four policeman; I only saw the dead body of a
22 policemen. I can still remember his name and his identification
23 number. I am not saying that policeman did not die, but I only
24 saw the dead body of one policeman whom I knew.

16:47:10 25 Q. The record will speak for itself in due course. I will
26 move on from that to something else. Can I put a suggestion to
27 you, please, as to what happened in February of 1998? Which is
28 this: That ECOMOG forces didn't enter Kenema Town until about
29 two weeks after it had fallen to what was essentially a Kamajor

1 force. Would you agree with that?

2 A. You may be right, because there was a kind of vacuum.

3 Q. And were you in Kenema during the period of that --

4 PRESIDING JUDGE: Mr Cammegh, you gave a day, time frame;
16:48:03 5 you said about one week -- two weeks or one week?

6 MR CAMMEGH: The time frame I gave was two weeks.

7 PRESIDING JUDGE: Two weeks, yes.

8 MR CAMMEGH: Up to two weeks.

9 THE WITNESS: It was eight days, not two weeks.

16:48:25 10 PRESIDING JUDGE: After the Kamajors had entered?

11 THE WITNESS: When the RUF/AFRC pulled out --

12 PRESIDING JUDGE: Eight days what?

13 THE WITNESS: -- there was a vacuum. There were two types
14 of Kamajors that entered Kenema at different times. The Kenema
16:48:46 15 Kamajors that were hiding in the bush during the reign of the
16 AFRC. The Bo Kamajors came to town when they realised that the
17 rebels had fled. They remained there and that was the period the
18 policemen were dying. But the rebels came to know that in fact
19 that announcement given my Prince Brima was a lie, so they
16:49:11 20 returned on a Monday by nine o'clock and both Kenema Kamajors,
21 police, everybody fled.

22 MR CAMMEGH:

23 Q. I think the answer to the learned Presiding Judge's
24 question --

16:49:19 25 A. ECOMOG came with --

26 Q. Cut I just you off there?

27 JUDGE THOMPSON: Let's go back to the question.

28 MR CAMMEGH:

29 Q. The honourable Presiding Judge asked you to clarify

1 something -- the time frame -- and your answer just now, I think,
2 was there was a vacuum of about eight days between the RUF
3 leaving and the ECOMOG entering. Is that what you meant?

4 A. No, that was not what I said.

16:49:46 5 Q. Well, can you briefly --

6 A. The vacuum was not --

7 Q. Without giving a speech, Mr Witness, can you just give the
8 facts.

9 A. Yes.

16:49:55 10 Q. Thank you.

11 A. When the BBC journalist Prince Brima announced that the
12 ECOMOG were coming together with the Kamajors, the RUF fled.
13 Because they were conscripting we fled together and went in a
14 different direction. Okay. Kenema Kamajors came and we

16:50:21 15 returned, and that was the time some policemen died. But it did
16 not last longer. When the rebels knew -- they got information in
17 fact that the ECOMOG had not arrived in Kenema -- they returned
18 and there was a big battle there. So we ran again for four days.

19 Q. Thank you. Does it come to this then, that there was a
16:50:43 20 period of time after the RUF left that Kenema was occupied by
21 Kamajors?

22 A. True.

23 Q. And what was that period of time?

24 A. It lasted for -- until Monday -- less than four days.

16:50:58 25 Q. I am suggesting to you that that period lasted up to about
26 two weeks.

27 A. No. The whole period of -- there were two Kamajor entries.
28 Kenema Kamajors entered after RUF had fled. But when the RUF got
29 information that it was not ECOMOG, only Kenema Kamajors who were

1 not better trained and had no better weapons, they returned.

2 When they returned we fled again for another four days. Both

3 Kamajors and civilians, everybody fled because they --

4 Q. Thank you, Mr Witness. I think we have the picture. As
16:51:38 5 briefly as you can -- perhaps you can try to use a couple of
6 words in this answer because we must move on -- how long did it
7 take for the RUF to come back after they had left?

8 A. About, say, two days.

9 Q. Two days?

16:51:59 10 A. Yes. When we discovered that the information was false.

