



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

TUESDAY, 12 JUNE 2007  
9.40 A.M.  
TRIAL

TRIAL CHAMBER I

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

For Chambers: Mr Matteo Crippa  
Ms Nicole Lewis

For the Registry: Ms Advera Kamuzora  
Mr Thomas George

For the Prosecution: Mr Peter Harrison  
Mr Charles Hardaway  
Ms Amira Hudroge (Case

manager)

For Principal Defender: Ms Haddijatou Kah-Jallow

For the accused Issa Sesay: Mr Wayne Jordash  
Ms Sareta Ashraph  
Mr Tobias Berkman

For the accused Morris Kallon: Mr Shekou Touray  
Mr Melron Nicol-Wilson

For the accused Augustine Gbao: Mr John Cammegh

1 [RUF12JUNE07A - MC]

2 Tuesday, 12 June 2007

3 [Open session]

4 [The accused present]

09:23:39 5 [Upon commencing at 9.40 a.m.]

6 PRESIDING JUDGE: Good morning, counsel. The trial is  
7 resumed. And, pursuant to our ruling, on 8 June this year,  
this

8 morning we'll conduct a trial within a trial for the limited  
9 purpose of ascertaining the circumstances surrounding and  
09:46:32 10 culminating in the taking of the alleged statements from the  
11 first accused, in respect of which the Prosecution has given  
12 notice to tender in evidence for purposes of impeaching the  
13 credibility of the first accused.

14 In essence, the procedure will be designed to  
determining  
09:46:54 15 the voluntariness or otherwise of those alleged statements at  
the  
16 time they were allegedly made, and I will invite the  
Prosecution  
17 to begin. Yes, Mr Jordash.

18 MR JORDASH: Can I just raise some issues, please.

19 PRESIDING JUDGE: Very well. Preliminary?

09:47:18 20 MR JORDASH: Yes, please. The first issue is one of  
21 mechanics. I just want to be clear that I understand exactly

directing 22 what the voir dire is going to do, in the sense that by  
23 the Prosecution to call witnesses but not having done the same  
24 for the Defence thus far, I was under the impression that the  
09:47:54 25 voir dire was focused initially on Rule 42 and Rule 63 rather  
26 than Rule 92. So I'm simply seeking clarification as to  
whether 27 we're dealing with the waiver or we're going to deal with the  
28 whole of the issues together, 42 and 63 and 92.  
29 PRESIDING JUDGE: Well, I did couch my statement just  
now

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1 in very broad terms that we're certainly investigating the  
2 circumstances surrounding and also culminating in the taking  
of  
3 the alleged statements and that the whole purpose of the  
exercise  
4 is to determine the voluntariness or otherwise of the alleged  
09:48:46 5 statements and of course, in that process, everything comes  
into  
6 the equation.

7 MR JORDASH: Certainly.

8 PRESIDING JUDGE: And so it is a kind of what you might  
9 call an umbrella kind of exercise and, in this particular  
09:49:04 10 exercise, everything is on the table to enable the Court to  
11 determine whether at the time that the first accused allegedly  
12 made those statements --

13 MR JORDASH: Certainly.

14 PRESIDING JUDGE: -- he did so voluntarily or otherwise.  
09:49:23 15 So, in fact, I would have thought that once the exercise  
begins  
16 and the Prosecution begins, since the burden is on them to  
show  
17 voluntariness, then, of course, when it's your turn to  
18 cross-examine, you can come with everything that is  
permissible  
19 in trying to impeach the process.

09:49:47 20 MR JORDASH: Certainly.

anything 21 PRESIDING JUDGE: Yeah. Quite. I have not said  
trying 22 that's going to limit the latitude which you will enjoy in  
23 to rebut any presumption of voluntariness. It's just that, to  
24 me, it's slightly legally artificial to say we're focusing on  
09:50:08 25 this and not rule that at this stage.  
26 MR JORDASH: Yes.  
27 PRESIDING JUDGE: I think it's quite a compact exercise.  
28 MR JORDASH: I just wanted to be clear, Your Honour.  
29 JUDGE ITOE: I think, I hope, we are very clear on this.

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1 We are focusing on the voluntariness of the waiver and of the  
2 statement. I hope we're clear on this.

3 MR JORDASH: Yes, and I have absolutely --

4 PRESIDING JUDGE: Yes. Quite. I think the attempt to  
09:50:35 5 dichotomise this is slightly artificial because we're  
6 investigating -- I mean, the whole idea of a voir dire is to  
go  
7 into a full investigation of everything that can be brought  
into  
8 the picture.

9 MR JORDASH: Can I then --

09:50:49 10 JUDGE BOUTET: And if I may add, how can you, maybe you  
can  
11 convince me otherwise, but how can you deal with the  
12 voluntariness of a statement if you don't give all the  
13 circumstances, including the right to counsel or waiver  
thereto?  
14 I don't think you can deal with one without the other. So  
that's  
09:51:07 15 why it has to be -- but if they don't do it, that's their  
16 problem; how they deal with it. I mean, we are not there to  
17 direct the Prosecution how they do their case.

18 PRESIDING JUDGE: And counsel really need to have the  
19 assurance that, in this kind of exercise, artificialities  
won't

09:51:25 20 help us. We're embarking upon an extremely important  
exercise.

the 21 That's why we used the metaphor the last time: We're lifting  
22 veil to look behind it.

23 MR JORDASH: Certainly. I've got no issue at all. I  
24 simply sought clarification. But I will, after the  
Prosecution

09:51:44 25 have given their evidence, seek to make submissions on Rule 42  
at  
26 that stage.

27 PRESIDING JUDGE: You will not be precluded at all.

28 MR JORDASH: Thank you.

29 PRESIDING JUDGE: Very well.



be

1 MR JORDASH: The second thing is this: I just want to  
2 clear about whether I'm entitled to take instructions from my  
3 client on the issue of the voir dire, notwithstanding the fact  
4 that Mr Sesay's in the middle of his evidence.

09:52:05

5 I want it to be clear that --

trial

6 PRESIDING JUDGE: Speaking for myself, I would see no  
7 objection to that, provided of course you -- and we have no  
8 reason to doubt that you will stick to the procedure of the  
9 within a trial.

09:52:24

10 MR JORDASH: I'm only interested in his response to the  
11 evidence --

12 PRESIDING JUDGE: Quite right. Quite right.

substantive

13 MR JORDASH: -- not the evidence concerning the  
14 issue [overlapping speakers].

09:52:31

exercise

15 PRESIDING JUDGE: We take your word for it. You are  
16 certainly free to do that. Because the purpose of this  
17 is clearly focused and has nothing to do with the main trial,  
as  
18 such.

Judge

19 JUDGE BOUTET: I would add to this that the Presiding

09:52:45

20 should not speak only for himself but for the Bench because I

proper 21 agree with that, and I think otherwise it would not be a  
22 examination of the issue if you cannot take instructions from  
23 your client on this limited issue.

24 MR JORDASH: Thank you.

09:53:01 25 JUDGE BOUTET: Accepting that, as an officer of the  
Court,

26 you know the limitation and your consultation with or  
instruction

27 from your client are limited to this particular exercise;  
nothing

28 more, nothing less.

29 MR JORDASH: Thank you.

take

examinations

trial

as

apologising

appreciation

to

1 JUDGE ITOE: It is a trial within a trial. And so to  
2 a cue from my colleagues, it is a trial within a trial. If he  
3 can instruct you during the process of the trial and  
4 why not in this particular aspect of it which is, indeed, a  
09:53:29 5 within a trial. You are perfectly within your legal rights to  
6 maintain your instructions, you know, with your client, as far  
7 this particular issue is concerned.

8 MR JORDASH: Thank you. I do have two more things. The  
9 third thing --

09:53:43 10 PRESIDING JUDGE: Very well.

11 MR JORDASH: -- is a short matter of basically  
12 to Your Honours for Friday, when I think the tenor of my  
13 submissions at the end of the day I think belied the  
14 for the Court's decision, and I wanted to put that on record  
09:54:09 15 say that it was appreciated and the tone of my submissions --

16 PRESIDING JUDGE: Speaking for the entire Bench, we are  
17 seasoned Judges. It's part of the rough and tumble of the  
18 judicial process. We can assure you that there is no --  
19 nothing --

09:54:19 20 MR JORDASH: I am grateful. Thank you.

21           PRESIDING JUDGE:  -- we just take the -- sometimes  
22           over-zealousness leads to those kind of statements.

23           MR JORDASH:  Thank you.  And finally, it's an issue of  
24           disclosure; two issues.  One is that we wrote to the  
Prosecution

09:54:31 25           yesterday asking for, and I will read the letter -- well, I  
will

26           read part the letter.  What we were seeking was:  Disclosure  
of

27           any criminal records, disciplinary findings or complaints or  
the

28           details of any known investigative breach of protocol,  
wrongdoing

29           or illegal act during the course of their professional careers  
in

1 relation to Mr Berry, Mr Morissette and any other person who  
the  
2 OTP intends to call to testify, or who were involved in the  
3 pertinent issues.

4 The response was: I can advise that Mr Morissette has  
no  
09:55:13 5 criminal record, nor have any civil proceedings been initiated  
6 against him. We would say that's an answer to part of the  
7 question but it is not an answer to all of the question.

8 As Your Honours will appreciate, what we're dealing with  
9 here is perhaps issues relating to criminal matters, but we're  
09:55:47 10 also dealing in this voir dire with what might be termed as  
11 breach of protocol, breach of issues which relate to fair  
trial  
12 rights which don't amount to either disciplinary issues or to  
13 issues concerning criminal conduct.

14 We would submit, given that the issues concern centrally  
09:56:16 15 the integrity of all the witnesses, whether from the Defence  
or  
16 from the Prosecution, that the Prosecution should disclose  
17 matters other than criminal record or civil proceedings. I  
also  
18 note --

19 PRESIDING JUDGE: What specifically was your request  
for?

09:56:40 20 MR JORDASH: For -- what we're looking for is disclosure

21 from the Prosecution of, in broad terms, any wrongdoing.  
22 PRESIDING JUDGE: Yeah. In other words, you are  
virtually  
23 saying that you were looking also for alleged improprieties  
short  
24 of criminality?  
09:57:03 25 MR JORDASH: Exactly, Your Honour.  
26 PRESIDING JUDGE: And the language was quite clear?  
27 MR JORDASH: We tried to make it as broad as possible  
28 because we were interested in issues which went to  
investigative  
29 integrity.

1           PRESIDING JUDGE: And the Prosecution's response was to  
2 be -- to confine themselves to alleged criminality?

3           MR JORDASH: Well, to confine themselves to only Mr  
4 Morissette, number one --

09:57:28 5           PRESIDING JUDGE: Yes.

6           MR JORDASH: -- and to confine themselves to only  
7 matters  
8 of criminal and civil proceedings.

9           PRESIDING JUDGE: Yes.

10           MR JORDASH: Which we would submit would not be fair and  
11 09:57:43 that material would fall fairly into Rule 68 material.

12           PRESIDING JUDGE: Yes. In other words, they came out  
13 with  
14 That  
15 a much narrower perspective of what you were looking for.

16           MR JORDASH: Which we would submit would not be fair and  
17 wide  
18 that material would fall fairly into Rule 68 material.

19           PRESIDING JUDGE: Yes. In other words, they came out  
20 with  
21 That  
22 a much narrower perspective of what you were looking for.

23           MR JORDASH: Which we would submit would not be fair and  
24 wide  
25 that material would fall fairly into Rule 68 material.

26           PRESIDING JUDGE: Yes. In other words, they came out  
27 with  
28 That  
29 a much narrower perspective of what you were looking for.

09:58:04 30           MR JORDASH: I will, with Your Honour's leave, pursue  
31 be  
32 Is  
33 that  
34 09:58:28 but, clearly, there might be matters which the Prosecution are

21 aware of and which I'm not and cannot discover in  
22 cross-examination.

23 PRESIDING JUDGE: Yes. And the difficulty, of course,  
is  
24 that if you're not very specific then the Prosecution would  
not  
09:58:41 25 know what you're looking for.

26 MR JORDASH: Well, I can give a specific but --

27 PRESIDING JUDGE: Yes.

28 MR JORDASH: -- what I'm -- I think the Prosecution can  
29 take a reasonable inference from the history of Mr -- well, a



any  
would  
or  
09:59:19

1 history of their witnesses at the OTP in Sierra Leone and/or  
2 other known history in other tribunals or other courts. We  
3 submit it's standard practice for the Prosecution in national  
4 international courts to disclosure issues which relate to the  
5 credibility of their witnesses.

6 PRESIDING JUDGE: Yes.

submit,  
8 quite widely, certainly wider than criminal records or civil  
9 record.

09:59:33 10 PRESIDING JUDGE: Perhaps at this stage we may well ask  
the  
11 Prosecution to shed any light, if they may, on this issue,  
12 because I think it's important that we hear from them.  
13 Mr Harrison?

09:59:51 14 MR HARRISON: The first part of the response is that I  
witnesses  
15 simply didn't have the opportunity to speak with other  
16 to confirm exactly the questions that were being asked but  
I'll  
17 try to do that today. And the Prosecution is simply not clear  
18 why this is something that falls within Rule 68. The  
19 Prosecution, in general, is prepared to provide that guidance  
10:00:23 20 which is clear from what is sought, and what was clear to the

or  
21 Prosecution was that there was a question being asked whether  
22 not a person had a criminal record.  
23 We were provided a response to that. The complaint  
24 process, should one exist, would be very different, depending  
10:00:47 25 upon where the person is normally working, so that access to  
that  
26 information is not consistent. The nature of the information  
27 that would be compiled would not be consistent, and the  
outcome  
28 of how such processes are undertaken would not be consistent.  
We  
29 responded to the information, or we responded with information

are  
say

1 that we thought was dealing with the concerns, and we simply  
2 not in a position to be able to go to foreign governments and  
3 to them: Provide us with any information you may have.

10:01:53  
that

4 PRESIDING JUDGE: Thank you. My disposition, really, is  
5 that in a way, whether we cannot at this stage determine the  
6 merits or demerits of the approach which the Prosecution has  
7 adopted in response to your request, but that we don't think  
8 this problem or concern which you raise should impede the  
9 progress that we should make in respect of the trial within a  
10 trial.

10:02:20  
if  
not

11 I think you can, indeed, pursue this under  
12 cross-examination and probably advise yourself at some stage  
13 you think that is necessary, to make any legal submissions on  
14 this, but it is a rather delicate kind of thing because I'm

10:02:49  
to  
the  
both

15 sure myself whether, if the Prosecution wants to respond fully  
16 your request, it may not result in some kind of moratorium of  
17 process to go and find out something more, and I'm sure that  
18 sides are not interested in any further delay of this process.

is

19 MR JORDASH: Certainly not. And what we're looking for

10:03:17 20 not for the Prosecution to go investigating their own  
21 investigators, but we're looking for any evidence which they  
are  
22 aware of or can be discovered with reasonable diligence. And  
I  
23 have one particular issue in mind, which I am confident the  
24 Prosecution are completely aware of, which is an attempt in  
2004,  
10:03:42 25 by Mr Morissette, Mr Berry and Mr White, all of whom will  
figure  
26 large in this voir dire, to remove Benjamin Yeatin from Togo  
27 without any authority from the respective government, without  
any  
28 warrant of arrest and without due process.  
29 Now, that is well-known amongst many people at the  
Court.

1 It has been in the newspapers and I respectfully submit it is  
2 known to the Prosecution, without any undue investigation.  
And  
3 we would submit it's that kind of evidence which will  
demonstrate  
4 that these particular investigators, and I'm not painting  
every  
10:04:31 5 single investigator in this Court with that same brush, but  
I'm  
6 painting those three investigators with that brush, and it  
will  
7 show that these are investigators who don't have respect for  
due  
8 process. That is the heart of this voir dire.

9 PRESIDING JUDGE: Well, in a sense, are you not being  
10:04:48 10 preemptive at this stage?

11 MR JORDASH: Well, we've asked for -- in what sense,  
Your  
12 Honour?

13 PRESIDING JUDGE: In the sense that perhaps these are  
14 matters that can come out during the substantive process of  
the  
10:05:00 15 trial within a trial.

16 MR JORDASH: Of course it can, but it may not.

17 PRESIDING JUDGE: Yes, but can -- you are in possession,  
I  
18 think, of information of that kind and when you -- if you  
advise

through 19 yourself to put information like that to the other side,

10:05:16 20 their witnesses, you might have a response that can in fact  
open

21 up the whole issue in a sense that would help the Court to  
22 determine, one way or the other, the issue that is being  
23 enquired.

24 MR JORDASH: Or we could save court time, Your Honour,  
and

10:05:38 25 the Prosecution could disclose it, as Rule 68 obligation  
obliges.

26 PRESIDING JUDGE: But at this stage they're not able to  
do

27 that.

28 MR JORDASH: Well --

29 PRESIDING JUDGE: Just that we clearly are, in a way,

1 pressed for time because last week, when we ruled that there  
2 should be a trial within a trial, we did this with a lot of  
3 judicial enthusiasm thinking that we were advancing the  
process,  
4 and we came this morning with all the kind of judicial  
enthusiasm  
10:06:18 5 and resourcefulness to begin the process, to see how we can  
move.

6 MR JORDASH: Your Honour, I have made my point and the  
7 Prosecution has heard them and they're on the record.

8 PRESIDING JUDGE: Very well. Thank you. Mr Prosecutor,  
9 we're in your hands. Let's proceed.

10:06:33 10 MR HARRISON: If I can indicate at the outset, the first  
11 witness would be Gilbert Morissette and, for the Court's  
12 guidance, there is no intention to apply for any protective  
13 measures for witnesses who would be called on the voir dire.

14 PRESIDING JUDGE: Thank you.

10:06:49 15 MR HARRISON: So far, there is one person that is a  
16 superintendent, Lethol Lamin, I have to confirm with him the  
17 language that he would be using but, but for him, I anticipate  
18 all to testify in English.

19 PRESIDING JUDGE: Right. Thanks. Well, let the witness  
be  
10:07:07 20 called. Madam Courtroom Officer, please administer the oath  
to  
21 the witness.

22 [The witness entered court]

23 WITNESS: GILBERT MORISSETTE [Sworn]

24 EXAMINED BY MR HARRISON:

10:09:41 25 PRESIDING JUDGE: The Prosecution will proceed.

26 MR HARRISON:

27 Q. Witness, could you please state your full name and spell  
28 your last name?

29 A. My name is Gilbert Morissette. M-O-R-I-S-S-E-T-T-E.

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1 Q. Sometimes we have some difficulties with the headphones.

2 Are you able to hear my voice without any difficulty?

3 A. Yes, I am.

4 Q. Could you please tell the Court some of your background?

10:10:16 5 What is your current position?

at 6 A. My current position is I am the chief of investigation  
7 the Office of the Prosecutor for the Special Court of Sierra  
8 Leone.