11 Q. Your Honours, I am sorry; I am a bit confused by --

12 JUDGE THOMPSON: [Microphone not activated]

13 PRESIDING JUDGE: Yes.

14 MR CAMMEGH: I noticed. I'm going to try one last time --

16:52:20 15 THE INTERPRETER: Your Honour's mic is not on.

16 JUDGE THOMPSON: Yes, I'm confused too.

17 MR CAMMEGH: -- to get anywhere. I will try to move on. I
18 haven't got many questions.

19 Q. Mr Witness, in February of 1998 the RUF controlling Kenema
16:52:36 20 became aware that a Kamajor force was getting close to the town.
21 Is that right or wrong?

22 A. Kamajor, ECOMOG from Liberia.

23 Q. Is that right wrong?

24 A. That is right.

16:52:50 25 Q. Right. As a result of that, did the RUF leave Kenema?

26 A. They left Kenema.

27 Q. Where were you when the RUF left Kenema?

28 A. I fled to nearby bush at RTI. I never went far away from
29 Kenema.

1 Q. How long did you yourself stay outside Kenema?

2 A. Within that period, roughly up to three days, maybe; a
3 matter of days.

4 Q. So you were absent from Kenema for only three days?

16:53:25 5 A. Yes, I was in the outskirts of Kenema, at RTI.

6 Q. Were you back in Kenema or had you returned to Kenema when
7 the RUF mounted their counterattack?

8 A. I returned to Kenema; I slept in Kenema.

9 Q. Yes or no, please.

16:53:42 10 A. When I returned to Kenema, the next day, the RUF, because
11 there was an order by Kamajors --

12 Q. Mr Witness, I am going to ask the question one more time.
13 It requires a yes or no. We are trying to simplify things. Were
14 you in Kenema Town when the RUF returned with their

16:53:58 15 counterattack?

16 A. I was in Kenema Town.

17 Q. Right. This was three or four days after the RUF had
18 initially left; is that correct?

19 A. They left on the Friday and they returned on the Monday.

16:54:19 20 Q. Right. Did you thereafter remain in Kenema Town yourself?

21 A. When they returned we fled --

22 Q. When the RUF returned you --

23 A. -- in the opposite direction.

24 Q. I will ask the question again: After the RUF came back
16:54:34 25 into the town, Mr Witness, did you remain in the town or not?

26 A. I did not remain in the town, but I was in the outskirts of
27 the town.

28 Q. Right. How long did you leave Kenema for on the second
29 occasion?

1 A. For about four days.

2 Q. Right.

3 A. I was --

4 Q. Can we pause there, because I want to allow the honourable
16:55:05 5 judges to take down your answers. You see?

6 A. Okay.

7 Q. So, you left Kenema again when the RUF counterattacked.
8 How many days later did you return to Kenema?

9 A. Four days. I was in Kenema, but I was within the outskirts
16:55:34 10 of Kenema.

11 Q. Yes.

12 A. I never took to the -- deep into the bush.

13 Q. How many days after the RUF came back into the town did you
14 return to the town?

16:55:46 15 A. Three to four days; I can't remember.

16 Q. Right. Did you remain in the town thereafter?

17 A. I remained in the outskirts of the town until ECOMOG came
18 from Liberia together with the Kamajors.

19 Q. Just stop there. You have just told us that you came back
16:56:14 20 to the town four days after the RUF entered a second time, or
21 returned.

22 A. Okay.

23 Q. Yes?

24 A. Yes, okay.

16:56:24 25 Q. You have just told me that you remained in the town after
26 that day. Did you remain in the town or did you remain around
27 the outskirts of the town?