9 Q. And when did you take up that position?

10:10:30 10 A. I took up the position as chief in -- two years ago --  
July 11 2005. And, prior to that, I arrived at the Special Court in  
12 October 2002 but as the deputy chief.

13 PRESIDING JUDGE: You will have to moderate your pace,  
14 otherwise we are not able to comprehend all of it. We know  
it's 15 difficult, but make an effort.

16 THE WITNESS: I will.

17 JUDGE ITOE: What time in 2005 did you take over this  
18 position?

19 THE WITNESS: I arrived at the Court in October 2002 as  
the 20 deputy chief of investigation. And in July 2005, when  
21 Mr Al White retired, I took over as the chief.

22 MR HARRISON:

23 Q. And before coming to the Special Court in 2002, did you  
24 have a position?

10:11:42 25 A. Yes. I had been serving at the International Criminal  
26 Tribunal for Rwanda since July 1996 up to October 2002, when I  
27 came to the Special Court.

28 Q. Before going to Rwanda in 1996, did you have a position?

29 A. Yes. Again, before going to Rwanda, I was in Burundi,

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Burundi. 1 working for the International Commission of Inquiry for

Haiti 2 That was '95/'96. '95, and prior to that, I also worked in

Haitian 3 with the US justice department on the training of the new  
4 national police force.

10:12:49 5 Q. And again, going backward in time, did you have a  
position 6 before that?

7 A. Yes. I did my career with the Royal Canadian Mounted  
8 Police. I joined the force in July 1969 and retired in 1995  
to 9 take the post in Haiti. Yeah, in Haiti.

10:13:21 10 Q. Now, as the Presiding Judge has already indicated, it is  
and 11 important to try to speak for one or two or three sentences  
12 then pause. The difficulty we have is that not only are  
people 13 trying to take notes, but also there is a translation that's

14 being offered simultaneously. So I'm now going to turn your  
10:13:49 15 attention to 10 March 2003. Did anything happen on that day?

RUF 16 A. Yes. This is the day that we arrested people from the  
17 faction on 10 March 2003. Mr Issa Sesay and Morris Kallon  
were 18 two that were arrested at the CID headquarters by the Sierra  
19 Leonean Police.

10:14:25 20 Q. I'm going to ask you to try to take your time as you go  
21 through this, but can you just take the Court, step by step,  
22 through what happened on 10 March?  
23 A. Well, the day started very early in the morning because  
24 there were several arrests that were being conducted at the  
same  
10:14:53 25 time. And, for my part, my team was -- had been dedicated to  
see  
both  
26 the arrest of Mr Sesay and Kallon. We had information that  
27 subjects were to attend at the CID headquarter for a meeting  
with  
28 the CID officer. When they attended at the -- when they  
29 presented themselves there, we were immediately informed and  
we

1 proceeded ourself to the headquarters, CID headquarters.

2 Q. Just pause for a moment. On a couple of occasions I think

3 you used the word "we"; we received information, we proceeded.

4 Can you indicate to the Court who you're talking about?

10:16:06 5 A. The members of my team: Myself; Mr John Berry; Mr Joseph

6 Saffa; Mr Thomas Lahun that I can recall now.

7 Q. So, you've talked about receiving some information. And  
8 what was the information you received?

9 A. The information was that Mr Issa Sesay and Kallon were on

10:16:38 10 their way, walking to the CID headquarters. So when I received

11 the information, our team proceeded to the CID headquarters.

12 When we arrived there, there were a lot of police officers there

13 and Mr Sesay and Mr Kallon had been placed under arrest by some

14 Sierra Leonean police officers.

10:17:24 15 Q. Now, just referring to that arrest that you've just  
16 mentioned, what do you know about that arrest? Did you have  
any

17 involvement in it?

18 A. No. The arrest had already been completed when we arrived

19 there. There were individuals in different rooms. So the  
only

10:17:43 20 intervention we had was to request that they be transferred  
gather 21 forthwith, immediately. People were already starting to  
were 22 outside. Journalists -- somehow the word had leaked. There  
transferred 23 some journalists there. So we requested that they be  
24 right away.

10:18:13 25 Q. When you say "transferred," transferred to where?

was 26 A. The motorcade left for Jui Police Station and the plan  
to 27 that, from Jui, they were going to be airlifted from Hastings  
28 Bonthe Island.

by 29 JUDGE BOUTET: I'm not sure I understand what you mean

1 being transferred in this context. You mean that you took  
2 possession of them at the CID. Can you explain that, please?

3 THE WITNESS: Yes, sir. No, Your Honour, what I mean by  
4 transfer is physically to remove the person from the premises

and

10:18:53 5 to move them because the end plan was that they were going to  
be

6 moved to Bonthe Island, under Sierra Leonean Police escort,

and,

7 at that time, when they got to Bonthe Island, they would be  
8 turned over officially to the Special Court representative.

9 JUDGE BOUTET: Thank you.

10:19:25 10 MR HARRISON:

11 Q. Do you know who was involved in this transfer to Jui?

12 A. I know a couple of people, because I wasn't part of it.

13 Me, I returned from the CID headquarters. I returned to the -

-

14 our offices on Spur Road. Mr Berry was part of it, Mr Joseph

10:19:48 15 Saffa was part of it, from my office. But there were, many,

16 many, Sierra Leone police officers. It was quite a large

17 motorcade.

18 Q. Can you assist the Court with any times? Are you able  
to

19 say when it was you arrived at CID?

10:20:18 20 A. It was approximately 12 noon on the 10th of March that I

was 21 arrived at CID. By the time I returned to our office, there  
22 about, I don't know, maybe -- maybe 1.30, something like this.  
23 It's hard to tell.

you 24 Q. And, speaking for yourself, while you were at CID, did  
10:20:56 25 have any communication with Mr Sesay?  
26 A. No, Your Honour.

your 27 Q. Do you know if any other person in what you've called  
28 team had communication?  
29 A. To my knowledge, no, Your Honour.



1 Q. You've talked about a transfer to Jui. Now, from what I  
2 understand of your answer, you did not go to Jui.

3 A. That's correct, Your Honour.

4 Q. Do you have any knowledge of events or anything that  
took  
10:21:39 5 place at Jui?

6 A. Aside from a call I received from John Berry, no, Your  
7 Honour.

8 Q. So, you've referred to a call. What can you say about  
9 that?

10:21:53 10 A. I received a telephone -- telephone call from Mr John  
11 Berry, advising me that Mr Issa Sesay had expressed his wishes  
to  
12 communicate -- to collaborate, to talk to the Office the  
13 Prosecutor, to the investigator of the Office of the  
Prosecutor.

14 Q. Can you say when it was that you or where you were when  
you  
10:22:28 15 received that phone call?

16 A. I was Seaview, at the Office of the Prosecutor on Spur  
17 Road.

18 JUDGE ITOE: The time, when you received the phone call  
19 from Mr Berry?

10:22:43 20 THE WITNESS: I don't -- I think it was around 2.00, but  
21 I'm not sure.

22 MR HARRISON:

23 Q. So after receiving that phone call, did you do anything?

24 A. Yes. Arrangements were made with the Sierra Leonean  
Police

10:22:59 25 to split the convoy, to take Mr Sesay out of that convoy, that  
26 was to continue on to Hastings and to have Mr Sesay brought to  
27 the Office of the Prosecutor, at Seaview on Spur Road.

28 Q. When you're talking about arrangements being made, can  
you

29 name what you're talking about?

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1 A. Well, the transport of Mr Sesay by Sierra Leonean police  
2 officer.

3 Q. So at that time, when events are taking place at Jui, do  
4 you know in whose custody Mr Sesay was?

10:24:01 5 A. He was -- he was still in custody of the arresting  
police  
6 officer from the Sierra Leonean Police.

7 Q. Do you know who that person was?

8 A. I know the name, Lamin something. Lito [sic] Lamin, I  
9 believe.

10:24:37 10 Q. Now, you've talked about this telephone call that you  
11 received. Did anything happen as a result of it?

12 A. Yes. Mr Sesay was transported in a motorcade by the  
Sierra  
13 Leonean Police to the -- our office, called Seaview, on Spur  
14 Road.

10:25:11 15 Q. And what happened then?

16 A. He was taken to a -- we had a series of office behind  
the  
17 main building that are basically container like we have here  
at  
18 the Court. And he was taken to one of those container,  
container  
19 number four, which was a container that we use as an interview  
10:25:35 20 room.

to

21 Q. Do you know who it was who transported Mr Sesay from Jui

22 Seaview?

it

23 A. I don't know in which vehicle he was and with who, but

24 was a Sierra Leonean police.

10:26:07

25 Q. Now, you've talked about a container at Seaview; what

26 happened next?

was

27 A. Mr Sesay was brought into the container at Seaview. And

28 this is the first time that I personally met him and saw him,

29 about 3.00, I believe, in the afternoon.

1 Q. And who was present at that time when you met Mr Sesay?

2 A. There was the court reporter, Ms Stacey Donison, Joseph  
3 Saffa, one of the SLP officer, and myself.

4 Q. And it may help the Court to know now just who Mr Joseph  
10:27:20 5 Saffa is?

6 A. Mr Joseph Saffa is a Sierra Leonean police officer who's  
7 been attached to the Special Court, to the investigation  
section  
8 at the Special Court, since the beginning, since September  
2002,  
9 if not earlier.

10:27:55 10 Q. Please continue. Take your time and tell the Court what  
11 happened after you met Mr Sesay.

12 A. We sat at the -- at a desk, table, introduced the person  
13 present: The court reporter, myself and Mr Saffa. And I  
14 proceeded to inform Mr Sesay, after I had introduced myself,  
10:28:20 15 about his right advisement. I read that to him: His right as  
a  
16 suspect/accused; his right under questioning; the procedure  
for  
17 video and audiotaping of the interview. I explained to him  
that,  
18 for that day, we were not able to proceed with video but we  
did  
19 have audio and a court reporter present in the room.

10:29:37 20 MR HARRISON: I'm going to give to the Court Management

28302 21 officer a document which is numbered by Court Management as  
to 22 up to and including 28309. And I'd ask if that could be given  
23 the witness.  
24 Q. I'm asking you to look at that document and to tell the  
10:30:21 25 Court if you recognise it.  
26 A. Yes, I do, Your Honour.  
27 Q. How is it that you recognise the document?  
'03, 28 A. At the top of the document, it has the date, 10 March  
29 and the initial of Joseph Saffa, which I recognise.

see

1 Q. When you say the initials of Joseph Saffa, where do you  
2 those?

the

3 A. At the top right-hand corner, Your Honour. Also, I see  
4 initial of Issa Sesay, which I recognise, because he put those  
10:31:02 5 initials there in front of me. That's on page 28302, for the  
6 right advisement, and it continues on page 28303 where, again,  
7 Mr Sesay put his initial. And I had asked him to circle --  
there  
8 is a question before the initial, and he circled the answer,  
9 "yes," at all three question.

you

10:31:42 10 Q. And if you could just continue on to the next page; do  
11 recognise that?

12 A. Yes, I do.

13 Q. What is it?

Article

14 A. This page, 28304, is the right of the accused under  
10:32:00 15 17 of the Statute.

16 Q. Why is that there?

17 A. Excuse me?

18 Q. Why is that there?

10:32:16

19 A. That was part of the package for -- that we had prepared  
20 at -- the Prosecution had prepared a package for each of the  
21 accused. This package was given to the arresting officer from

our  
22 the Sierra Leone Police. Each arresting -- each dedicated  
23 arresting officer had the same package. We had a package for  
24 own copy for our own working -- as our own working copy.

10:32:36 25 JUDGE ITOE: Mr Morissette.

26 THE WITNESS: And it included --

27 JUDGE ITOE: Mr Morissette.

28 THE WITNESS: Yes, sir.

in  
29 JUDGE ITOE: What you're saying is that, what you have



1 front of you, was given to the arresting Sierra Leonean police  
2 officers.

3 THE WITNESS: A package, the same --

4 JUDGE ITOE: The same package which you also had in your  
10:33:00 5 office?

6 THE WITNESS: Yes.

7 JUDGE ITOE: For these purposes, you were using the  
package  
8 in your office?

9 THE WITNESS: Yes. That's correct.

10:33:07 10 JUDGE ITOE: Thank you.

11 MR HARRISON:

12 Q. Perhaps I could just indicate, I think you're having a  
bit  
13 of trouble with your earphones. Some people find that if they  
14 simply turn them to the back it might be a little bit more

10:33:27 15 comfortable. And I think -- could you just turn over to the  
next

16 page in that document? Do you have something called a warrant  
of  
17 arrest? Sorry, before you get to that, I think there is  
18 something called an inventory?

19 A. That's correct.

10:33:46 20 Q. Could you just briefly tell the Court why that's there?

21 A. Again, that was to be used -- like I said, the package  
was

22 prepared for everybody, the same package, identical. But this  
23 form would have been used by the arresting officer, if there  
was  
24 anything that there was going to be taken away from Mr Sesay  
at  
10:34:07 25 the time of the arrest. So I did not have to deal with this -  
-  
26 this part of the package.  
27 Q. The document that I jumped to a bit quickly, the next  
one,  
28 do you see that? I think it's called a warrant of arrest?  
29 A. That's correct. That's a warrant of arrest, which I  
recall

1 also reading to the accused.

2 Q. And when was it that you did that?

3 A. At Seaview, when the accused -- at the same time that I  
did

4 the right of advisement and the right of suspect during

10:34:44 5 investigation, the recording, questioning of suspect; it was  
all

6 done one after -- one after the other.

7 MR HARRISON: The Prosecution would be applying for that  
8 document to become the first exhibit on the voir dire. I'm  
not

9 sure what the Court's preference is.

10:35:12 10 PRESIDING JUDGE: You mean the warrant of arrest?

11 MR HARRISON: No, no, the entire document.

12 PRESIDING JUDGE: It's one package?

13 MR HARRISON: Yes. It may be --

14 PRESIDING JUDGE: At this stage?

10:35:20 15 MR HARRISON: A --

16 PRESIDING JUDGE: Very well.

17 MR HARRISON: -- on the voir dire.

18 PRESIDING JUDGE: Well, we can give it number one in the  
19 voir dire, whichever, as long as we keep a separate and  
distinct

10:35:31 20 numbering scheme from the exhibit numbering scheme of the main

21 trial. Mr Jordash, do you have any objection to the document

22 being received in evidence?

at 23 MR JORDASH: I don't, but may I have a very brief look

24 it. I just --

10:35:55 25 PRESIDING JUDGE: Very well. Good. Quite. We --

of 26 MR JORDASH: [Overlapping speakers] I want to be sure

27 something.

28 PRESIDING JUDGE: Yes. Madam Courtroom Officer, please

29 show it to Mr Jordash.

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1 MR JORDASH: Thank you. I have no objection.

2 PRESIDING JUDGE: Thank you. Am I to give the gentlemen

--

3 the other accused have no -- they have no locus in this  
matter;

4 am I right? Or do I, as a matter of courtesy --

10:36:30 5 JUDGE BOUTET: I don't think they have --

6 PRESIDING JUDGE: No, they don't. Yeah, I'm sure that  
they

7 acquiesce. I'm sure they have no locus --

8 JUDGE BOUTET: Mr Touray, you were about to stand up.

9 PRESIDING JUDGE: -- unless they can argue --

10:36:42 10 MR TOURAY: I'd restrain myself.

11 PRESIDING JUDGE: Well the document will be received in  
12 evidence and it will be marked -- is there a preference for  
the

13 lettering -- a letter designation? Or number one or A,

14 whichever.

10:36:58 15 MR HARRISON: The Prosecution would have suggested the  
16 letter A, simply because --

17 JUDGE ITOE: Yes, letter A so there is no confusion.

18 PRESIDING JUDGE: All right. Yes. We'll receive the  
19 document and mark it Exhibit A.

10:37:13 20 [Exhibit No. A was admitted on the voir  
dire]

we'll 21 PRESIDING JUDGE: Probably somewhere on that document

of 22 note trial within a trial so that we -- just from an abundance

23 caution. Right. Let's proceed, Mr Harrison.

24 MR HARRISON:

10:37:39 25 Q. You have already indicated that there was a recording.  
Can

26 you -- do you know if a transcript was prepared of the  
recording?

27 A. Yes, there was, Your Honour.

28 Q. And have you had a chance to review that transcript?

29 A. Yes. Briefly, Your Honour.

1 Q. And from what you reviewed, was it -- does it accurately  
2 reflect what took place?

3 A. Yes, it did.

4 MR HARRISON: The Prosecution would like to apply to  
admit

10:38:12 5 the transcript as the next exhibit on the voir dire. And then  
we

6 are suggesting to the Court that the Prosecution could then  
play,

7 what we anticipate would only be a portion of the audio  
8 recording, without playing all of it, and then mark the  
recording

9 as an exhibit as well. So at this point we are trying to --  
we

10:38:39 10 are trying to see the most precise and yet helpful way of  
dealing

11 with this evidence. Right now we're simply suggesting that  
the

12 Court accept the application that the transcript be admitted  
as

13 the next exhibit.

14 PRESIDING JUDGE: Very well. Mr Jordash, your response?

10:38:57 15 MR JORDASH: If I understand my learned friend  
correctly,

16 he is trying to exhibit part of the recording of the  
transcript

17 but it cannot be, I would submit, exhibited at this stage. It

18 must be -- it can used for the purpose of the voir dire but  
not

19 to be exhibited until there has been a decision about it.  
That's

10:39:31 20 my -- I'm taken somewhat by surprise. That's my response.

21 PRESIDING JUDGE: Perhaps Mr Harrison can respond.

22 MR HARRISON: It is just an exhibit on the voir dire. I  
am

23 not asking -- whenever I ask to exhibit anything in the voir  
24 dire --

10:39:50 25 PRESIDING JUDGE: It is for the purpose of the voir -- a  
26 trial within a trial.

27 MR JORDASH: No objection.

28 PRESIDING JUDGE: Very well.

29 JUDGE ITOE: Just for that, I mean, are we going to --



1           PRESIDING JUDGE: We're not going to allow any -- there  
2 will not be here any sleight of hand. It's just -- we are in  
a trial within a trial. In other words, the main trial is in  
3 abeyance until we get there.  
4

10:40:15 5           MR HARRISON: If I could just make it clear: The  
6 Prosecution is not at any time trying to ask questions that it  
7 says that right now ought to be considered in the trial itself  
--

8           PRESIDING JUDGE: Quite right, yes.

9           MR HARRISON: The same applies to exhibits. The same  
10:40:28 10 applies --

11           PRESIDING JUDGE: We are on the same radar screen as the  
12 Prosecution.

13           MR HARRISON: So, if I could hand this up to the  
Chamber's  
14 officer with the caveat that because it has been printed on  
both  
10:40:44 15 sides, I'm going to delete 28332, because that is not part of  
the  
16 transcript of 10 March.