28 A. Around the outskirts of the town.

29 Q. Right. So you didn't actually come back into Kenema Town.

1 A. After the counterattack of the RUF.
2 Q. Yes, you remained in the outskirts of the town.
3 A. Until ECOMOG returned to -- came from Liberia.
4 Q. How many days had gone by between the RUF leaving on the
16:56:59 5 first occasion and ECOMOG coming in on the first occasion?
6 A. I can count by the number of days. I spent three days at
7 RTI in the bush and four days in the other bush at
8 [indiscernible].
9 Q. Yes.
16:57:19 10 A. I came to town when I saw the ECOMOG amphibian tank.
11 Q. The question was how many days went by between the RUF
12 leaving Kenema and ECOMOG entering Kenema?
13 JUDGE BOUTET: You mean leaving Kenema the second time?
14 MR CAMMEGH: No, the first time.
16:57:37 15 THE WITNESS: The first time, roughly eight days, a week.
16 MR CAMMEGH:
17 Q. Right. So we have now gone in a bit of a circle, but we
18 have come back to your answer: Eight days went by between the
19 RUF leaving for the first time and ECOMOG entering for the first
16:57:52 20 time. In between you said there was something of a vacuum.
21 A. Yes. The vacuum was before the counterattack.
22 Q. All right. You have also indicated --
23 A. It was the vacuum that encouraged the Kenema Kamajors to
24 come to town because they had no weapons and there was no RUF at
16:58:12 25 the time they came.
26 Q. Right. So there was a period of time, wasn't there, while
27 the Kamajors were in Kenema Town alone?
28 A. True.
29 Q. No RUF, no ECOMOG.

1 A. True, true -- Kenema Kamajors.

2 Q. Right. During that time the Kenema Kamajors went looking
3 for suspected RUF collaborators, didn't they?

4 A. And policemen.

16:58:56 5 Q. Let's just stick to the RUF collaborators.

6 A. Yes, well, I don't want to agree because I was not an RUF
7 collaborator but my name was XXXXXXXX to die.

8 Q. I am not suggesting you were an RUF collaborator.

9 A. So they were also looking for policemen known as RUF
16:59:18 10 collaborators -- both policemen and RUF collaborators.

11 Q. Right. Let's just leave policemen to one side for the
12 moment. I want to hear about civilians; that is what I am asking
13 about.

14 A. Okay.

16:59:34 15 Q. The Kenema Kamajors committed several atrocities against
16 the civilians during the power vacuum, didn't they?

17 A. Not in my presence, but I believe so.

18 Q. I understand it would not have been in your presence
19 because you have told us you were away.

16:59:54 20 A. Yes, but I believe because I saw some evidence.

21 Q. Now, in particular, Mr Witness, is it the case that several
22 people were arrested, if you like, by Kamajor forces and taken to
23 the marketplace? Did you hear about that?

24 A. I did not experience that. The only thing --

17:00:41 25 PRESIDING JUDGE: He said "hear", not "experience".

26 MR CAMMEGH: I understand you weren't there; I am not
27 suggesting you were there when this happened. But what I am
28 suggesting that is more than 100 civilians were arrested by
29 Kamajors and many of them were burnt to death in the marketplace

1 during that eight-day period.

2 A. I was not aware of people being taken to the marketplace,
3 but I was aware of people being taken to the military brigade in
4 the absence of the RUF but by the Kamajors.

17:01:23 5 Q. By the military brigade. Do you mean the Kamajors' HQ?

6 A. No, the military HQ, after it had been evacuated by the
7 military.

8 Q. Did you hear of a Kamajor who called himself Yamato?

9 A. I heard of him; I saw him; I know him.

17:02:09 10 Q. Y-A-M-A-T-O. Did he name himself after --

11 PRESIDING JUDGE: Please wait. A Kamajor called Yamato.

12 THE WITNESS: Yamato -- Y-A-M-O-T-O.

13 PRESIDING JUDGE: You say you knew him.

14 THE WITNESS: I knew him.

17:02:50 15 PRESIDING JUDGE: Personally?

16 THE WITNESS: Yes. Because I was in ~~XXXXX XXXX XXXX~~, I know
17 him personally.

18 JUDGE BOUTET: Be careful, Mr Witness, with your evidence.

19 We are now in an open session.

17:03:08 20 THE WITNESS: I did not get it.

21 JUDGE BOUTET: I said be careful with your evidence because
22 we are in an open session.

23 MR CAMMEGH:

24 Q. Can I make it clear, Mr Witness, I don't want to explore --

17:03:23 25 PRESIDING JUDGE: Mr Cammegh, it is not your fault.