17           PRESIDING JUDGE: Very well. We'll receive it in  
evidence  
18 and mark it exhibit?

19           MS KAMUZORA: Letter B, Your Honour.

10:41:04 20           PRESIDING JUDGE: B, for the purpose of the trial within  
a

21 trial.

dire]

22 [Exhibit No. B was admitted on the voir

23 JUDGE BOUTET: So what is it that you're tendering now?

24 MR HARRISON: This is the transcript.

10:41:14 25 JUDGE BOUTET: 28333? Up to and --

26 MR HARRISON: Up to and including 28382, which is the

27 transcript dated 10 March 2003.

28 JUDGE BOUTET: 382.

29 MR HARRISON: That's right.

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1 JUDGE BOUTET: And you mentioned something about --

2 MR HARRISON: When I photocopied this document, I did it  
on 3 both sides.

4 JUDGE BOUTET: Yes, but you mentioned about listening to  
10:41:40 5 something.

6 MR HARRISON: Yes.

7 JUDGE BOUTET: So this is your next step?

8 MR HARRISON: Yes.

9 JUDGE BOUTET: Okay.

10:41:58 10 MR HARRISON: The Prosecution's suggestion is that the  
11 Court permit us to play roughly ten to 15 minutes of the taped  
12 interview and --

13 JUDGE ITOE: Has the transcript been marked?

14 MR HARRISON: Yes. I think the Chamber's officer gave  
it 15 the letter B.  
10:42:13

16 JUDGE ITOE: Letter B. Okay.

17 PRESIDING JUDGE: Yes. Well, Mr Jordash, any objection  
to 18 the transcript being played?

19 MR JORDASH: No objection.

10:42:28 20 PRESIDING JUDGE: Leave granted.

21 MR HARRISON: And if I could, so that Defence counsel  
are

T,

22 clear, when this was disclosed, this was disclosed to you as  
23 the letter T0000001. And I believe it's now possible for my  
24 colleague, Ms Hudroge, by indicating to the audio/visual  
10:43:00 25 technicians if they could play the recording that was made  
26 available to them. I think we're hoping that the audio/visual  
27 unit will activate Ms Hudroge's computer so that she can play  
the  
28 audiotape which was discussed.

29 JUDGE BOUTET: We do have something on our screen but

1 nothing being heard.

2 THE WITNESS: Maybe I can help you, Your Honour, if you  
3 allow me.

4 PRESIDING JUDGE: Yes. Who is volunteering to help?

I 10:45:31 5 MR HARRISON: We have just received an instruction that  
6 think the audio/visual staff want three minutes to organise  
7 something.

8 PRESIDING JUDGE: Leave granted.

9 MR HARRISON: The tape is being played.

10:50:04 10 [10.50 a.m. tape played]

11 [11.05 a.m. tape stopped]

12 MR HARRISON: The Prosecution's request of the Court is  
13 that we be permitted to exhibit the tape now, in its entirety.  
14 It may be the Defence view that they would wish to have all of  
11:07:31 15 the recording played, and the Prosecution would not oppose  
that,

16 but the Prosecution is suggesting that because the transcript  
is  
17 before the Court, that that may not be necessary and that it  
may

18 be in the interests of all parties if the playing of the tape  
19 would not be a necessity. So the Prosecution is asking the

11:07:52 20 Court, and applying, that the entire contents of the tape be  
made

21 the next exhibit in the voir dire, without the obligation of

22 playing the whole tape.

23 PRESIDING JUDGE: Mr Jordash, your response?

24 MR JORDASH: No objection.

11:08:21 25 PRESIDING JUDGE: Thank you. The Prosecution's  
application

26 is granted and we'll mark it exhibit --

27 MS KAMUZORA: Letter C, Your Honour.

28 PRESIDING JUDGE: Letter C.

29 MS KAMUZORA: Your Honour.

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1           PRESIDING JUDGE: Thank you.

2                           [Exhibit No. C was admitted on the voir  
dire]

3           PRESIDING JUDGE: Right. Mr Harrison.

4           JUDGE ITOE: Is it letter C or Exhibit C? What are we  
11:09:00 5 calling it? Is it letter or exhibit? [Indiscernible].

6           PRESIDING JUDGE: It is Exhibit C.

7           JUDGE ITOE: It is Exhibit C.

8           PRESIDING JUDGE: Yes. Mr Harrison, please continue.

9           MR HARRISON:

11:09:13 10 Q. Witness, were you able to hear the audio recording?

11          A. Yes, Your Honour.

12          Q. I no doubt should have asked this before, but were you  
able

13          to recognise the voices?

14          A. Yes.

11:09:24 15 Q. What voices did you recognise?

16          A. My voice and that of Mr Sesay.

17          Q. After that portion of the tape that we heard, can you  
give

18          the Court just a -- an understanding of what subsequently took  
19          place in the interview?

11:09:55 20 A. We just briefly started to go over the overall -- the  
21          overall conflict and asked for specific -- more specific  
22          questions in regards to different -- different things that had

wanted 23 happened during the conflict. Basically, at this stage, I  
had 24 to conduct an assessment of what did Mr Sesay know and as he  
11:10:24 25 offered his full collaboration, I wanted to see if -- you  
know,  
26 what it is that he was going to provide us with.  
of 27 Q. And can you tell the Court your recollection of the size  
28 the room, the organisation of the room?  
the 29 A. As I said earlier, the room is one of -- like, one of



It  
one,  
there

1 single trailer that we use here at the Court for our offices.  
2 would be a single trailer, the same size, an interview room,  
3 two, three, maybe four chairs, I don't recall. And at the  
4 beginning, at the entrance, was the court reporter sitting  
5 with all her equipment.

11:11:18

6 Q. And we heard a portion of the audio recording; can you  
7 describe for the Court the tenor of the remaining questioning?

8 A. Same as -- same as the conversation that I was having  
9 Mr Sesay from the -- from the beginning of reading the  
10 material

11:11:44

11 Q. You've told the Court about some people who were in the  
12 room. There was a reporter, Stacey Donison, you referred to;  
13 Mr Saffa; yourself; Mr Sesay. At any point, did any others  
14 enter  
15 the room?

11:12:12

16 A. I don't recall. I don't think so.  
17 Q. Of the people in the room, can you describe how they  
18 were  
19 dressed, how they appeared?

20 A. Mr Saffa was dressed in a casual daily -- plain clothes,  
21 as  
22 plain clothes officer. Miss Donison, Stacey Donison, she'd

11:12:49 20 normally wear a dress and -- dress casual.

21 Q. And yourself?

22 A. Same thing, dress casual. Sports.

23 Q. Were there any arms in the room?

24 A. No, sir.

11:13:18 25 Q. At any point in time on the 10th, did you make any  
26 utterances to Mr Sesay which could be perceived as a threat?

27 A. No, sir.

28 Q. Did you make any utterances which could be perceived as  
an

29 inducement?

1 A. No, sir.

2 Q. Do you know when the interview concluded on the 10th?

3 A. It was mid-afternoon -- well mid-afternoon. I don't

4 remember the exact time. As I said, I didn't have a chance to

--

11:14:11 5 the opportunity to review the whole transcript. But I know it

6 was early because we had to make arrangement to transport

been

7 Mr Sesay to the -- we were using then -- the arrangement had

8 made to use the Diamond old heliport and we had to transport

9 Mr Sesay to the Diamond heliport and then, from there, fly to

11:14:38 10 Bonthe Island and then return from Bonthe Island. And all of

recall

11 this had to be done -- as a matter of fact, no. Sorry, I

12 now. The flight, the return flight, it was too late, because

13 they had -- the flight had to overnight in Bonthe Island. The

Bonthe

14 escorting officer that went with Mr Sesay had to sleep in

11:14:58 15 Island that one night, that Monday.

16 Q. Okay. All right. Well, let's just go through the steps

much

17 then. When the interview concluded, can you describe, in as

18 detail as you can, what physically happened with Mr Sesay?

convoy

19 A. First of all, while the interview was ongoing, the

11:15:21 20 that had escorted Mr Sesay from Jui to the office had remained  
in

also. 21 the office all the time with the arresting officer there,  
accompanied 22 When we concluded the interview with Mr Sesay, he was  
but 23 by Mr Joseph Saffa, one of our Sierra Leone police officer,  
and 24 attached to the Court, and joined with the arresting officer  
11:15:48 25 everybody left from the Court, drove to the Diamond heli pad  
and,  
overnight. 26 from there, flew to Bonthe Island and remained there  
know 27 Q. Again, you've used term the arresting officer. Do you  
28 who that person was?  
29 A. The one I mentioned earlier there, I believe, was Lamin  
--

1 I know who he is but I forget the name now. I've got a memory  
2 blank.

3 Q. Did you go to the Diamond helicopter?

4 A. No, sir.

11:16:54 5 Q. And if you didn't go to the Diamond helicopter, would I  
be

6 right in saying that you did not go to Bonthe Island?

7 A. That's correct, sir.

8 Q. Do you know who did go to Bonthe Island?

9 A. Mr Saffa and the Sierra Leone police officer. I don't  
know

11:17:21 10 about the others but I know there were others.

11 Q. When you say "others," other what?

12 A. Other police officers.

13 Q. Just with respect to Bonthe Island, have you ever been  
14 there?

11:18:06 15 A. Yes. I have been in Bonthe Island, Your Honour.

16 Q. Did you go there in March 2003?

17 A. Yes. I would have gone on a couple occasions in March  
18 2003. Yes, Your Honour.

19 Q. Do you know if there was electricity there?

11:18:29 20 A. Yes, there were electricity.

21 Q. Did you ever note if there were lights there?

22 A. I don't remember.

23 JUDGE ITOE: Is it that there was electricity and there  
24 were no lights?

11:19:10 25 THE WITNESS: I went there during the daytime, sir, so I  
26 don't -- the light was not necessarily on.

27 MR HARRISON:

28 Q. Do you know anything about the staff at Bonthe? Did you  
29 ever see them?

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1 A. Yeah. I knew -- I met a couple of them. They were  
2 security officer. There was no detention unit at that time,  
so  
3 there were security officer who were responsible for the  
safety  
4 of the -- of the detainee.

11:19:59 5 Q. And the ones that you saw, how were they dressed?

6 A. In civvy, in civilian clothes.

7 Q. Do you know if they were armed?

8 A. Personally, I don't know. Personally -- oh, yes. I  
know  
9 there was one that was armed.

11:20:28 10 Q. You've told us about the events of 10th March. Did  
11 anything happen on the following day?

12 A. On the 11th of March, Your Honour, Mr Sesay was brought  
13 back to our office. Again, in the same interview room. And I  
14 was present at that time. My role was to introduce Mr John  
Berry

11:20:56 15 to Mr Issa Sesay. I was present when that was done. I did  
the  
16 introduction and then I stayed until, again, we went through  
the  
17 whole process of informing Mr Sesay of his right. At that  
time,  
18 that was done on the audio/video. Mr John Berry was the one  
who  
19 did the -- who did the rights advisement and, once that was

11:21:30 20 completed, I left the room and Mr Sesay -- Mr John Berry took  
21 over from the -- doing the further questioning of the suspect.  
22 Q. I'm just going to take you through some of the steps.  
Can  
23 you, first of all, tell the Court how is it or do you know how  
it  
24 was that Mr Sesay was transported from Bonthe?  
11:21:57 25 A. We had made these arrangement and it had been agreed  
with  
26 him that we would bring him back the next day to continue our  
27 interview.  
28 Q. And do you know who it was who brought Mr Sesay back?  
29 A. Unfortunately, I don't recall.



1 Q. On the 11th, do you recall the first time that you see  
2 Mr Sesay?

3 A. That's the -- in the interview room.

4 Q. And when you entered the interview room, who was  
present?

11:22:46 5 A. Mr Sesay, the court reporter and John Berry.

6 Q. And was that the first time you saw Mr Sesay on the  
11th?

7 A. Yes, sir.

8 Q. And can you just take your time and tell the Court what  
it  
9 is you remember happening when you entered the room?

11:23:16 10 A. I believe it was just a straight greeting. And I went  
on

11 to introduce Mr John Berry to Issa Sesay; explained again what  
we  
12 were going to be doing and proceeded with the -- with the  
13 interview, if I recall.

14 MR HARRISON: I'm going to ask that the Court Management  
15 officer show to the witness a document that is numbered by  
11:23:40 Court  
16 Management, 28310 to 28311, which has, as a heading, "Rights  
17 Advise ment."

18 Q. Could you please look at that document and tell the  
Court  
19 if you recognise it?

11:24:19 20 A. Yes, I do, Your Honour. It is the -- it is the right

21 advisement, the same document, not the same, but a similar  
22 document that I used the day before. And, as I said earlier,  
23 when I entered the room, we proceeded. The first thing we did  
24 was proceeded to, again, give the accused his right  
advisement.

11:24:47 25 That was done by Mr John Berry. At the top right-hand corner  
of  
26 the document, I see the initial of Mr John Berry and the date.  
27 On the right advisement, where there are two question asked, I  
28 see the initial of Mr Issa Sesay, which he put on that  
document  
29 in front of me and Mr John Berry. I also see the initial of

1 Mr John Berry and my initial. At the back of the document, on  
2 page 28311, again, I see the initial of Mr Sesay and he has  
3 circled the answer "yes," which, by the way, he did also on  
the  
4 front page, circled both, initialed both, answer "yes." And  
11:25:57 5 going back at the -- to the back page of the document, then  
there  
6 is the signature of myself and Mr John Berry and Mr Issa  
Sesay,  
7 and it's dated 11th of March 2003 at 12.29 p.m..

8 MR HARRISON: The Prosecution's applying that that  
document  
9 be the next exhibit on the voir dire.

11:26:29 10 PRESIDING JUDGE: Mr Jordash, any objection?

11 MR JORDASH: No objections, Your Honour.

12 PRESIDING JUDGE: We'll receive it in evidence and mark  
it.

13 MS KAMUZORA: Exhibit the special number, letter D, Your  
14 Honour.

11:26:42 15 PRESIDING JUDGE: D. Thanks. Right. Exhibit D.

16 [Exhibit No. D was admitted on the voir  
dire]

17 MR HARRISON:

18 Q. And the room that you used on the 11th, did I understand  
19 you to say it was similar to or the same as on the 10th?

11:27:08 20 A. It was the same, Your Honour, the same. And the only

the

21 difference there was that, at that time, we had the audio --

22 video set up.

23 JUDGE ITOE: It was in the same container, number four?

24 THE WITNESS: That's correct, Your Honour.

11:27:23 25

MR HARRISON:

26 Q. The same container and the same room?

27 A. Yeah. The container, room is the same thing. There is  
28 only one room in the container.

29 Q. And was there a video recording made of that -- of that

1 interview?

2 A. That's correct, sir.

3 MR HARRISON: For the sake of what the Prosecution  
thinks

4 is more coherent, we're going to postpone the admitting of the

11:28:02 5 transcript and the video to the next witness so that he can do  
6 them on block.

7 PRESIDING JUDGE: That's entirely your judgment.

8 MR HARRISON:

9 Q. Was there anything else that you were involved with on  
the

11:28:12 10 11th?

11 A. No, Your Honours.

12 Q. Did you have any further conversation with Mr Sesay on  
the

13 11th?

14 A. Possible. I don't recall all the conversation I had.  
It's

11:28:27 15 possible that at some time, at break time, I would visit and  
we

16 would have a cigarette together, things like this.

17 Q. Now, on the --

18 JUDGE ITOE: You say you had no conversations, but at  
break

19 time you would do what?

11:28:47 20 THE WITNESS: I -- I was not involved in the  
questioning,

21 sir. That was all done by Mr John Berry. But some time, when  
22 the court reporter or the investigator would break, I would  
some  
23 time go and talk with Mr Sesay or offer him a cigarette, have  
24 a -- you know, a conversation with him and me.

11:29:18 25 MR HARRISON:

26 Q. Can you describe in more detail what you mean by that?

27 A. The conversation?

28 Q. Yes.

29 A. Yes. Well, I would go and talk to Mr Sesay on occasion  
and

was  
basically  
you  
11:29:47  
collaborate  
which  
mention  
11:30:10  
knew  
conversation.

1 say -- I will ask him how things were going. We would -- he  
2 asking question in regards to witness protection, witness  
3 management, all these things were working, and I would  
4 do -- be doing some confidence-building with him, bonding, if  
5 want to call it. And we would talk about his wish to  
6 with the -- with the -- with the Office of the Prosecutor,  
7 he kept saying that this was his intention. And I would  
8 to him that we were -- we have no problem with that, but that  
9 what he had to understand, that if this was going to happen he  
10 had to come straightforward and tell us everything that he  
11 and not just little bits and pieces. This was on -- going on.  
12 You know, on a regular basis, we were having this

13 JUDGE BOUTET: When you say it was going on on a regular  
14 basis, you mean that day, the 11th of March?

11:30:31  
day  
we  
the

15 THE WITNESS: No, no, no. I don't know if I did that  
16 on the 11th of March, but I said over the period of time that  
17 have interviewed Mr Sesay, that Mr John Berry was conducting

18 questioning of Mr Sesay, I had, on -- I had occasion to talk  
to

19 him myself. How many times, I don't know.

11:30:52 20 PRESIDING JUDGE: Would it be correct to say that you  
21 established a rapport with him?

22 THE WITNESS: That's correct.

23 PRESIDING JUDGE: Very well. Thanks.

24 JUDGE BOUTET: Just one last question: You just  
testified

11:31:03 25 that in these meetings with him that you were, at times,  
offering

26 him cigarettes. And he was asking you questions about witness  
27 protection or something along these lines.

28 THE WITNESS: That's correct. At one point I remember  
29 discussing that with him, because he -- in fact, he expresses



with

the

up

11:31:40  
the

Sesay

1 that in the -- in the course of his -- of his collaboration  
2 us, with the Office of the Prosecutor, but what the Office of  
3 Prosecutor would do in return if there was any need to protect  
4 his family. So we discussed these -- these issue on occasion,  
5 to a point that where we did request the -- the WVS, that's  
6 victim -- witness victims support services, to -- to put Mr  
7 and their two children into the care of the WVS.

8 PRESIDING JUDGE: This would be an appropriate point at  
9 which we can take the morning break. Right.

11:32:53 10 [Break taken at 11.30 a.m.]

11 [RUF12JUN07B - MD]

12 [Upon resuming at 12.08 p.m.]

13 PRESIDING JUDGE: Let the Prosecution proceed.

14 MR HARRISON: There is just a couple --

12:09:14 15 PRESIDING JUDGE: Yes.

16 MS KAH-JALLOW: Your Honour.

17 PRESIDING JUDGE: Just a minute. Ms Jallow, yes.

18 MS KAH-JALLOW: If I may be granted audience, please.

19 PRESIDING JUDGE: At this point in time?

12:09:25 20  
short

MS KAH-JALLOW: Yes, Your Honour. It will be a very

21 submission.