26 MR CAMMEGH: No, but I --

27 PRESIDING JUDGE: It is not your fault, he went on --

28 MR CAMMEGH: I just want to reassure the witness that I do
29 not want to explore the nature of his relationship with that man.

1 A. I had no personal relationship with that man. I knew him
2 as a person.

3 Q. Do you know that he commanded a group of Kamajors that went
4 by the same name, Yamato Group?

17:03:52 5 A. True, he was the commander; he was the CO.

6 Q. Yes. My suggestion, Mr Witness, is that Yamato and his
7 followers were particularly savage men in terms of what they did
8 to some of the local civilians. Would you agree with that
9 assessment?

17:04:37 10 A. I do agree.

11 PRESIDING JUDGE: Yamato's were particularly savage men
12 considering what?

13 JUDGE BOUTET: [Microphone not activated]

14 MR CAMMEGH: Yes, of Kenema Town.

17:04:59 15 Q. Mr Witness, was it Yamato who was responsible for the
16 murder of many Kenema civilians during that period? Can you
17 answer that question?

18 A. I cannot remember a particular case in which Yamato killed
19 somebody.

17:05:33 20 Q. Right. I am going to ask you then, did you ever hear by
21 means of hearsay about events in Kenema Town during which several
22 members of the civilian population were burnt to death in open
23 places, usually by means of tyres being placed around their
24 bodies and set on fire with petrol?

17:06:06 25 A. That is very true. I saw some bodies. But at the time
26 they have been killed and burnt in places --

27 Q. I am sorry --

28 A. I saw one body at Davis Street that they had put a tyre and
29 mattress almost about to be burnt.

1 Q. Right. Did it come to your attention that in actual fact
2 several inhabitants of your town met with that same fate at the
3 hands of the Kamajors?

4 A. I believe so.

17:06:47 5 Q. Right. And by using the word "several", you would suggest
6 that that number was far in excess of just two people, would you?

7 A. Yes, a lot of people.

8 Q. A lot of people met that same fate.

9 A. Yes.

17:07:40 10 Q. Thank you. Just so we are sure about this once and for
11 all, these are people who died within Kenema Town; not the
12 outskirts, but the town centre itself.

13 A. Yes, within the township. I did not witness the killings,
14 but I saw the bodies.

17:08:14 15 Q. I understand that. I understand that you returned to
16 Kenema Town as you have described to us. Were people talking
17 about this when you returned to the town; were people talking
18 about these atrocities?

19 A. People were -- everywhere I was hiding, people were being
17:08:54 20 killed around me. But I was on the list to die so I never went
21 there to witness the killings.

22 Q. So, it follows then that people must have been talking
23 about it far and wide.

24 A. It was very awful; the bodies were there.

17:09:07 25 Q. Yes. And as a serving police officer of several years
26 standing in that town, and as a human being, you yourself must
27 have been deeply disturbed by what you discovered.

28 A. True.

29 Q. From your knowledge of that town, your knowledge of the

1 organisation in that town, or the administration in that town,
2 would it have been possible for someone occupying a public
3 position within the administration -- I use that word loosely --
4 would it have been possible for someone who occupied an important
17:10:21 5 position within the administration of that town not have known
6 what was going on in relation to those atrocities?

7 A. The thing was not a secret; everybody knew.

8 Q. Everybody knew.

9 A. Everybody knew as long as you were a resident of Kenema at
17:10:47 10 the material time.

11 Q. Thank you very much, Mr Witness. That is all I have.

12 JUDGE THOMPSON: Any re-examination counsel?

13 Mr HARRISON: There is one area I would like to ask the
14 witness about.

17:11:54 15 JUDGE THOMPSON: Proceed then.

16 RE-EXAMINED BY MR HARRISON:

17 Mr HARRISON: To do it I would actually prefer to hand up a
18 brief excerpt of the transcript from the 13th of May. Witness,
19 this is a question of clarification of some evidence that was
17:12:50 20 given on the 13th of May when you were being asked questions by
21 Mr Jordash. It is a question that arises out of an exchange that
22 took place on page 24, beginning at line nine. No, you don't
23 have it in front of you. I am just going to read it to you, so
24 just listen as best you can to what I am going to say.