22 JUDGE BOUTET: In this voir dire?

23 MS KAH-JALLOW: Yes, Your Honours. There is every  
24 possibility that I may be called.

12:09:36 25 PRESIDING JUDGE: Look, look, look, I think if you want  
26 leave to retire from the Court, for whatever professional  
27 judgment, I think you can ask leave, and without disclosing  
any  
28 details that may at this time -- point in time be not prudent,  
so  
29 to speak.

SCSL - TRIAL CHAMBER I

Court

1 MS KAH-JALLOW: Your Honours, may I ask leave of this  
2 to retire?

3 PRESIDING JUDGE: Very well. Leave is granted.

4 MS KAH-JALLOW: Thank you.

12:10:17 5 PRESIDING JUDGE: The Prosecution will proceed.

6 MR HARRISON: There are just two or three questions  
7 remaining about the events of 11 March.

session

8 Q. You've told us that you were only at the interview

you

9 for a short period of time but, while you were present, did

12:11:07 10 utter or did you hear uttered any threats to Mr Sesay?

11 A. No, Your Honour.

12 Q. While you were present, did you utter or did you hear  
13 uttered any inducements made to Mr Sesay?

14 A. No, Your Honour.

12:11:38 15 JUDGE BOUTET: Mr Harrison, when you make these -- these  
16 questions are related to the last interview or meeting when  
17 Mr Morissette was with the accused or it is a much broader --  
18 specific to that day?

make

19 MR HARRISON: Yes. If I didn't, I certainly meant to

12:11:57 20 which

it clear that I was only referring to 11 March 2003, during

21 Mr Morissette's evidence is he was only there for a portion.

Berry 22 JUDGE ITOE: That is when Berry was in charge, when  
23 had taken charge.  
24 MR HARRISON: Precisely.  
12:12:19 25 Q. We will try to continue on chronologically. On 12  
March,  
26 are you aware of anything taking place?  
27 A. Well, I know Mr Sesay was brought in for a follow-up on  
the  
28 interview but I don't remember having had any contact with him  
on  
29 that day. I don't recall.

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Are 1 Q. And you said that you don't recall having any contact.  
2 you aware of the steps or the procedures that may have been in  
3 place for moving Mr Sesay or transporting him?  
4 A. Yeah. Every day it was the same scenario: Go down to  
12:13:07 5 Bonthe, pick him up, bring him back and then take him back in  
the 6 evening. But who was doing what on the -- which specific day,  
I 7 don't recall.  
8 Q. I realise that you have said that you weren't involved  
in 9 any interview that may or may not have taken place on the  
12th, 10 but are you able to say where such interviews would have taken  
12:13:42 11 place?  
12 A. Yes, Your Honour. All interview, all took place in  
trailer 13 number 4, at the Office of the Prosecutor.  
14 Q. And so far as you're aware, from the time that you used  
12:14:14 15 that room on 10 March 2003 until the end of the interviews,  
were 16 there any changes to that room?  
17 A. No, Your Honour.  
18 Q. I'm now going to take you to 13 March. Are you aware of  
19 anything taking place on that day?  
12:14:44 20 A. Again, I'm aware that there were -- the interview were

21 continuing.

22 Q. Did you have any role on that day?

23 A. Again, from 10 March, I've never had any role in  
24 interviewing Mr Sesay. But, as I said earlier, I was, on and

12:15:14 25 off, and I don't -- unfortunately, I don't remember all the  
time,

26 and having personal contact with him during breaks. Sometimes

27 the court reporter was even present there. We used -- she  
would

28 use these break --

29 Q. You were going to say that the court reporter was using  
the

1 breaks for something.

2 A. Yes. She would use the break to ask Mr Sesay some  
3 clarification, like on the spelling of some names, personal

name;

4 on the spelling of names of places that would have come up

during

12:16:04 5 the interview between Mr Sesay and Mr Berry. But my main  
role,

6 from the 11th on, was to establish a rapport, like it was with  
7 Mr Sesay, and to encourage him in his continued wishes to  
8 collaborate with the Court, with the Office of the Prosecutor.

9 Q. I may have already mentioned 13 March. If I did, I

12:17:04 10 apologise. But, just to be careful, with respect to 13 March,  
do

11 you recall anything taking place on that day?

12 A. Same thing again, Your Honours. Mr Sesay was brought

in,

13 was being interviewed by Mr John Berry, and eventually

returned

14 to Bonthe Island.

12:17:33 15 Q. I will ask you the same question about 14 March; do you  
16 recall if anything took place on that day?

17 A. Yes. Exactly again the same scenario, for the exception  
18 that I think it was the day that I had arranged for Mr Sesay

to

19 make a phone call to his wife.

12:17:58 20 JUDGE ITOE: That was on 14 March? What date was this;  
on

21 14 March?

22 THE WITNESS: That's correct, Your Honour.

23 MR HARRISON: And, to assist the Court, I would ask that  
24 pages, which I will give to the Court Management, the relevant

12:18:20 25 documents, and it's the transcript from 14 March, and it's  
page

26 numbers 28838, up to and including 28976. If I could ask the  
27 Chamber's officer --

28 JUDGE ITOE: Is that the transcript of the 14th?

29 MR HARRISON: That's correct.

SCSL - TRIAL CHAMBER I



1 JUDGE ITOE: What pages, please, Mr Harrison?"

2 Mr HARRISON: 28838, up to and including 28976 and  
before

3 I -- if I could give this to the learned Chamber's officer, to  
be  
4 given to the witness.

12:19:44 5 Q. Without looking at that, just for the moment, if you can  
6 just leave it to the side, you referred to a telephone call.  
7 Could you just tell the Court what you're referring to?

8 A. Excuse me, Your Honour. Yes. Mr Sesay had requested  
that  
9 we made arrangement for him to be able to talk on the phone  
with

12:20:09 10 his wife, and these arrangements, I was responsible to be  
making  
11 these arrangements.

12 Q. Now, if you turn in that document that you have by your  
13 left hand to page 28925, and if you look at the last full  
14 paragraph on that page, you will see question and the words  
12:20:51 15 begin:

16 "As such, as much as I'd like to really press on into  
this

17 we're going to have to take a break because you have to  
18 make a phone call. It's 1.07 on 14 March 2003. I'm  
going

19 to go get you some lunch and get things set up for  
making

12:21:13 20 that call; okay?"  
21 Does that mean anything to you?  
22 A. Yes. That's when we were going to make the arrangement  
but  
23 while they were going to get some lunch, that's when I was  
going  
24 to make the arrangement for -- to set up for Mr Sesay to be  
able  
12:21:33 25 to talk to his wife.  
26 MR HARRISON: Again, the Prosecution's intention is not  
to  
27 tender this document now. We will tender it through a  
subsequent  
28 witness. The idea is to have them in chronological order.  
29 JUDGE ITOE: What is that page that has adjournment for

1 lunch and for the telephone call?

2 MR HARRISON: 28925.

3 JUDGE ITOE: 25; thank you.

4 MR HARRISON: If the Chamber's officer could retrieve  
that

12:22:08 5 document, please.

6 PRESIDING JUDGE: Do that, Madam Courtroom Officer.

7 MR HARRISON:

8 Q. I'm going to move on to 17 March. Do you recall  
anything  
9 taking place on that day?

12:22:35 10 A. The same scenario, from what I recall; of March?

11 Q. Yes, that's right. And when you say the same scenario,  
12 perhaps for the record we could be a little bit more clear as  
to  
13 what you're referring to.

14 A. Continuation with the interview of Mr Sesay by John  
Berry,

12:23:02 15 which meant having to fly Mr Sesay from Bonthe to the office  
and,  
16 once terminated, from the office to Bonthe.

17 JUDGE BOUTET: What's the date we are talking about  
here?

18 MR HARRISON: That was 17 March 2003.

19 JUDGE BOUTET: 17th. Thank you.

12:23:33 20 MR HARRISON:

21 Q. Continuing on. I refer you to 18 March 2003. Do you  
22 recall any events taking place on that date?

of 23 A. Again, I would imagine it's the same; the continuation  
24 the interview.

12:24:01 25 Q. And moving on to 24 March 2003, do you recall any events  
26 taking place?

27 A. Same thing; continuation of the interview.

place 28 Q. And on 31 March 2003, do you recall any events taking  
29 on that date?

Berry

1 A. Same thing; continuation of the interview by Mr John  
2 with Issa Sesay.

any

3 Q. And now going forward to 14 April 2003; do you recall  
4 events taking place on that date?

12:25:15  
but

5 A. There is, I forget if it's 14 or 15, I don't remember,

had

6 there was two days in a row where I again met Mr Sesay. We

the

7 received -- the Office of the Prosecutor had received during

had

8 day, in the course of the day, a letter from a lawyer and we

9 informed -- the Office of the Prosecutor had informed -- had

12:25:43  
end

10 prepared a specific right advisement for Mr Sesay, and I was

11 asked to go in at the end of the day, but I don't recall the

12 date, but I was asked to go in at the end of the day, at the

13 of the interview, and meet with Mr Sesay and I read this, this

14 specific right advisement, to him.

12:26:06  
office

15 Q. Would it assist you in refreshing your memory if I --

16 JUDGE ITOE: You mentioned receiving a letter, the

17 of the OTP received a letter from a certain lawyer.

18 THE WITNESS: That's correct.

19 JUDGE ITOE: May we know what the content of the letter

12:26:22 20 was, please?

21 THE WITNESS: I don't know, sir. I never saw it.

22 JUDGE ITOE: You never saw it?

23 THE WITNESS: No.

24 MR HARRISON:

12:26:30 25 Q. But would it refresh your memory if you were to,

26 sorry --

27 MR JORDASH: Can I say something? I am happy for the

28 Prosecution to lead on the dates.

29 PRESIDING JUDGE: Very well.

SCSL - TRIAL CHAMBER I

1 MR HARRISON:

2 Q. And would it refresh your memory if you were to look at  
the  
3 transcript as to what took place?

4 A. Yes, Your Honour.

12:26:45 5 MR HARRISON: The Prosecution will, with the permission  
of  
6 the Court, give to the witness, or give to Court Management,  
the  
7 transcript of 14 April.

8 PRESIDING JUDGE: Madam Courtroom Officer, please  
assist.

9 MR HARRISON: The dates, sorry, the page numbers are  
29388,  
12:27:37 10 up to and including --

11 JUDGE ITOE: 29 --

12 MR HARRISON: 29524.

13 JUDGE ITOE: Mr Harrison, the first page, please?

14 MR HARRISON: It is 29388, up to and including 29524.

12:28:14 15 Q. And I draw your attention to page 29518. And I draw to  
16 your attention the very top of the page, where the transcript  
17 reads:

18 "Mr Berry: Okay, the tape is running again. We had to  
19 replace a tape. It's currently 4.21 p.m. and Gilbert  
12:28:55 20 Morissette has just joined the room with us so I think  
you

21 have something you wanted to cover there?

22 "Mr Morissette: That's correct. Thank you, John."

23 And if you are continuing down on that very same page,

24 29518, it continues:

12:29:15 25 "Q. Issa.

26 "A. Yes.

27 "Q. I need to bring to your attention a letter that we  
28 received today, or this afternoon, as a matter of fact,  
29 while you were in the interview. It's signed by John

SCSL - TRIAL CHAMBER I



1 Jones, Defence adviser.

2 "A. Yes, sir.

3 "Q. Who wrote a letter to the Prosecutor?

4 "A. Yes, sir."

12:29:41  
place

5 And then, can you tell the Court what it is that took

6 at that time?

7 A. Yes, Your Honour. Once the Office of the Prosecutor had  
8 received the letter, the Prosecution team prepared what they  
9 had  
of  
called a specific right advisement, in regards to the content

12:30:03

10 this letter, and there was question that were to be put to  
11 Mr Sesay, so I was asked to go in at the end of the interview  
12 here and to read these questions to Mr Sesay, and for him to  
13 answer the question.

14 MR HARRISON: I ask the Court Management officer --

12:30:38  
Office

15 JUDGE ITOE: And that advisement was prepared by the  
16 of the Prosecutor, you say?

17 THE WITNESS: The specific right advisement.

18 JUDGE ITOE: Yes. The right advisement that you are  
19 referring to now?

12:30:50

--

20 THE WITNESS: Yes, Your Honour. It was prepared by the  
21 some Prosecutor in the Office of the Prosecutor; I don't know

22 which one.

23 MR HARRISON: I'd ask Court Management to give to the  
24 witness the document which has the numbers 28328 to 28329.

12:31:27 25 Q. I would ask you to look at that document and tell the  
Court

26 if you recognise it?

27 A. Yes, Your Honour. I recognise the document and on the  
back

28 page, 28329, it has my signature as well as that of John Berry  
29 and Mr Sesay.

SCSL - TRIAL CHAMBER I

you

1 Q. And can you just take the Court through the steps that  
2 followed with that document?

document

3 A. I informed Mr Sesay that I was going to read the  
4 to him, which I did. I read the document, word-for-word, and  
5 asked him the question where he had to answer the question

12:32:22 that,

6 you know, what was his answer to the question? It was either

a

7 "yes" or a "no." And I asked Mr Sesay to write down his

answer,

8 if it was either "yes" or "no," and to put his initial, which

he

9 did, to all question.

12:32:52 that's

10 Q. And on the back page, do you recognise that writing  
11 there?

my

12 A. That's -- yes, sir. That's the signature of Mr Sesay,

John

13 signature and, below the last signature, below is that of Mr

14 Berry.

12:33:13 be

15 MR HARRISON: The Prosecution applies that this document  
16 the next exhibit on the voir dire.

17 PRESIDING JUDGE: Mr Jordash, any objection?

18 MR JORDASH: No objection.

and 19 PRESIDING JUDGE: The document is received in evidence

12:33:28 20 marked Exhibit?

21 MS KAMUZORA: The letter E, Your Honour.

22 PRESIDING JUDGE: E.

23 [Exhibit No. E was admitted on the voir  
dire]

24 MR HARRISON:

12:33:37 25 Q. Do you know if there was a purpose in having that  
document

26 completed?

27 A. It was to clarify -- it was to clarify with Mr Sesay, so

28 that we could make certain that we were not infringing on his

29 right, and that he had agree and that he had waived right to  
be

lawyers

1 interviewed by the Office of the Prosecutor without a --  
2 present.

to

12:34:30

3 JUDGE BOUTET: I would like to have some clarification.  
4 I'm looking at 295 -- the transcript, 29518, that you referred  
5 earlier?

page,

middle

letter

12:34:51  
say:

was

6 MR HARRISON: 29518.  
7 JUDGE BOUTET: 29518, yes. And in the middle of that  
8 which is the page you referred the witness to, and in the  
9 of the page it says: "I need to bring to your attention a  
10 that we received today," and so on. And then it goes on to  
11 "And in the letter, and I'll read to you what he says." So  
12 the letter read to the accused or just the specific rights  
13 advisement, or what happened?

12:35:08

--

my

14 MR HARRISON:  
15 Q. Did you understand the question from the Court?  
16 A. Yes, I did. And my recollection is that, no, I read the  
17 but I would have to refer to the transcript, Your Honour, but  
18 recollection is that I read the specific right advisement.  
19 Q. If you would just -- would it refresh your memory if you

12:35:35 20 were to look at the transcript?  
21 A. Definitely, Your Honour.  
22 Q. If you could -- with the Court's permission if you could  
23 turn again to 29518. And if you were to go just past the  
halfway  
24 point in the letter, or on that page, 29518, you will see at  
line  
12:36:07 25 20, Q for question, and then the transcript reads:  
26 "And in the letter -- I'll read to you what it says. He  
27 mentioned that I have never discussed this matter with  
28 'him,' being us interviewing you. Basically what he's  
29 saying, he says that he's been informed that by the fact

1           that it appears that the Defence Office was never  
informed

2           that the OTP intended to interview you and that no  
3           representative of his office was invited to be present  
at

4           such an interview. He says: 'As a result, I have  
12:36:47 5           discussed this matter with him and asked him to consider  
6           whether he wishes to have further contact with the OTP.'  
7           He goes on, saying: 'In light of this consideration, I  
8           would ask that the OTP not conduct any further  
interviews

9           with Mr Sesay until he has made a final decision as to  
his

12:37:14 10          position in this regard, which he has indicated he will  
11          provide within a week or two.'"

12          JUDGE ITOE: Mr Harrison, you are reading from what page  
13          there?

14          MR HARRISON: Yes. I'm sorry, that's again 29518 and it  
12:37:32 15          just continued over to the first four lines of 29519.

16          PRESIDING JUDGE: Mr Morissette, did you say that there  
was

17          a nexus between Exhibit E, and the letter that you received?  
18          THE WITNESS: That's correct, sir.  
19          PRESIDING JUDGE: Right.

12:37:57 20          THE WITNESS: But now I apologise to the Court. From

don't 21 reading the transcript, I recall that I did quote parts. I

22 remember reading the whole letter and I don't remember --

23 PRESIDING JUDGE: Yes.

24 THE WITNESS: But I was taking part of the letter and

12:38:10 25 quoting to Mr Sesay what that letter said.

just 26 PRESIDING JUDGE: Yes, but that's not my question. I

relationship 27 wanted to know whether there was some kind of causal

28 between Exhibit E and the letter. In other words, it was, in

advisement? 29 fact, the letter that generated the specific rights



1 THE WITNESS: That's correct, Your Honour.

2 PRESIDING JUDGE: Thank you.

3 MR HARRISON:

4 Q. And is there anything else that you recall taking place  
12:38:51 5 after getting the letter from Mr Jones and dealing with it in  
6 that manner?

7 A. Well, the other document was read to Mr Sesay, the  
question

8 put to him and he answered the question. And that was at the  
end  
9 of the day. The next morning -- further to that, then there  
was

10 some -- an issue raised that two of the questions could have  
12:39:13 been

11 ambiguous, so the next morning I was again requested -- sorry,  
I

12 will slow down. So the next morning I was again request to go  
in

13 before the interview started between Mr Berry and Mr Sesay, to  
go

14 back and read another document to Mr Sesay, which comprised of  
15 two question that were exactly, as I recall, the same question  
12:39:41 --

16 I would have to look at the document, but I believe they were  
17 word-for-word the same question as had been put to him before,  
18 the day before and asked the same question again to Mr Sesay.

19 Q. And we've referred to a letter, and I failed to bring in

12:40:09 20 sufficient copies for the Court, but with the Court's  
indulgence,  
21 I will ask the Court Management show this to the witness and  
it,  
22 on its face, is a letter from John Jones, Defence adviser to  
the  
23 Prosecutor, David Crane, dated 14 April 2003.  
24 PRESIDING JUDGE: The indulgence is granted.  
12:40:36 25 MR HARRISON: For the benefit of identifying the  
document,  
26 it has already been given Court Management page numbers 315,  
316.  
27 PRESIDING JUDGE: Madam Courtroom Officer, would you  
28 assist? Give us the page number again.  
29 MR HARRISON: 315 and 316.

document

1 Q. I would ask you to take your time and look at that  
2 and ask you if you recognise it.

recall

3 A. Your Honour, I recognise the letter. I don't recall all  
4 the content, what's in it. What's in the letter, I don't

12:42:46  
but

5 all of it, at this time, what -- from the time it was done,  
6 it is the letter that we are referring to.

voir

7 MR HARRISON: The Prosecution would ask if that letter  
8 could become the next exhibit in the proceeding, or in the  
9 dire.