17:13:25 25 Ultimately I am going to ask you what was meant. I am going to
26 put questions and answers to you, starting at line nine.

27 Question: But you told us, didn't you, yesterday that Sam
28 Bockarie was at some stage -- did you say yesterday the boss of
29 Eddie Kanneh? Answer: I did not say so. I've categorically

1 told you that the Secretary of State East is equivalent of the
2 Resident Minister of the region. He's in charge of the region.
3 Whosoever is there is under his administration. The next
4 question was put to you. Question: So the most senior man in
17:14:12 5 Kenema during the junta then was Eddie Kanneh? Answer: The most
6 senior man was Eddie Kanneh. Question: And Sam Bockarie was
7 subordinate to him? And your answer was: Well, theoretically.
8 The clarification I am asking for is: What did you mean when you
9 said, "Well, theoretically."

17:14:39 10 A. Theoretically, the Secretary of state was in charge of
11 everybody. But it came to a point when physically he could see
12 Mosquito acting on his own behalf without kind of consulting no
13 SOS. So there was not much discipline. Initially there was
14 discipline, but at the end of the days Mosquito became very
17:15:17 15 arrogant and took orders from nobody.

16 Q. Can you assist the Court as to when that change or
17 transformation may have taken place?

18 A. In the second half of the regime.

19 MR HARRISON: There are no further questions on
17:16:23 20 re-examination.

21 JUDGE THOMPSON: Thank you.

22 PRESIDING JUDGE: That is of the AFRC regime.

23 THE WITNESS: Sir?

24 PRESIDING JUDGE: You said this transformation took place
17:16:46 25 in the second part of the regime.

26 THE WITNESS: Of the regime, of the AFRC regime.

27 PRESIDING JUDGE: Of the AFRC regime?

28 THE WITNESS: Yes.

29 PRESIDING JUDGE: Well, Mr Witness, we have come to the end

1 of your testimony and we want to thank you for coming to assist
2 the tribunal with your testimony, which, of course, will edify us
3 in arriving at our decision in this case. We thank you for
4 coming and you are considered released now. But the necessity
17:17:36 5 may arise for us to call you back here. If we do, we hope that
6 you will be able to come back to give us some clarifications. We
7 are not saying the necessity has arisen as yet, but it could
8 arise. You understand me? So, you may go, and once more we
9 thank you and we wish you all the best in the pursuit of your
17:18:04 10 duties. Thank you very much.

11 THE WITNESS: Thank you.

12 PRESIDING JUDGE: Could the screens be drawn before we get
13 into some housekeeping matters? Let the witness withdraw.

14 [The witness withdrew]

17:18:19 15 [Break taken at 5.18 p.m.]

16 [On resuming at 5.19 p.m.]

17 [HS160505F - CR]

18 PRESIDING JUDGE: We just wanted to give some practical
19 indications before the next witness is called and, briefly, what
17:19:37 20 we want to communicate to learned counsel is that if we have to
21 take a new witness we must be done with that witness, including
22 cross-examination by 1.00 p.m. on Wednesday. We want the parties
23 to very meticulously compute the length of -- particularly the
24 Prosecution -- the length of examination-in-chief. We know that
17:20:12 25 you know there might be some lapses here and there. It might
26 last slightly longer, but at least we could have some
27 estimations. Then, of course, next time I will turn my attention
28 on the side of the Defence to say we would like to be done with
29 this by 1.00 p.m. on Wednesday. If we cannot, we would rather

1 not take a new witness. That is the information we wanted to
2 communicate to the parties, please.

3 MR HARRISON: I had explained to my colleagues that the
4 next witness that we had notified the Court and Defence counsel
17:20:57 5 that was going to be called was TF1-122. That witness is not
6 here because of a death in the family. Present is TF1-035. The
7 estimate of the examination-in-chief is two hours.