12:43:05

10 PRESIDING JUDGE: Mr Jordash, your response?

11 MR JORDASH: No objection.

12 PRESIDING JUDGE: The letter is received in evidence and  
13 marked Exhibit F.

14 MS KAMUZORA: Yes, Your Honour.

12:43:18  
dire]

15 [Exhibit No. F was admitted on the voir

16 MR JORDASH: May I briefly see it, on the way?

17 PRESIDING JUDGE: Yes. Please show it to Mr Jordash.

18 MR HARRISON:

12:43:42

19 Q. I will ask you just a few more questions about 14 April.  
20 During the time you were in the presence of Mr Sesay, did you  
21 utter, or did you hear uttered any threats to Mr Sesay?

22 A. No, Your Honour.

23 Q. Did you utter or did you hear uttered any inducements  
made

24 to Mr Sesay?

12:44:02 25 A. No, Your Honour.

26 Q. You have already mentioned having to do something on 15  
27 April in connection with that specific rights advisement. Can  
28 you just take your time and tell the Court what it is that you  
29 ended up having to do on the 15th?

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1 A. There was another specific right advisement prepared by  
the 2 Office of the Prosecutor, and again I was asked to go to the  
3 interview room.

4 JUDGE ITOE: On what date? On what date, please,  
12:44:55 5 Mr Morissette?

6 THE WITNESS: On the 15th, Your Honour, and this was  
done 7 prior to commencing of the interview of Mr Sesay and with Mr  
John 8 Berry. So I went in and put the question to Mr Sesay, read  
the 9 document to him, and he answer again both question.

10 MR HARRISON:

11 Q. And I'm going to ask Court Management to show you a  
12 document, and the page number is 28330. It's a one-page  
13 document. Unfortunately, the Prosecution in photocopying on  
both 14 sides has an irrelevant page on the back and I've drawn lines  
12:45:21 15 through it to indicate that it ought not to have any role as  
part 16 of the exhibit. Could you look at that document and tell the  
17 Court if you recognise it?

18 A. Yes, Your Honour. I recognise the document. It has my  
19 signature, the signature of Mr Issa Sesay, and also the  
signature 20 of Mr John Berry. And it's dated 15 April 2003. And it was

21 signed by Mr --

22 JUDGE ITOE: What date? What date?

23 THE WITNESS: 15 April, Your Honour. 15 April 2003, and  
it

24 was signed by Mr Berry at 0958 hours.

12:46:42 25 PRESIDING JUDGE: What do you recognise it as?

26 THE WITNESS: It's the document that was presented to me  
by

27 the Prosecution. It's called -- this one is called "Precision  
on

28 question 7 and 8" from the document of the previous date.

29 PRESIDING JUDGE: Thank you.

1 THE WITNESS: And there are two questions that are put  
to  
2 Mr Sesay, on this document. And, again, Mr Sesay answered  
3 himself the question by writing his answer and by putting in  
his  
4 initial.

12:47:12 5 PRESIDING JUDGE: Thank you.

6 MR HARRISON: The Prosecution would be asking that that  
7 document become the next exhibit on the voir dire.

8 PRESIDING JUDGE: Mr Jordash, any objection?

9 MR JORDASH: No.

12:47:27 10 PRESIDING JUDGE: The document is received in evidence  
and  
11 marked Exhibit G.

12 MS KAMUZORA: Yes, Your Honour.

13 [Exhibit No. G was admitted on the voir  
dire]

14 MR HARRISON:

12:47:48 15 Q. And during your time with Mr Sesay on 15 April, did you  
16 utter or did you hear uttered any threats to Mr Sesay?

17 A. No, Your Honour.

18 Q. Did you utter or did you hear uttered any inducements  
made  
19 to Mr Sesay?

12:48:09 20 A. No, Your Honour.

March 21 Q. Throughout this entire period of questioning, from 10  
in 22 2003 up to and including 15 April 2003, did you, at any point  
23 time, utter any threats to Mr Sesay or hear them uttered?  
24 A. No, Your Honour.

12:48:40 25 Q. During this same period of time, did you utter or hear  
26 uttered any inducements to Mr Sesay?  
27 A. No, Your Honour.

28 Q. Are you aware of any role played by duty counsel during  
29 this period, or should I say the Office of the Principal



1 Defender?

times

2 A. I'm aware of a couple intervention or not, couple of

in

3 where people did come from the Registrar's Office. I don't

4 recall the date. At one point there was a lady that did come

12:49:39

5 to inform if we were interviewing Mr Sesay. She asked for a -

Berry,

6 she asked for a copy of the right advisement, that we

7 completed -- that was being completed every morning by Mr

on

8 before starting the interviewing. That was provided to her,

the

9 one occasion. I believe on two more occasions somebody from

see

12:50:12

10 Defender's Office or Principal Defender's Office also came to

11 Mr Sesay but I'm not too sure what happened then.

12 Q. Let me just stop you there.

signed?

13 JUDGE ITOE: So what you provided to the lady from the

14 Defence Office was the advisement that Sesay had already

12:50:51

15 THE WITNESS: That's correct, Your Honour. It was a

16 photocopy of the forms.

17 JUDGE ITOE: Which Sesay had already signed, all along?

18 THE WITNESS: No, the one in the morning, if I recall.

19 JUDGE ITOE: The one in the morning.

12:51:02 20 THE WITNESS: The one from the morning, if I recall.

21 JUDGE ITOE: I see.

22 MR HARRISON: I ask if Exhibit 221 could be given to the  
23 witness.

24 JUDGE BOUTET: While they are looking for that, just  
some

12:51:17 25 clarification on this last question and the answer given to

26 Justice Itoe. Mr Morissette, I understood your evidence to  
have

27 been now that when you were asked about the role played by the

28 Defence Office, you said: "At one point a lady came to see me

29 from the Registrar's Office and then on two occasions." So  
are

Registrar's 1 we talking of three occasions in total? One from the  
2 Office and two from Defence Office or two meant the same?  
3 THE WITNESS: No.  
4 JUDGE BOUTET: Can you clarify that?  
12:51:53 5 THE WITNESS: Yes, I will, Your Honour. The first time  
was  
6 a lady that came in from the -- I don't know if she was from  
the  
7 Defence or the Registrar's Office, I'm not sure, Your Honour.  
8 And she came, if I recall correctly --  
9 JUDGE ITOE: Did you get to know the name of this lady,  
in  
12:52:10 10 your investigations? Did you get to know the name of this  
lady?  
11 THE WITNESS: I'm trying to recall now. I'm not sure  
but I  
12 think it was Beatrice something.  
13 MR HARRISON:  
14 Q. If I was to have Exhibit 221 put before you, might that  
12:52:26 15 refresh your memory?  
16 A. Yes, it would, Your Honour.  
17 MR HARRISON: With the leave of the Court.  
18 PRESIDING JUDGE: Yes. Madam Courtroom Officer, please  
19 retrieve that Exhibit.  
12:53:32 20 THE WITNESS: So to answer your question, Your Honour,  
the

21 lady that came on the 12th of, excuse me, was it the 12th or  
22 the -- she came on the 12th. The 11th, it was that she only  
came  
23 in on the 12th. She -- her name was -- first, her name is  
24 Beatrice Ureche. And on the -- it's not the 12th, it's the  
11th  
12:53:59 25 of March, she came into the Office of the Prosecutor and met  
with  
26 Mr Luc Cote. And, basically, she was asking for copy of the  
27 right advisement. So, because the interview was already in  
28 progress between Mr Sesay and Mr John Berry, I am the one who  
29 went into the interview room and requested the document from

we

1 Mr Berry, for 11 March; the right advisement for 11 March, and  
2 made photocopy and this was provided, this waiver, was given  
3 the chief of Prosecution, who turned it over to Ms Ureche.

to

in

12:55:21  
apply

4 MR HARRISON: As that is a document already an exhibit

be

5 the trial, the Prosecution thinks it would be redundant to  
6 to make it a separate exhibit in the voir dire and we will not  
7 making an application.

the

8 PRESIDING JUDGE: But you've already referred to it in  
9 trial as Exhibit 221 of the main trial.

12:55:41

10 MR HARRISON:

Ureche?

11 Q. Now, you talked about this incident with Beatrice

12 A. Right.

Boutet

13 Q. And I think in response to questions from Mr Justice

14 you were talking about two other incidents. Is there anything

12:55:57

15 further that you can say to the Court that you are aware of?

don't

16 A. The two other incidents involved the same lady -- I

17 remember her name, I don't recall her name -- and I'm not too

18 sure exactly what transpired but I know that somebody, and I

or I 19 believe that she was with the Principal Defender's Office --

12:56:16 20 don't think we had that at the time. She, anyway, she was  
doing

21 something to do with Defence Office but I'm not sure and I  
don't

22 know exactly what transpired.

23 JUDGE BOUTET: Mr Morissette, when you say the same  
lady,

24 you mean for these two visits it was the same lady? The same

12:56:39 25 lady, you don't refer to Beatrice Ureche, you refer to a  
26 different lady, but for the two occasions it was the same?

27 THE WITNESS: That's correct, Your Honour.

28 JUDGE BOUTET: Thank you.

29 MR HARRISON:

Was

1 Q. I think that concludes the questions, Mr Morissette.

2 there anything that I've overlooked that you wished to respond  
3 to?

4 A. Nothing that comes to mind at this stage, Your Honour.

12:57:06 5 MR HARRISON: That being the case, I've no further  
6 questions for this witness.

7 PRESIDING JUDGE: Thank you. Mr Jordash, do you want to  
8 start your cross-examination now? You can do for five minutes  
9 and then we'll recess for lunch at 1.00.

12:57:25 10 MR JORDASH: Yes, I am happy to start and just deal with  
11 one discrete subject quickly, if I can.

12 CROSS-EXAMINED BY MR JORDASH:

13 Q. I just want to ask you about whether you've been to Togo  
14 and whether you went to Togo to arrest Benjamin Yeaten?

12:57:49 15 A. I did not go to Togo to arrest Benjamin Yeaten but I  
went  
16 to Togo to inquiry on Benjamin Yeaten.

17 Q. And did you go with --

18 JUDGE ITOE: Please, take it easy, Mr Jordash.

19 MR JORDASH: Sorry.

12:58:10 20 JUDGE ITOE: So you went to inquire about Benjamin  
Yeaten?

21 THE WITNESS: That's correct, Your Honour.

22 JUDGE ITOE: Yes.

23 MR JORDASH:

24 Q. When was that?

12:58:21 25 A. I would have to look it up.

26 Q. Well, was it around March 2004?

27 A. It's quite possible, Your Honour.

28 Q. How did you get there?

29 A. We flew from here to -- to Ghana, and we drove from  
Ghana

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1 to Togo.

2 Q. Did you meet Benjamin Yeaten?

3 A. No, we did not, Your Honour.

4 Q. Isn't it correct you went with approximately six people?

12:58:53 5 A. That's correct.

6 Q. Is it correct that Mr White and Mr Berry were there?

7 A. Just -- just a second time, I'm sorry, sir. Can you --

I

8 think we have -- I think we got the wrong incident there.

What

9 date are you referring about, the incident?

12:59:13 10 Q. Well, did you go to Togo to deal in any way with  
Benjamin

11 Yeaten?

12 A. I did but I don't think we are talking about the same  
13 incidents, Your Honour.

14 Q. Well, let me put it straight to you: Isn't it right  
that

12:59:28 15 you and a number of your colleagues went to Togo to arrest  
16 Benjamin Yeaten and were stopped by the Togolese authorities?

17 A. No, I was not there. I was not involved in this at all.

18 Q. Were members of your investigation team involved?

19 A. No.

12:59:43 20 Q. Mr White and Mr Berry?

21 A. Mr White was alone.

22 Q. Mr White?

23 A. That's correct.

24 Q. This is in March 2004?

12:59:52 25 A. I don't recall the date.

26 Q. And did Mr White have any warrant of arrest or authority  
to

27 arrest Mr Yeaten?

28 A. I don't know.

29 Q. Well, haven't you spoken to anyone since then about what

1 occurred?

2 A. I would imagine we've spoken, yes.

3 Q. Well, have you spoken or not about what occurred?

4 A. Yes, we've discussed what occurred.

13:00:27 5  
was

Q. And isn't it right you know perfectly well that there

6  
to

no authority to arrest Benjamin Yeaten or Mr White didn't try

7 obtain any?

8  
was

A. I don't know. I didn't know Mr White was there and I

9 not with Mr White and I don't know what happened, and we did

13:00:45 10

discuss the incident after, but what happened in Togo I don't

11 know.

12 Q. You are Mr White's immediate subordinate, is that right?

13 A. That's correct, Your Honour.

14  
reference

Q. And you are suggesting that he alone went without

13:00:57 15

to you?

16 A. That's correct, Your Honour.

17  
been

Q. And when he came back, did he say to you that he had

18 prevented from arresting Yeaten by the Togolese authorities

19 because Yeaten was saying that he was being kidnapped?

13:01:14 20  
know

A. He told me that he had been prevented from -- I don't

prevented 21 if you use the word arresting Yeaten -- but he had been

22 to bring Yeaten back with him, that's correct.

for 23 Q. Right. You've never seen or heard of any application

authorities 24 any warrant of arrest or permission from the Togolese

13:01:37 25 in relation to this incident, have you?

26 A. No, Your Honour.

27 MR JORDASH: Thank you. That will do with that subject,  
28 Your Honour.

29 PRESIDING JUDGE: Right. We will recess for lunch and

1 resume at 2.30 p.m.

2 [Luncheon recess taken at 1.00 p.m.]

3 [RUF12JUN07C - CR]

4 [Upon resuming at 2.43 p.m.]

14:44:29 5 PRESIDING JUDGE: Mr Jordash, please continue with your  
6 cross-examination.

7 MR JORDASH: Thank you, Your Honour.

8 Q. I just want to ask another couple of questions on the  
9 subject we covered quickly before lunch. Just this: Just so

14:44:49 10 that the Court is clear, is it your evidence that it was

11 Mr White, and Mr White alone, who went to Togo to effect the  
12 arrest?

13 A. I don't know if he was alone, but there was nobody from  
the  
14 investigation section of the OTP that accompany him.

14:45:14 15 Q. Thank you. Now, I want to ask you questions, please,  
about

16 operations in the investigations part of the Prosecution. Are  
17 you familiar with the term SOPs?

18 A. Yes, I am.

19 Q. Is it standard operating procedures?

14:45:49 20 A. That's correct, Your Honour.

21 Q. Are there standard operating procedures written down in  
the  
22 Special Court investigation department?

23 A. Not as such, no.

24 Q. When you say "not as such," what does that mean?

14:46:05 25 A. We have different draft that everybody has been working  
on

26 from time to time, but it was never finalised.

27 Q. So is it used, or is it not used?

28 A. I can say, no. I would say no.

29 Q. Right. So the answer is then, there's no operative --

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1 standard operating procedures for the investigation team at  
the  
2 Special Court?

3 A. Yes, we do have procedure in place, but as you would  
know  
4 call it a standard operation procedure, no, not as such. We  
have  
14:46:42 5 operational procedure. We have, in place, guidelines and we  
6 have --

7 PRESIDING JUDGE: Not so fast, Mr Morissette.

8 THE WITNESS: Oh, sorry.

9 PRESIDING JUDGE: Try again.

14:46:53 10 THE WITNESS: We have procedure, Your Honours, example  
when  
11 it's question, it's time to draft the -- a mission plan, there  
12 are procedure to be followed. There are things that needs to  
be  
13 put in place. When it's time to set up a mission to go in the  
14 field, the same thing. There are procedures. There are steps  
to  
14:47:20 15 be followed, such thing, but there are no such thing as a  
16 document, you know, that covers all these -- what we would  
17 call -- what anybody else would call a standard operational  
18 procedure.

19 MR JORDASH:

14:47:29 20 Q. So the operating procedures you're talking about are  
then

21 created at the time for particular operation or not?

have

22 A. No, no, it's all in place. It is in the database. We

23 different database that we use and it's just a question of

24 filling in -- putting in the information and printing the

14:47:55 25 document.

26 Q. So is there a standard operating procedure, then, for

27 arresting a suspect?

28 A. No, no such thing.

a

29 Q. Is there a standard operating procedure for interviewing



1 suspect or an accused?

2 A. We follow the guidelines. We follow the Rules of  
Procedure  
3 set up in the Rules of Procedure and Evidence of the Court.

4 Q. Well, which particular rules do you follow?

14:48:21 5 A. 42, 43, 42 and 43.

6 Q. So it's simply just that you must inform the accused of  
the  
7 rights in those rules; is that right?

8 A. That's correct.

9 Q. And that is the sum total of the operating procedures  
for  
14:48:40 10 all the investigators at the Special Court; is that right?

11 A. For carrying interview?

12 Q. For interview, yes.

13 A. Each interview is planned accordingly. The investigator  
14 have their tasks and it is worked out among themselves.

14:49:03 15 Sometimes among lawyers from the Prosecution, and they plan  
their  
16 interview accordingly.

17 Q. But in terms of saying to the members of the OTP, who  
are  
18 conducting interviews, there is nothing written down beyond  
the  
19 Rules of Procedure and Evidence about how to stay on the right  
14:49:23 20 side of the line in terms of investigating fairly, but

21 investigating efficiently and effectively?

22 A. No.

23 Q. So an investigator would need to go back to the Rules  
and

24 have a look at Rule 42 and 63?

14:49:40 25 A. When the investigator arrive on board, they have their

26 brief about this; their brief about the operation; their brief

27 about investigation, ongoing investigation, and then they  
learn,

28 as they come along, about the work that needs to be done with

29 other officer that been here for years or more.

1 Q. But that's -- what you describe, that kind of detail  
2 concerns less the rights of the suspect or the accused and  
more  
3 the way in which the particular investigator should proceed on  
a  
4 minute-by-minute, hour-by-hour basis; is that right?

14:50:26 5 A. That's correct.

6 Q. So it's left, to a certain extent, a large extent it  
would  
7 seem, to the individual investigator to decide where the line  
is  
8 concerning informing an accused to his rights to counsel or --  
9 A. No, no.

14:50:45 10 Q. No?

11 A. The rights to the accused are in the Rules of Procedure  
and  
12 Evidence and everybody is very well-informed of this, and  
13 whenever an accused is interviewed by an investigator, these  
are  
14 the rules that are followed.

14:51:00 15 Q. But you must accept -- do you accept this: That the  
rules  
16 are pretty skeletal, they don't give much direction as to what  
it  
17 means to inform somebody of their right to counsel. Do you  
not  
18 accept that?

19 A. No.

14:51:20 20 Q. No, you don't accept that. Is this the way you operated  
in

21 the ICTR as well?

22 A. That's correct.

23 Q. Similar, absence of any detailed advice as to the  
24 application of the particular Rules?

14:51:35 25 A. I think that the Rules cannot be more clear to anybody.

26 Q. Well --

27 A. And that's what we follow.

28 Q. Well, we'll see if they're clear to everybody. So was  
29 there a standard operating procedure in Rwanda in relation to

1 interview and arrest?

2 A. I don't know if they had that in investigation. I know  
we  
3 had -- we had a -- what was it called -- but it was mainly  
4 dealing with source and witness -- not witness, source and  
14:52:10 5 informant, when I was in Rwanda, but I don't know if they had  
6 anything in investigation.

7 Q. Weren't you in the investigation --

8 A. Excuse me?

9 Q. Weren't you in the investigation team in --

14:52:26 10 A. No, I was -- when I first arrived there, I was the  
chief,

11 not chief, but -- yeah, team leader and then commander of the  
--

12 what was called the criminal -- the Intelligence and Tracking  
13 Unit. And from then, that's from '96 to 2000, yeah, 2000 and  
--

14 2000 to 2002. I was the commander of the unit that was called  
14:52:53 15 the Special Investigation Unit.

16 Q. What were you the team leader of?

17 A. The Intelligence and Tracking Unit, which got upgraded  
and  
18 then I became the commander of that unit.

19 Q. So you weren't involved with arrests?

14:53:11 20 A. Yes, I was.

21 Q. Were you involved in the interviews?

22 A. On a few occasions, yes; initial interview.

23 Q. But, from what you've said, you just relied upon the  
basic

24 Rules of Procedure and Evidence.

14:53:22 25 A. We relied on the same rules that we applied them, when  
we

26 did the arrest here on 10 March 2003.

27 Q. Right. You were involved, were you not, with the case  
of

28 Kabiligi at the ICTR?

29 A. Yes, I was.

you 1 Q. Can you confirm that, but perhaps you can't, but maybe  
2 can, that there was a finding -- how were you involved?

And 3 A. Kabiligi was arrested during Operation Nike in Arusha.  
4 we arranged for his transportation -- he was transported to,  
14:54:12 5 amongst others, to Arusha. Excuse me, Operation Nike was in  
6 Nairobi, Kenya. He was transferred to Arusha, and that was  
the 7 extent of my involvement.

8 Q. Sorry, were you -- did you meet him?

9 A. Not that I recall, no.

14:54:38 10 Q. Did you have anything to do with how his interview was  
11 conducted?

12 A. No.

13 Q. Kajelijeli, do you know that person?

14 A. Yes, I know that person also.

14:55:01 15 Q. Were you involved with that?

yes. 16 A. I was involved in the arrest, in the initial arrest,

17 Q. That was in Benin, wasn't it?

18 A. That's correct. That was in Cotonou, Benin.

19 Q. And was there a finding in that case that he'd not been  
14:55:14 20 informed of the reasons for his arrest?

21 A. No, no, I'm not aware of that.

arrest? 22 JUDGE ITOE: Did you say you were involved in his

23 THE WITNESS: Yes, Your Honour, that's correct.

24 MR JORDASH:

14:55:37 25 Q. How were you -- you actually practically -- sorry, Your  
26 Honour.

27 JUDGE ITOE: And if he was arrested in Cotonou, are you  
28 saying that you went to Cotonou for that purpose?

29 THE WITNESS: Myself, sir?

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1 JUDGE ITOE: Yes.

2 THE WITNESS: Yes, that's correct, Your Honour.

3 JUDGE ITOE: You went to Cotonou for that purpose?

4 THE WITNESS: That's correct, Your Honour.

14:55:59 5 JUDGE ITOE: Yes, Mr Jordash, you can continue.

6 MR JORDASH: Thank you.

7 Q. Could I ask you about -- how many years, in total then,  
8 have you been involved with the investigations, in some way or  
9 another?

14:56:21 10 A. Almost 38 years.

11 Q. And when you were in Canada, when you were working for  
the  
12 Royal Canadian Mounted Police, were you a police officer  
13 investigating crimes?

14 A. That's correct. I started as a police officer  
15 investigating crime, moved in, specialised into drug  
14:56:42 enforcement;  
16 undercover operation; criminal intelligence operation and  
17 training, and that was it.

18 MR JORDASH: Sorry, I've just misplaced Mr Morissette's  
19 statement. Has anyone got a spare copy?

14:57:10 20 MR HARRISON: It's an exhibit. It's Exhibit 223 and if  
21 someone wants an extra copy, I can provide it.

22 MR JORDASH: This is fine. Thank you very much.

23 Q. Now, you mentioned in your statement about Canadian law;  
24 were you familiar with Canadian law and the way it applied to  
14:57:40 25 arrest and interviews of suspects and accused?  
26 A. They're the same as at the ICTR and here; the Canadian  
law  
27 is the same thing. The accused has got right to lawyer. You  
28 warn him of his right, you inform him of his right, and he has  
29 got right to have a lawyer present, or he can deny the lawyer

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1 present, and you do your investigation as any criminal  
2 investigation is conducted.

3 Q. Right. So it's fair to say you applied the kind of  
4 standards that are applied in Canada to your work in the ICTR,  
to  
14:58:16 5 the Special Court, and to Mr Sesay?

6 A. That's correct.

7 Q. And so you would agree that the standards that are  
applied  
8 in Canada, then, ought to be applied here?

9 A. That's correct. Yes, Your Honour.

14:58:35 10 Q. Especially given the seriousness of the charges against  
the  
11 accused. Now, let me ask you this about investigations,  
12 generally: Do you agree that -- is this the way you worked --  
13 that they should be conducted in an objective and impartial  
14 manner?

14:59:05 15 A. I do.

16 Q. And do you keep yourself informed of legal developments  
in  
17 order to ensure that you apply yourself accurately to the  
task?

18 A. To the extent that if it's related to my work.

19 Q. And would you have, in your investigation, regard to  
both  
14:59:28 20 circumstances which are advantageous to your investigation,  
but

21 also disadvantageous to your investigation, so would you  
22 investigate for and against an accused?

23 A. We would investigate for an accused and we would  
24 investigate if there was anything that came up that was  
relevant

14:59:48 25 that could show that the accused was not responsible, then it  
is

26 our mandate to inform everybody concerned.

27 Q. Right. And if you felt an accused or a suspect required  
a

28 lawyer, because of any indications of confusion about their  
29 position, what would you do in that situation?

1 A. If I'm interviewing an accused who has waived his right  
to  
2 a lawyer, after he has been duly informed, repeatedly, and  
waived  
3 his right to a lawyer, then it's not my job to inform him that  
if  
4 he wants a lawyer, he can get a lawyer. He's been informed of  
15:00:37 5 that.

6 Q. If he indicates he does want a lawyer?

7 A. Then he will be provided with a lawyer.

8 Q. Right. Now, would you accept this about investigations  
--  
9 well, let me ask you this: In the Canadian police force, did  
you  
10 have a notebook?

11 A. Yes, we did.

12 Q. Did you keep the notebook with you during  
investigations?

13 A. It depends on what duty you're referring to, and it  
depends  
14 in which capacity you were doing the investigation.

15:01:05 15 Q. Well, for example, arresting a suspect, or an accused.

16 A. Yes, that's correct.

17 Q. You'd have a notebook?

18 A. We would have a notebook, yes.

19 Q. And you would make contemporaneous notes?

15:01:19 20 A. Yes, that's correct.

21 Q. And during an interview process, which you spent some  
22 considerable time with the interviewee, you'd have a notebook  
in  
23 Canada; no?  
24 A. Depending. One, normally the interview would be  
conducted  
15:01:38 25 by two officers. One officer would be concentrating on asking  
26 the question and the other one would be making a note.  
27 Q. And you must have considerable experience of those notes  
28 being then used in subsequent court proceedings?  
29 A. In some cases, yes.

1 Q. Because investigators may be called at any time to  
2 establish the chain of custody of physical evidence, for  
example?

3 A. That's correct.

4 Q. Or they may be called to testify about disputed aspects  
of  
15:02:09 5 an investigation?

6 A. That's correct, Your Honour.

7 Q. And that investigation may be challenged for its  
competency  
8 or integrity, and the notes assessed in that court inquiry; is  
9 that correct?

15:02:30 10 A. I believe it would be to the magistrate or the judge to  
11 assess this, not the notes.

12 Q. Yes, but, based on contemporaneous notes often taken by  
13 police officers and investigators; you accept that?

14 A. I'm not sure I follow the question.

15:02:45 15 Q. Well, the point I'm making is this: That a notebook  
16 containing contemporaneous notes made by a police officer, or  
an  
17 investigator, is standard procedure in Canada and many  
domestic  
18 and international jurisdictions to help a court to establish  
the  
19 truth about an investigation.

15:03:07 20 A. To help the court, yes, that's correct.

21 Q. Yes. And is that not -- is the note-taking exercise not  
22 considered to be good practice in the international criminal  
23 investigations?

24 A. Yes.

15:03:27 25 Q. And good practice in Canada?

26 A. Yes, that's correct.

27 Q. Am I correct that you don't have a notebook in relation  
to  
28 these issues?

29 A. No, I don't.



1 Q. And neither does Mr Berry?

2 A. I don't know.

3 Q. Does any investigator in the OTP have a notebook?

4 A. Yes.

15:03:59 5 Q. Is there any reason why you don't have a notebook?

6 A. I don't have a notebook in regards to these arrests and  
7 operation, Your Honours, because these arrests operation were  
8 carried out by the Sierra Leone Police. They were doing their  
9 notes, they were making their note. They were in charge and

15:04:20 10 responsible for the arrest of these individual. Whence we're  
11 doing, if we're doing investigation, if we're going in the  
field,  
12 in mission, interviewing witness and so on, carrying the  
normal

13 investigation procedure, we are -- we do have notebook. In an  
14 operation like this that was mounted over the night, it was an  
15:04:45 15 arrest operation, it was not an investigation, it was simply  
an

16 arrest operation, there was an operation plan put in place for  
17 this thing. There were a plan and there were reason why we  
went  
18 to the CID, because we knew these people would be there.  
Other

19 people were elsewhere. And everything was done and the  
operation

15:05:06 20 was mounted with the collaboration and the participation -- as  
a

of 21 matter of fact, the Sierra Leone Police had the responsibility  
22 the operation.  
23 Q. Well, that's all well and good for the arrest, but what  
24 about the several weeks of interaction with Mr Sesay after  
that?  
15:05:25 25 A. The week of interaction with Mr Sesay --  
26 Q. Several weeks after --  
27 A. The several weeks of interaction that I had with Mr  
Sesay  
28 was to build up a rapport with Mr Sesay. And it was not, in  
my  
29 view, the proper thing to come up and start talking to Mr  
Sesay

1 when you're trying to build a rapport, and we're not hiding  
2 anything here. We wanted Mr Sesay to -- he had volunteered,  
3 first of all, his collaboration to the Special Court and I  
wanted  
4 to make sure that Mr Sesay was --

15:05:56 5 PRESIDING JUDGE: Slow down. Slow down.

6 THE WITNESS: And I want to -- excuse me -- and I want  
to  
7 make sure that Mr Sesay was still in that frame of mind. And  
I  
8 was not going to come out, start making notes when the task to  
9 interview Mr Sesay had been allocated to Mr John Berry. That  
was

15:06:18 10 as that. And that's why we make sure that it was done  
according  
11 to the book, by the book, with his rights advisement and every  
12 day --

13 MR JORDASH:

14 Q. Mr Morissette, we're going to come to that. You didn't  
15 take a note of Mr Sesay's conversations because? It's a  
16 question. I still don't follow.

15:06:39 15

17 A. I'm sorry. I didn't take any note of my conversation  
with  
18 Mr Sesay because I was not the -- the objective of my  
19 intervention with Mr Sesay was not to interview him; it was  
not

15:06:56 20 to question him. It was to develop a rapport with him, to  
build

21 up confidence and encourage him in order to agree to  
collaborate

22 with us. So the content of the conversation to me had no  
23 relevance.

24 Q. Encouraging somebody to collaborate, and to give you an  
15:07:15 25 account has no relevance to the issues of this trial; is that  
26 what you're saying?

27 A. No, you're playing with words. If I may explain,  
28 Your Honour. These type of operation, and I've been around  
for

29 38 years doing this, everybody has been saying that these

1 operation, these crimes that were committed were of a joint  
2 criminal enterprise nature. Everybody is saying that it's a  
3 conspiracy. Everybody's saying that, you know, there had to  
be a  
4 plan and everything. This is just for your information. To  
me,  
15:08:00 5 investigating this type of offence is the same thing as if I  
was  
6 to investigate a drug cartel, a Mafia organisation. Any  
7 conspiracy case means that it has to be investigated from the  
8 inside. It means the way to get to these type of criminal  
9 operation, criminal investigation, is that if it's true that  
it  
15:08:26 10 was a conspiracy, if it's true that it was a joint criminal  
11 enterprise, if it's true that there were, you know, a kind of  
12 cartel or organisation, that means these people had to sit  
13 together, they had to talk together, they had to make plan and  
14 things like this. And the best way to investigate these type  
of  
15:08:48 15 offence is from the inside.

16 Q. So --

17 A. And that's what we tried to do with Mr Sesay.

18 Q. It was important for you then to effectively act like an  
19 undercover operator; is that what you're saying?

15:09:01 20 A. My role with Mr Sesay was to bond with him and, you  
know,

was 21 encourage him and build confidence between him and I. That

22 my role.

very 23 Q. Well, I'm going to come back to the specifics of that

24 shortly. But I want to ask you about your understanding of

15:09:21 25 Mr Sesay's rights. You're familiar, aren't you, with the

26 Canadian Charter of Rights and Freedoms?

27 A. Yes.

is 28 Q. You're familiar that it has a section on arrest, which

has 29 very similar to Rule 42 and 63. That an accused, or everyone

the  
1 the right on arrest or detention to be informed promptly of  
2 reasons therefor, and to retain and instruct counsel without  
3 delay, and to be informed of that right? Are you aware of  
that?

4 A. Yes.

15:09:59 5 Q. Is that -- from what you've told us, that's the way you  
6 operate here?

7 A. That's correct.

8 Q. Now, are you aware that in Canada, and I'm interested in  
9 whether this is the way you perceive your role, that, in  
Canada,

15:10:25 10 there is a requirement that the investigator gives the accused  
an  
11 adequate opportunity to secure counsel?

12 A. That's correct.

13 Q. And that involves ensuring that the accused has a  
telephone  
14 number for counsel?

15:10:41 15 A. That's correct.

16 Q. And there's a positive duty placed on the investigator?

17 A. Yes, Your Honour.

18 Q. And that's your way of operating; is that right?

19 A. That's right.

15:10:52 20 Q. Is that the way you operated with Mr Sesay?

made  
read  
well

21 A. No. Because Mr Sesay was given all his right. It was  
22 very, very clear to him, if you listen to the tape, if you  
23 the transcript, Mr Sesay was, on 10 March, made very, very  
24 aware, and Mr Sesay turned those right down.

15:11:11 25 Q. Well -- so, you didn't, then, go beyond the tape on the  
26 10th in explaining Mr Sesay's rights in terms of adequate  
27 opportunity to have counsel?

28 A. Every morning, Mr Sesay was given his right.

29 Q. No, on the 10th. On 10 March?



1 A. That's correct.

2 Q. Did you go beyond the waiver on the tape?

3 A. No.

4 Q. Thank you. So, in that respect, you didn't go as far as  
15:11:40 5 you would have done in Canada?

I 6 A. That's wrong. That's not true. That's not what I said.

7 said that in the type of offence that we were facing, and the  
8 type of investigation that I was doing, dealing with here,

that  
9 this is the way, and it is standard across police force that  
do

15:12:00 10 investigate organised crime, drug cartels, or whatever you  
want

11 to do, that when you're dealing with this type of operation,

this  
12 is the way you would, especially when you have a suspect that

13 comes forward on his own and informs the investigation that he

14 wished to collaborate with the investigators, that's the way  
you

15:12:20 15 proceed with it.

16 Q. Well, I'm suggesting that's just completely wrong that,

17 Canada, you would have to inform the accused of access to --

how  
18 to access free legal advice. It wouldn't matter whether it  
was

Is 19 undercover, drug cartels, or whatever, you'd have to do it.  
15:12:38 20 that not correct?  
21 PRESIDING JUDGE: Yes, Mr Harrison.  
of 22 MR HARRISON: Objection. This is now clearly a question  
23 law on which expert evidence could be called, but it's  
certainly 24 not a question that can be put absent the qualifications of an  
15:12:56 25 expert.  
26 PRESIDING JUDGE: Your response?  
27 JUDGE ITOE: An expert in what, Mr Jordash? I'm sorry,  
28 Mr Harrison?  
29 MR HARRISON: An expert in Canadian criminal law.

1 JUDGE ITOE: But even when it is written in instruments  
2 [Indiscernible]?

3 MR HARRISON: Well, it's still a question of  
interpreting 4 the instrument.

15:13:18 5 JUDGE ITOE: I see. Okay.

6 PRESIDING JUDGE: But hasn't he also said that he's  
7 familiar with Canadian law? I take it we're in the procedural  
8 realm, aren't we?

9 MR JORDASH: Yes. I'm asking --

15:13:26 10 PRESIDING JUDGE: Not in the substantive realm.

11 MR JORDASH: Exactly.

12 PRESIDING JUDGE: So why would he not be able, as an  
13 investigator, who probably goes through training schools,  
police 14 training schools where they teach procedural law, and we do it  
15 here in Sierra Leone, why would he not be competent to answer?

16 MR HARRISON: But it's still a question of expertise of  
17 law.

18 PRESIDING JUDGE: Well, it's a question of expertise,  
but 19 what I'm saying is that it would be a question of rudimentary  
law

15:13:53 20 where an officer, who is trained an investigator, receives  
21 rudimentary training in procedural law, why would this be a

22 problematic question for him? Is it --

of 23 MR HARRISON: The answer is because there is a plethora

Rights 24 cases dealing with Section 10 of the Canadian Charter of

15:14:17 25 that would probably commence from where the Bench is sitting  
and

26 come as far as I am, case after case.

27 JUDGE ITOE: [Microphone not activated].

28 PRESIDING JUDGE: I can assure you --

the 29 JUDGE BOUTET: I can attest to that. This is -- since

has  
on  
to  
15:14:45  
some

1 Constitution came into being in the 80s, as such, this aspect  
2 been challenged many times. There's a lot of court decisions  
3 this issue, and it has been subject to much debate, as such.