8 JUDGE BOUTET: You said this is witness TF1-035?

9 MR HARRISON: That's correct. Maybe you want to hear some
17:21:51 10 more. There are some other witnesses who we could arrange to be
11 brought in. They're not available right now, but they certainly
12 would be available first thing tomorrow morning.

13 JUDGE THOMPSON: Of a shorter duration in
14 examination-in-chief; two hours?

17:22:06 15 MR HARRISON: I think the shortest witness we could find
16 would be one hour, the absolute shortest.

17 PRESIDING JUDGE: It depends on whether the Defence --

18 MR HARRISON: Of course, they're not aware that -- I had
19 explained to the Court and Defence counsel --

17:22:21 20 PRESIDING JUDGE: We are in open session.

21 JUDGE BOUTET: Before you move on, Mr Prosecutor, looking
22 at the list of witnesses that we have been provided, I note
23 witness TF1-035 has testified in the CDF trial and he has a
24 transcript of proceedings. If I consider that evidence in the
17:22:54 25 perspective of cross-examination, based on past experience, I
26 doubt very much he will be done in half an hour or even two
27 hours. There is a lot of material you can use to cross-examine
28 and, therefore, it is likely not to be a short witness, not
29 necessarily from the Prosecution's point of view. So the overall

1 pictures, that's what I'm talking about.

2 MR HARRISON: You may get more guidance by directing the
3 question towards my colleagues, but if I could just continue on.
4 035 was the next one we had available, but there are, in addition
17:23:27 5 to 035, 172 is a witness who can be called, 215, and if I can
6 just double check.

7 JUDGE BOUTET: 212?

8 MR HARRISON: 212, 215 and 172. Those are three additional
9 witnesses that could be made available tomorrow morning?

17:24:01 10 JUDGE THOMPSON: Of a shorter duration?

11 MR HARRISON: I'm going to have to say, of these three
12 witnesses, I would be hard-pressed to say any of them will be
13 less than an hour in direct examination. The current one, 035,
14 the estimate is 90 minutes to two hours.

17:24:22 15 PRESIDING JUDGE: We had rather indicated our preference
16 for a witness who would last under an hour in
17 examination-in-chief, in view of the time constraints we have.

18 MR HARRISON: There is one in particular who I can suggest
19 may well be the shortest, and that would be 172, but, here is the
17:24:46 20 problem: that is the one that has to be interpreted into the
21 language which is least frequently used in the Court.

22 JUDGE THOMPSON: Madingo?

23 MR HARRISON: Koranko.

24 PRESIDING JUDGE: That does not make him short.

17:25:10 25 MR HARRISON: Well, there is an interpreter who can be
26 prevailed upon and it may be possible to have that arranged for
27 tomorrow morning. I'm not certain. I would have to make that
28 inquiry immediately.

29 JUDGE THOMPSON: Would the head of translation give us some

1 advice on any possible difficulties with the Koranko language,
2 whether that is likely to lengthen the examination-in-chief.

3 MR HARRISON: Are you asking that in expectation that she
4 is present?

17:25:37 5 JUDGE THOMPSON: Well, I'm just assuming she is around,
6 because that would be very important. As you say, if Koranko is
7 not one of the frequently used languages here, we may run into
8 difficult problems with the language, linguistic problems that
9 can, in fact, consume more time than you wanted it to; that is
10 available to you.

11 MR HARRISON: Perhaps what may be taking place is that
12 someone in the interpretation booth may be making a phone call.
13 I'm not sure if the head of the translation unit is present.
14 Assuming someone is trying to reach the head of the translation
17:26:13 15 unit, I'm not sure if there is a particular witness that Defence
16 counsel feel would be shorter. If they think there is one that
17 is going to be less time than others, that would be of some
18 guidance.

19 JUDGE THOMPSON: What would be the preference of the other
17:26:27 20 side?

21 MR CAMMEGH: Taking up the query Mr Harrison raises as far
22 as 035 is concerned, that's about Cyborg pit and the Tongo mine.
23 I do not anticipate asking any questions in cross-examination
24 myself of that witness.

17:26:48 25 JUDGE THOMPSON: Fine. What about Mr Jordash, if we're
26 dealing with 035.