4 JUDGE ITOE: But I would like to imagine -- I would like  
5 imagine, Mr Harrison, that notwithstanding the demonstration  
6 you've made, there are some, at least some basic elements,  
7 basic principles which are accepted, you know, in Canada as a  
8 practice in this particular domain.

9 JUDGE BOUTET: Well, it is more than just practice; the  
15:15:05 10 Constitution is quite clear.

11 PRESIDING JUDGE: I would also say that in America, some  
12 the finest experts on the exclusionary rule, which is a  
13 Constitutional provision, are the police officers; you want to  
14 hear them testify on that. And these are matters where

15:15:20 15 Constitutional safeguards govern the rights of accused  
persons,  
16 either in the context of criminal investigation or criminal  
17 trials. Police officers have provided useful insights, and  
18 America would be one classic example where there's a plethora  
of  
19 decisions on the exclusionary rule, and I've heard police

15:15:45 20 officers articulate them with greater expertise than even some  
of

21 us lawyers. Let us give him a chance. If we get into  
difficult

22 areas, we'll protect him. Go ahead.

23 JUDGE ITOE: I have a lot of reliance and confidence on

24 Mr Morissette, as a very very experienced and experimented  
police

15:16:10 25 officer in various domains, as he himself has said, and I  
think

26 he's an embodiment of a lot of experience in most of these  
basic

27 procedural matters, and I'm sure he would be in a position to

28 helping the Tribunal in arriving at a fair decision in this  
case.

29 PRESIDING JUDGE: Right. Continue, Mr Jordash.

1 MR JORDASH: Thank you.

2 Q. I mean, I suppose the point I was trying to make,

3 Mr Morissette, is this: That, am I correct that you don't see

4 your obligation as simply to read the rights and then,

15:16:47 5  
obligation,

irrespective of understanding, that's the end of your

6 or do you see it that way?

7 A. The way I see it, and I appreciate your comment, Your

8 Honour, but one thing I need to make clear here, is that I've

9 retired from the Royal Canadian Mounted Police in 1995.

That's

15:17:11 10 12 years ago.

11 JUDGE ITOE: You have not forgotten everything, Mr

12 Morissette.

13 THE WITNESS: No, but if you [indiscernible] so that's

12

14 years ago, but the case law, as Mr Harrison has pointed out,

have

15:17:20 15  
all been many, many, many, many and numerous -- which I'm not at

case

16 on top of these cases since then. So I don't know what the

17 law says. And in a case like this situation here, to me, it

18 would be a judgment of case-by-case scenario.

19 PRESIDING JUDGE: That's a candid answer. I think we  
can

15:17:42 20 proceed.

21 MR JORDASH: I think, yes.

22 PRESIDING JUDGE: Yes, that's fine.

23 MR JORDASH:

24 Q. Well, let me ask you on this case, then: Did you see  
your

15:17:47 25 role, your obligation under the Rules, as doing anything more  
26 than reading the right, having the boxes ticked; that was your  
27 obligation satisfied, irrespective of the understanding of the  
28 accused?

29 A. If you look at the transcripts --



1 Q. No, I'm asking you about what you saw your obligation to  
2 be. We'll come to the transcripts in a moment.

3 A. Okay. When I read the right to Mr Sesay and explained  
to  
4 him in great detail on many, many times, many occasion, and  
it's

15:18:22 5 all there, Mr Issa Sesay had made a clear, very clear concise  
6 and --

7 Q. Mr Morissette, I don't want to be rude, but I do want to  
8 get this finished.

9 PRESIDING JUDGE: Counsel, I think he's entitled to give  
15:18:37 10 his explanation, unless there's something particularly -- or  
he's  
11 straying away. But I think you -- I mean, this is  
12 cross-examination. The latitude is great. And I think we  
need  
13 to also let the witness amplify as much as he can --

14 MR JORDASH: Certainly.

15:18:55 15 PRESIDING JUDGE: -- unless there is some reason why we  
16 should intervene.

17 MR JORDASH: Certainly.

18 JUDGE ITOE: We have always allowed witnesses to amplify  
19 here. So why should Mr Morissette be the exception, Mr  
Jordash?

15:19:06 20 Please.

21 MR JORDASH: I'll let Mr Morissette speak.

truth. 22 PRESIDING JUDGE: Remember, we are searching for the

23 Let's proceed, Mr Morissette.

24 MR JORDASH:

15:19:12 25 Q. Sorry to interrupt you, Mr Morissette.

and 26 A. In my -- after having read and followed the procedure

he 27 talked with Mr Sesay and reading his right, in my conscience,

28 clearly, clearly understood what the rights were, what his

29 options were. He clearly understood it. And at that time, I

1 felt that it was my duty to continue in the way to see if we  
2 could see the collaboration of Mr Sesay, given the size of  
this 3 conflict.

4 Q. So the answer is yes, you did see your role as going  
beyond 5 reading the rights; you wanted to ensure he understood?  
15:19:44

6 A. Yes, yes. And on many, many, and it's very clear in the  
7 transcript.

8 Q. Well, we'll see if it's clear.

9 A. Yes.

10 Q. And did you -- is this right? Did you see your  
obligation

11 also in terms of ensuring not just that the rights were read  
and 12 that he understood that he had a right to counsel but that he  
13 understood that counsel could be obtained at any time?

14 A. I believe it's in one of the -- I don't recall exactly,  
but

15 I believe it's in the specific right advisement. I don't  
16 remember.

17 Q. Well, I'm just asking you about what's in your mind when  
18 you're approaching this case. Did you see your role as  
ensuring

19 not just that Mr Sesay understood the rights, but that he  
15:20:57 20 understood that counsel was available there and then if he so

21 wanted? Any lawyer --

22 JUDGE ITOE: Allow Mr Morissette to drink some water,  
23 please.

24 MR JORDASH: Yes, I'm just trying to ask the question.

15:21:16 25 JUDGE ITOE: Please.

26 THE WITNESS: I believe that was -- personally, I did  
not  
27 do that personally, but I believe it was made clear again when  
he  
28 received the -- when he was informed by a visit from lawyers  
from  
29 the Defence Office.

1 MR JORDASH:

2 Q. Well, do you know the contents of their conversation?

3 A. No.

4 Q. No. So what was in your mind, did you see it as part of  
15:21:38 5 your investigative protocol to be confident at any time that  
6 Mr Sesay understood that he had a right to counsel there and  
7 then?

8 A. No.

9 Q. You didn't see that as an obligation?

15:21:52 10 A. No.

11 Q. Okay. Thank you. Let me ask you this, it's a follow-on  
12 from that: Do you accept that you had an obligation to ensure  
13 that if Mr Sesay showed a lack of understanding, that that  
lack  
14 of understanding about his rights was put right by you, or  
your  
15:22:41 15 team?

16 A. Mr Sesay never demonstrated to me any lack of  
understanding  
17 of his right.

18 Q. Do you accept you had an obligation, if he had, in terms  
of  
19 his understanding of who and when he could obtain counsel, do  
you  
15:23:04 20 accept you had an obligation to correct that lack of  
21 understanding?

22 A. Yes.

23 Q. Thank you. And that obligation, if -- do you accept  
that  
24 obligation went beyond simply repeating the right, but trying  
to  
15:23:30 25 explain exactly what they meant, if Mr Sesay showed confusion?

26 A. As I said, Mr Sesay never shown any way that he did not  
27 understand what his right were.

28 Q. But if he had --

29 A. So I didn't need to go any further.

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have

1 Q. If he had, you, as a professional investigator, would  
2 corrected his misapprehension?

3 A. If he had, yes.

4 Q. And if you didn't correct it, you would have been acting  
15:24:00 5 outside the proper conduct of your investigation?

6 A. I suppose so.

this

7 Q. Thank you. When you approach a case, but particularly  
8 case, did you have in mind the characteristics of Mr Sesay and  
9 who you were dealing with particularly?

15:24:26 10 A. I knew a little bit about him, if that's what you meant.

11 Q. Well, what I mean is this: That you accept you had an  
12 obligation to ensure he understood his rights?

13 A. That's correct.

he

15:24:44 15 was, when checking to yourself whether he understood his  
rights?

16 Do you follow? I mean, it's one thing interviewing, say, for  
17 example, President Obasanjo, it's another thing interviewing  
some

18 uneducated person who's lived their life on a farm; do you  
accept

19 that?

15:25:10 20 A. Not really, no. If the person can speak and understand

10

21 what is said, whether he's a president or, you know, a grade

22 student, or a farmer, if he understands what has been

23 communicated to him, then there's no difference to me.

24 Q. But wouldn't you, in that step towards checking whether

15:25:35 25 they have understood, take on board who that person is from an

26 objective point of view?

person

27 A. I knew who the person was. I was talking with the

28 face-to-face and the person, to me, was clearly demonstrating

29 that he understood exactly what we were talking about.



1 Q. Well --

2 A. And that was the end of it for me.

3.00

3 Q. Well, when you saw him and first spoke to him, it was  
4 on 10 March, wasn't it?

15:26:03 5 A. Yeah, around 3.00, yes.

say

6 Q. And the interview starts, I think, at 3.03, if what you  
7 is correct?

8 A. That's correct.

the

15:26:16 9 Q. So that was the sum total of your interaction prior to  
10 interview of the 10th; is that correct?

11 A. Well, from the interview, from 3.00 to -- I think the  
12 interview went to 4.30, something like this. I forget.

we

13 Q. Yes, but the only indication you had of his educational  
14 abilities, his intelligence, his ability with English is what  
15 see in the interview essentially; is that correct?

the

16 A. From the time he started -- at that time, yeah. From  
17 time we started the interview, around 3.00, and with the right  
18 advisement until the end of the interview, that's my initial  
19 contact with Mr Sesay.

went

15:26:52 20 Q. Right. But did you not take into account before you

bush

21 into court that this was a man who had been fighting in the  
22 for over ten years with no or little formal education; did you  
23 take that into account?

24 A. What I took into account, to be honest, is that then --  
15:27:08 25 that's why I wanted to be -- to -- you know, to form a bonding  
26 with Mr Sesay. What I took into account, when we arrested  
27 Mr Sesay, is that he had been a winner for ten years.

28 Q. He had been, sorry?

29 A. A winner, living in the jungle and survived for ten  
years,

1 so I think you have to be pretty smart to do that.

2 Q. Well, you might have to be street smart, but you have to  
3 accept that doesn't necessarily equip you with legal  
terminology;

4 do you accept that?

15:27:37 5 A. I'm not equipped with very much legal terminology  
either.

6 Q. Sorry?

7 A. I'm not very much equipped with legal terminology  
either.

8 I'm a police officer. I'm not a lawyer.

9 Q. Well, legal terminology of the rights and the waivers,  
Rule

15:27:52 10 42, Rule 63. You accept, don't you, that it must have been  
clear

11 to you that Mr Sesay -- this was all new to Mr Sesay?

12 A. It was new to Mr Sesay, and it was clear to me that  
13 Mr Sesay understood it clearly.

14 Q. Well, we'll come to why you arrived at that conclusion  
15 shortly. It is something, then, you felt that you ought to  
take

16 into account; that this was a man who would not have been  
17 familiar with this kind of terminology. I mean, it's a  
18 convoluted question. I can ask it again if you want?

19 A. Please.

15:28:34 20 Q. At that point, at 3.00, just before you went into the

interview 21 interview, did you take on board that you were about to  
and 22 a man who'd been running around the bush for over ten years  
23 was extremely unlikely to have ever seen anything like these  
24 various rights?  
15:28:53 25 A. What I took on board when I went in there, is I took on  
26 board that I was going to meet, face an individual that had  
collaborate 27 clearly indicated to Mr John Berry his intention to  
board 28 with the Office of the Prosecutor. That's what I took on  
29 when I went into that interview.

agree

1 Q. And that was it?

2 A. That was it.

3 Q. Now, in terms of how to conduct an interview, do you  
4 that threats are impermissible?

15:29:45 5 A. That's correct.

6 Q. Do you agree that promises can be inducements?

7 A. That's correct.

8 Q. And do you agree that a police trickery, or an  
9 investigative trickery, can also vitiate consent --

15:30:05 10 JUDGE ITOE: What was the second?

11 MR JORDASH: -- to speak --

12 JUDGE ITOE: What was the second?

13 MR JORDASH: Second was promises made an inducement --

14 JUDGE ITOE: Threats are impermissible, that was a world  
15 standard, yes? And then?

16 MR JORDASH: Promises can be inducements.

17 JUDGE ITOE: Okay.

18 MR JORDASH:

19 Q. And trickery can undermine an interviewee's consent to  
15:30:40 20 interview; it can make it involuntary.

21 PRESIDING JUDGE: Yes, Mr Harrison.

the

22 MR HARRISON: I think that would probably depend upon

23 law applicable to the circumstance. I think the law in Canada  
24 is -- I think the answer is no, but I think the law for this  
15:30:55 25 Court could well be very different.

26 PRESIDING JUDGE: It could be open, in fact. Are you  
27 putting a legal question? Because you probably need to  
rephrase  
28 that because the way it's phrased, really, can leave us with  
the  
29 impression that you are clearly asking questions of law.

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1 MR JORDASH: Well, I'm --

2 PRESIDING JUDGE: Whether a promise amounts to an  
3 inducement can be properly a question of law, and whether  
4 trickery can vitiate consent can also be a question of law. I  
15:31:32 5 think you need to rephrase from a factual sort of way.

6 MR JORDASH: I'll rephrase it, certainly.

7 Q. Did you employ trickery to obtain a statement from the  
8 witness?

9 A. First of all, I don't know whether you should call him a  
15:31:46 10 witness or a suspect, depending on the circumstance, and the  
11 means, it depends what you mean by trickery. I'm an old  
12 undercover operator and, as it's been brought up too, in  
Canada,  
13 it's allowed. You can use things like this when you're in an  
14 undercover role operation, and you could use it also when  
you're

15:32:07 15 interviewing suspect. To my knowledge, there's nothing wrong  
16 with it. But again, maybe the law's changed. I don't know.

17 PRESIDING JUDGE: Why not take the question back to the  
18 level in which you asked it? Because your kind of answer now  
19 might raise controversies as to the law. He said whether you,  
15:32:28 20 would you employ trickery? Probably if he gave you samples of  
21 that. I mean, it is a question of you, as an investigator  
now,

violation 22 leaving the realm of what -- whether it may amount to a  
23 of law. I mean, as has been said around in this Court, the  
whole 24 thing is very controversial. There is some national law to  
15:32:55 25 national law, and even -- we don't know what the law is in the  
26 context of international criminal justice. But answer the  
27 question, if you can.

answer 28 THE WITNESS: It's very hard for me, Your Honour, to  
29 the question because I don't know what -- what the -- what we



1 need for --

2 PRESIDING JUDGE: Well, let him give you samples, yeah.

3 THE WITNESS: What do we need for -- what do we need --  
4 mean by trickery?

15:33:08 5 PRESIDING JUDGE: Yes.

6 THE WITNESS: And what are the circumstances?

7 PRESIDING JUDGE: Mr Jordash, perhaps if you give some  
8 samples. If you attempt a verbal definition, I think you'll  
run  
9 into difficulty. So, why not give some examples?

15:33:21 10 MR JORDASH: Certainly.

11 Q. Well, let me try to narrow the question. Would you  
employ,  
12 at this Court, trickery which involved a quid pro quo? You  
make  
13 a promise to somebody if they cooperate, collaborate, they  
will  
14 receive some kind of quid pro quo?

15:33:43 15 A. What is a quid pro quo?

16 Q. Okay, sorry. It's an English term which --

17 PRESIDING JUDGE: It's a Latin term which means  
something  
18 for something.

19 JUDGE ITOE: It's not English, something for something.

15:34:00 20 PRESIDING JUDGE: Something for something.

21 MR JORDASH: It's the only Latin I know, actually.

22           PRESIDING JUDGE: Benefit. Benefit. Something for  
23 something.

24           MR JORDASH: Yes, something for something.

15:34:05 25           PRESIDING JUDGE: That's the literal translation.

26           MR JORDASH:

27 Q.       Would you employ a trick where you'd offer something for  
28 something, but the something you were offering was not to be  
29 actually followed through?

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never

1 A. No. There was never -- first of all there was no --  
2 any promise made to Mr Sesay, as far as I'm concerned. And I  
3 will not -- and it was made very clear to him that we were not  
4 making any promise to him.

15:34:45 5 Q. But would you offer anything in exchange for  
collaboration?

6 A. Yes.

7 Q. What would you offer, just generally, at this Court, in  
8 exchange for collaboration?

9 A. In the case of Mr Sesay, the only thing that was offered  
to

15:34:57 10 him as in -- that was in the course of our discussion, again,  
11 over the personal discussion that was with him, at his  
request,

12 that -- he was asking me what kind of a protection measure we  
13 could guarantee for his family if he was going to come on  
board,

14 and I did offer him that if that was going to be the case, we  
15:35:19 15 could initiate temporary protective measure for his family,  
and

16 that was done.

17 Q. I'll just come to the end of this section in a moment.

18 Sorry for the delay. Do you accept this that, or do you have  
19 regard to this, that it might be the case that when offering  
the

15:37:14 20 possibility of a reduced sentence, that that might act as some

21 incentive or inducement? Do you have regard to that  
possibility?

22 A. That was not done. There was never any offer made to  
23 Mr Sesay for reduced sentence. Mr Sesay was told that the  
24 information, everything, the collaboration would be -- would  
be  
15:37:33 25 supplied, given to the Trial Chamber, and we would, the  
26 Prosecution would request the Trial Chamber to take this into  
27 consideration. That was the extent of it.

28 Q. Do you accept that giving somebody the impression that  
they  
29 would be a witness would be an inducement; is that something

1 you'd have regard to?

2 A. To be a witness would be an inducement?

3 Q. Yes, rather than being an accused. If you gave that  
4 impression, would you see that as an inducement?

15:38:03 5 A. No.

6 Q. You wouldn't see that as an inducement?

7 A. No.

8 Q. So that's something you would do, if necessary?

9 A. Yes.

15:38:11 10 Q. I want to be clear about this: You would have no qualms  
11 about suggesting to someone: If you collaborate with us,  
you'll  
12 be a witness rather than an accused?

13 A. No, no, no, no. You're playing with words. I have no  
14 problem for somebody, as Mr Sesay, to say to us, "I want to  
15 collaborate with the Office of the Prosecutor," and I have no  
16 problem with interviewing Mr Sesay and recording a statement  
and  
17 bring him in as a witness. But, when I'm saying that, I'm not  
18 the guy who's going to make the call who's going to be a  
witness

19 or not. That has to be done by the Prosecutor himself. They  
15:38:49 20 will decide if Mr -- if the evidence provided by Mr Sesay is  
21 worth to call him as a witness. But what I'm saying, I have  
no

22 problem, when I'm talking to somebody, if the person is an  
23 accused person, and wished to become a witness for the Office  
of  
24 the Prosecutor, I have no problem with that.