27 MR JORDASH: He won't be as short as 172. 172 doesn't
28 mention the first accused. I can't imagine that there would be
29 much cross-examination, but 035 --

1 JUDGE THOMPSON: You don't know? It's an open shot.

2 MR JORDASH: It's one of those witnesses who could --

3 MR TOURAY: The same thing with us.

4 JUDGE THOMPSON: Perhaps we should, in fact, discount 035
17:27:21 5 and see whether it's possible to call 172, depending on whatever
6 feedback we can get from the translation unit. Would the Defence
7 be indifferent to calling 172 if there are no translation
8 difficulties or constraints?

9 MR JORDASH: I would be content with 172.

10 JUDGE BOUTET: Any other alternative if 172 for translation
11 purposes does not work?

12 PRESIDING JUDGE: Is there a standby if we run into
13 problems?

14 JUDGE THOMPSON: The head of translation has arrived at an
17:28:07 15 opportune time. We're trying to investigate a question,
16 Ms Ehret, whether in fact there will be any particular difficult
17 problems in taking on 172 from the point of view of translation,
18 considering the language of Koranko.

19 MS EHRET: Yes, Your Honour, I am in the picture. I have
17:28:30 20 been following what has been going on, but down at my office. As
21 a matter of fact, ironically, I had just telephoned with the
22 Koranko interpreter, telling him he probably doesn't have to
23 come, but I can call him and tell him he should be available
24 tomorrow morning.

17:28:48 25 JUDGE THOMPSON: You can advise the Court that we can
26 safely have the witness here tomorrow and that things would --
27 all things being equal -- run smoothly with the translation?

28 MS EHRET: Yes, Your Honour. What I can do, I can go back
29 to my office and call him and then advise you within the next

1 five to 10 minutes.

2 PRESIDING JUDGE: Assuming 172 goes, or comes on board, is
3 there any standby, just in case?

4 MR HARRISON: Yes, that's actually what Mr Jordash and his
17:29:35 5 colleague were asking me about. We will arrange to have three
6 people brought here: 172, 212 and 215. Again, I'm open to
7 suggestions from Defence counsel as to which one, as a back-up,
8 they feel would be shortest, but my own estimate is that 212
9 would be the next lengthy in global time.

17:30:07 10 MR JORDASH: I'm afraid I don't have 212 and 215. If the
11 Prosecution could lend me a copy I would be able to make a
12 decision very quickly.

13 MR HARRISON: If we have agreed on 172, perhaps it is
14 something we can do outside of Court. I'm indifferent. We'll
17:30:34 15 have all three come.

16 PRESIDING JUDGE: You arrange that.

17 JUDGE THOMPSON: As long as you agree in principle on a
18 standby.

19 PRESIDING JUDGE: As part of your housekeeping, you're used
17:30:44 20 to agreeing and discussing and agreeing. You let us know how
21 comfortable you are with any option, and we'll be on board with
22 you on whichever option. Now, we're expecting 172 tomorrow, so
23 please get in touch with the interpreters about that. I think we
24 would rise and ask the Prosecution and the Defence to decide on
17:31:14 25 the back-up witness, the standby witness, so that if anything
26 goes wrong with 172, you can call 212, is it?

27 MR HARRISON: I'm suggesting that 212 would be my best --

28 PRESIDING JUDGE: In any event, you will agree on that with
29 Defence.

1 MR HARRISON: Yes.

2 PRESIDING JUDGE: The Court will rise and we'll resume
3 tomorrow at 9.30 a.m.

4 [Whereupon the hearing adjourned at 5.30 p.m.,
17:32:21 5 to be reconvened on Tuesday, 17 May 2005, at
6 9.30 a.m.]

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EXHIBITS:

Exhibit No. 29	33
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WITNESSES FOR THE PROSECUTION:

WITNESS: TF1-125	2
FURTHER CROSS-EXAMINATION BY MR JORDASH	2
CROSS-EXAMINED BY MR TOURAY	79
FURTHER CROSS-EXAMINATION BY MR TOURAY:	82
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RE-EXAMINED BY MR HARRISON:	95