15:39:09 25 Q. Would you have a problem with them getting the  
impression  
26 from that they'd be a witness and not an accused, if they got  
27 that impression? Would you guard against giving that  
impression,  
28 or is that something that doesn't trouble you?

29 A. No, no, no. Because it was all -- first of all, it was

not  
1 made clear to Mr Sesay that a witness doesn't mean that he's  
2 going to be an accused. It was very clear that he could be  
3 accused, he could be charged, but still agree to become a  
4 witness, and then it would be to the Court to deal with the  
15:39:41 5 situation. But the fact that we were trying to ask Mr Sesay  
to  
6 become a witness was never the fact that it did not mean that,  
7 automatically, he would not be charged for any offence. That  
was  
8 not the case.

being  
9 Q. So you accept that you offered him the possibility of  
10 a witness?  
15:39:57

11 A. Yes.

say  
12 Q. And you accept that you -- well, on what basis did you  
13 that would be advantageous to him?

14 A. For what, for Mr Sesay to become a witness?

15:40:10 15 Q. Yeah.

to  
16 A. Mr Sesay was an insider to this conflict. He had a lot  
17 bring --

18 Q. How was it going --

19 A. -- for the information of the Court.

15:40:24 20 Q. Well, what did you say to him in these conversations off

21 tape about what was in it for him?

22 A. What was in it for him?

23 Q. Yes.

24 A. We would provide witness protection for him, for his  
15:40:37 25 family, I mean. We would do that. And we would recommend to  
the

26 judge that they take it into consideration and, again, it's in  
27 the transcript, that they would take into consideration what  
he

28 had provided the assistance and the collaboration that he had

29 done to the Office of the Prosecutor.



1 Q. So it's protection, it's assistance in having the Court  
2 reduce his sentence, if possible?

3 A. No, no, no.

4 Q. No?

15:41:09 5 A. It's request to the Chamber to take this into  
6 consideration. To take whatever Mr Sesay was willing to put  
on  
7 the platter, we would make the -- we would ask the Prosecutor  
to  
8 make recommendation to the Court to take this under  
9 consideration. There was never any discussion about asking  
the

15:41:29 10 judge to reduce the sentence or, you know, doing a plea  
11 bargaining or fixing a sentence, never.

12 Q. But, Mr Morissette, as you know happens in these Courts,  
if  
13 a witness, if an accused collaborates and then comes to a  
clear

14 agreement in which part of that agreement the accused agrees  
to

15:41:51 15 give evidence on behalf of the Prosecution, the Prosecution  
16 routinely suggests to the Court that a lower sentence should  
be  
17 passed; am I right about that?

18 A. That the Prosecution would recommend that to the Court?

19 Q. Yes.

15:42:15 20 A. Yeah.

21 Q. That's common practice --

22 A. Yes.

23 Q. -- in all the international tribunals?

24 A. Yes. Yes.

15:42:22 25 Q. That if -- and it's common practice that you, for  
example,

26 as an investigator, would be aware of when interviewing an

27 accused?

28 A. That's correct.

29 Q. And so if Mr Sesay had asked you, "What's in it for me  
in

1 terms of collaborating?" You would have said, "Well, we will  
2 recommend you get a lower sentence."  
3 A. What I said to Mr Sesay, and it's right in the  
transcript,  
4 if you read and if you listen to the tape, it's right there,  
that  
15:42:47 5 we will recommend, we will make recommendation for the Chamber  
to  
6 take into consideration whatever you're willing to put on the  
7 platter, whatever you're willing to offer.  
8 Q. Well, we know what's on the tape, but we don't know  
what's  
9 off the tape; that's the problem with no notes. But what I'm  
15:43:05 10 suggesting is that something that would have logically flowed  
11 from any conversation. Mr Sesay says to you, according to  
you,  
12 "I want to collaborate. What's in it for me?" You must have  
13 said, "No, the Prosecution can recommend and would recommend a  
14 lower sentence if you become a witness for us."  
15:43:27 15 A. That's right. And before they decided that -- for the  
16 Prosecution to decide that, you have to tell us what's in it  
for  
17 us.  
18 Q. So am I correct, then, that's something you did say to  
19 Mr Sesay: We can recommend to the judges a lower sentence --  
15:43:42 20 A. No.

21 Q. You didn't say it?

22 A. No.

23 Q. So the only collaboration -- well, what's the difference  
24 between what I've said and what you have admitted to saying?

15:43:52 25 A. I never offered him that we would say -- we would  
26 specifically ask for a reduced sentence.

27 Q. But what did you say, then, that you'd put the issue  
before  
28 the judge?

29 A. That's correct.

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1           PRESIDING JUDGE: For consideration.

2           THE WITNESS: That's correct.

3           PRESIDING JUDGE: In the light of whatever collaboration  
or  
4 cooperation he might have given. I think that's the  
difference

15:44:15 5           between you and him. He did not -- he was not prepared to be  
6 specific. He remained on a level of generality.

7           MR JORDASH:

8 Q.       And Mr Sesay never said to you, "What do you mean by  
that?"

9 A.       No.

15:44:33 10          Q.       And not once during these few weeks did you ever tell  
him  
11 what you meant by putting it before the Court for  
consideration?

12 A.       Well, I was telling to do -- make Mr Sesay understand  
that:

13 You tell us what it is that you know; we will present it to  
the

14 Prosecutor; it will end up to the Court, to the judge; and it  
15 will be to the judge to take into consideration whatever you  
16 are  
giving.

17 Q.       In what -- am I -- I just want to be clear about this:  
You  
18 never once explained what that meant: Take it into  
19 consideration?

15:45:10 20 A. Well, taking into consideration. I mean, sure, taking  
into  
21 consideration may mean that you get a reduced sentence; it may  
22 mean that you serve your sentence less. There's a lot of  
things  
23 it can mean.  
24 Q. Well, exactly.  
15:45:21 25 A. Yeah, exactly.  
26 Q. What I'm asking is: Did you explain any of them to  
27 Mr Sesay, because there are a lot of things it can mean.  
28 A. I think so. I did. Yes.  
29 Q. Right. Now, that's what I was interested in. So please

1 try to remember. I know you don't have any notes --

2 A. But I want to make it clear that --

3 Q. I want to ask a question. You didn't have any notes --

4 JUDGE ITOE: Please, allow Mr Morissette to explain

15:45:50 5 himself. Mr Morissette, please, explain yourself from where  
you

6 left.

7 THE WITNESS: What I was saying, sir, Your Honour, when  
I

8 was talking with Mr Sesay, there are things that we were

9 discussing that could be -- that we could do. But there was

15:46:04 10 never, never any promise to these things, that these things  
would

11 happen, would take place, and that these things -- the only

way,

12 except for the witness protection, a temporary protective

measure

13 that we were going to put in place, otherwise all these things

14 would have to be taken in consideration by the Chamber, by the

15:46:29 15 judge.

16 MR JORDASH:

17 Q. But what were the specific things you said then that you

18 weren't promising, but that you were saying were possible if

19 collaboration was a successful one? What did you say to

15:46:38 20 Mr Sesay?

with  
just  
done.  
15:46:57  
transfer  
this.

21 A. I was very vague with him, like I've been very vague  
22 anybody else that I dealt with in these type of case. I was  
23 bringing it up to set an example that, maybe, it could be  
24 We can talk about, you know, asking the judge to be lenient  
25 because of your collaboration. Again, the implementation of  
26 protective measure for the family may be arranged for a  
27 to another location; have the family transferred to a close  
28 location where there could be visiting right, things like  
29 But this was always in general nature of things that could be



1 done.

2 Q. These are the things you said would, could flow from  
3 collaboration; is that right?

4 A. Could flow. These are the things that we would look at  
if  
15:47:34 5 he agreed to collaborate with us.

6 Q. Right. That's what you told Mr Sesay?

7 A. Yep.

8 Q. And collaboration, as you explained to him was,  
basically  
9 giving an account which would mean he could become a witness?

10 A. Yeah.  
15:47:51

11 Q. Yes. So collaborating meant, effectively: Tell us  
12 something to support our case and then these issues might --  
13 these considerations might happen; correct?

14 A. Correct. That was the only exercise.

15 Q. Right. And, obviously, as part of implementing  
protective

16 measures, you were saying to him: Well, this is what we can  
do.

17 We can put your wife and family into protective measures. As  
18 part of protective measures, you can also get financial  
19 assistance; is that right?

20 A. Yes.  
15:48:30

21 Q. So you were effectively saying to him: Collaborate with

22 us, be a witness for us, and your wife will be supported and  
23 looked after by protective measures?

24 A. She would be placed in the temporary protective  
programme,

15:48:46 25 protection programme, that's correct.

26 Q. Or it may be permanent.

27 A. It may be permanent too.

28 Q. And financial benefits would flow from that, perhaps

29 schooling, health, financial support to ensure that his wife  
and

1 children were looked after?

2 A. Perhaps.

3 Q. Perhaps. You made that clear to Mr Sesay that that was  
4 possible?

15:49:10 5 A. Yes.

6 Q. And perhaps relocating his family to another country?

7 A. Perhaps, yes.

8 Q. To start a new life.

9 A. That's correct.

15:49:20 10 Q. Now, I want to ask you, if I can, about an interview you  
11 gave on the 17th -- you were part of on 17 October 2002 and  
it's  
12 Exhibit 217.

13 MR JORDASH: I think I might have --

14 PRESIDING JUDGE: Madam Courtroom Officer, do we have  
the  
15 exhibit here?

16 MR JORDASH: I didn't tell the Court Management. So  
it's  
17 my fault.

18 PRESIDING JUDGE: I see. So no notice.

19 MS KAMUZORA: Your Honour, we have it.

15:50:17 20 PRESIDING JUDGE: Do we have it.

21 MS KAMUZORA: Yes, Your Honour.

it. 22 PRESIDING JUDGE: That's very good. Well, let him have  
23 MR JORDASH: Could Mr Morissette --  
24 PRESIDING JUDGE: Show it to Mr Morissette.  
15:51:03 25 MR JORDASH:  
26 Q. That's an interview with this particular man.  
27 JUDGE ITOE: Is that the document of 17 October?  
28 MR JORDASH: Yes, it is, Your Honour.  
29 JUDGE ITOE: 17 October?

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1 MR JORDASH: Yes.

excerpt

2 Q. I don't know if you've seen this recently. It's an

3 from an interview which you and Mr White were a part of. Have

4 you seen that before?

15:51:31 that

5 JUDGE BOUTET: Mr Jordash, just mention to the witness

6 this is a protective witness.

7 MR JORDASH: Yes.

8 JUDGE BOUTET: So just in case.

9 MR JORDASH:

15:51:39

10 Q. Mr Morissette.

11 A. Yes.

protected

12 Q. Sorry to interrupt you. The witness there is a

13 witness, so we can't mention his name.

that

14 MR JORDASH: Could I also just advise Court Management

15:51:54

15 I'd like to refer to Exhibit 216 as well. In fact, if I could

16 have that given to Mr Morissette now, please.

17 Q. Perhaps I could ask you to look at the second one first.

18 A. That's a different one?

19 Q. It's a different one, different person, but, again,

I

15:52:39

20 protected witness. I think you'll recognise the name. Could

21 ask you to just have a quick look through --

22 JUDGE ITOE: Don't say the second one. Call it by name,  
23 please.

24 MR JORDASH: Exhibit 216, Your Honour. I should have  
given  
15:52:59 25 this first.

26 JUDGE ITOE: Right. This is the exhibit of 25 February  
27 2003?

28 MR JORDASH: I think I might have to -- could I just  
have a  
29 moment, please. I may have to put a new exhibit in, because

1 there was a page missing out of this exhibit, 216, which I  
2 discovered this morning. So I've given copies to your learned  
3 legal officer. It's in the big bundle. And the Prosecution,  
4 also. But it's essentially the same, but one page, which is  
15:53:43 5 additional.

6 PRESIDING JUDGE: So you intend to put it in as part of  
the  
7 trial within a trial?

8 MR JORDASH: Yes, only because I want to ask Mr  
Morissette  
9 about this interview.

15:53:58 10 PRESIDING JUDGE: Yes.

11 MR JORDASH: Just very, very briefly. Could I ask that  
he  
12 be given the new copy, please. Sorry, it's a bit confused.

13 PRESIDING JUDGE: How many documents does Mr Morissette  
14 have there now?

15:55:08 15 MR JORDASH: Yes, I just asked Court Management to take  
16 away Exhibit 216 and give Mr Morissette the new document.

17 PRESIDING JUDGE: Which is not yet an exhibit?

18 MR JORDASH: Which is not yet an exhibit. It's exactly  
the  
19 same as 216, but one additional page, page 5, at the top  
15:55:25 20 right-hand of the page.

21 Q. Can I ask you, Mr Morissette, do you remember this

22 individual?

23 A. Yes, I do.

24 Q. Would you turn to page 4, please.

15:55:34 25 JUDGE BOUTET: Which one is he looking at now, Mr  
Jordash?

26 MR JORDASH: The new one. The new one.

27 JUDGE BOUTET: Which is not in evidence yet?

28 PRESIDING JUDGE: Yes, quite right.

29 MR JORDASH: [Overlapping speakers].

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4 1 Q. I just want you to -- if you would read page 3 and page  
2 and the top of page 5 to yourself.  
3 A. At the top of page 3? Starting?  
4 Q. Starting at the -- well, we could start at page 2,  
15:56:08 5 actually, just so you get the waiver in there.  
6 A. Up to what page you said, please?  
7 Q. Up to page -- the top of page 5, the first three lines  
of 8 page 5.  
9 A. Okay.  
15:59:00 10 Q. Yeah. And then just if you would go down to the bottom  
of 11 page 45, which is the next page in the bundle, where there's  
12 reference there to a deal: "In return for providing truthful  
13 information and other assistance, the OTP has agreed to us its  
14 best efforts to provide me with security or other support  
15:59:22 15 services that may be necessary in return." Then a question  
16 there: "What I'm telling you and what John's telling you,  
either 17 you give us the truth or information, or this becomes null."  
18 Yeah?  
19 A. Yep.  
15:59:42 20 Q. Now, this is a man who, clearly, at the time of this  
21 interview, it was decided he was a witness; yes?

22 A. Excuse me?

23 Q. At the time of this interview it had been decided by the  
24 Prosecution that this man was to be a witness?

16:00:00 25 A. Yes, Your Honour.

26 Q. And what was different, then, about what was offered to  
27 this man?

28 A. I'm not too familiar. I had just arrived in the  
country,

29 so I don't recall all of the details, but my recollection of  
it

has  
Court  
I  
because I  
16:00:45 I  
this  
by  
after  
16:01:09  
yes?  
who  
16:01:27

1 is that because of the level the Prosecutor who, as you know,  
2 the decision to accuse the person, bearing in mind that the  
3 is here to try those who bear the greatest responsibility, and  
4 believe that the decision was made at that time that --  
5 was not involved in the decision-making of this process -- but  
6 believe the reason it was made was that the Prosecutor felt  
7 person was not one who bear the greatest responsibility.  
8 Q. But am I right that, for this man, what was said to him  
9 the Prosecution was: Collaborate, be a witness, we'll look  
10 your family.  
11 A. Yep.  
12 Q. And we'll give them assistance and take care of them;  
13 A. That's correct, Your Honour.  
14 Q. The same things, effectively, that were said to Sesay,  
15 was an accused?  
16 A. That's the difference with Sesay; Sesay was an accused.  
17 Q. But the offers were the same?  
18 A. Basically, yes. Basically, yes.

19 Q. Can I ask you, please, to turn to Exhibit 217; another  
16:01:58 20 interview with another man. Do you recall this interview? I  
21 will let you just have a quick flick. I'm particularly  
22 interested in pages 6, 8, 9 --

23 JUDGE ITOE: What becomes of the other document? Is  
24 that --

16:02:13 25 MR JORDASH: I beg your pardon. Could I apply to  
exhibit  
26 it, please?

27 PRESIDING JUDGE: Exhibited for the purposes of a trial  
28 within a trial and, therefore, it has to be a letter G, if we  
29 receive it, because you cannot now, at this stage, exhibit it  
as

the 1 part of an earlier document that was, in fact, exhibited in  
2 main trial. There would be a possible slight procedural  
3 incongruity there.

4 MR JORDASH: I won't bother then.

16:02:44 5 PRESIDING JUDGE: We can keep it and letter it, and then  
6 indicate some nexus between the exhibit as G and the other one  
7 which is in the main trial.

8 MR JORDASH: Yes.

9 PRESIDING JUDGE: But you can see the difficulty?

16:02:56 10 MR JORDASH: I can. I can.

11 PRESIDING JUDGE: So, we will receive it if there's no  
12 objection.

13 JUDGE ITOE: We have crossed G now.

14 PRESIDING JUDGE: Yes. I think the last one was F, this  
16:03:02 15 morning? Can we have --

16 MS KAMUZORA: Your Honour, the last one was G.

17 PRESIDING JUDGE: Is it G?

18 JUDGE ITOE: The last one was G.

19 PRESIDING JUDGE: So we are now at H. Is there any  
16:03:09 20 objection on the part of the Prosecution?

21 MR HARRISON: No.

22 PRESIDING JUDGE: Then we'll receive it in evidence and  
23 mark it Exhibit H.

24 MR JORDASH: I'm grateful, Your Honour.

16:03:20 25 PRESIDING JUDGE: And we can just link, make a link  
between

26 it and the main document.

27 MR JORDASH: Certainly. Thank you.

28 [Exhibit No. H was admitted on the voir  
dire]

29 MR JORDASH: Exhibit 217.

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Or  
1 JUDGE ITOE: Do you want him to read the whole of 217?  
2 you're guiding him through just some of the pages?  
3 MR JORDASH: Six and 8 are the key pages, I think. And  
4 then 15 and 16 are important.  
16:04:36 5 Q. Let me just take you, just for shortness of time,  
6 Mr Morissette, to page 8.  
7 A. Yes.  
8 Q. The "Morris" there is you. The comment you make there:  
9 "We will be coming back to you and explain, as we said,  
we  
16:04:53 10 would bring a copy of the transcript. From my side,  
there  
11 is one thing I would like you to think about very  
seriously  
12 at the time we come back, and I am serious about this,  
that  
13 I spent six years in the international criminal tribunal  
in  
14 Rwanda where you know about the genocide thing that  
16:05:10 15 happened, and the people have been put away for life.  
You  
16 are, my friend, you are not going to be put away for  
life.  
17 You are going to be found guilty. They are going to  
take  
18 your life away if you are found guilty, and that amounts  
to

19 death penalty. Now, think about that. There is a big  
16:05:33 20 difference, the government court here and the Special  
21 Court. One of the big difference is I am not saying  
22 anything to threaten you, I just want to inform you of  
the  
23 big difference at the Special Court if the case -- they  
are  
24 going to take on the maximum is life in prison -- life  
in  
16:05:51 25 gaol. This is the maximum penalty. And the Government  
of  
26 Sierra Leone law, the penalties, as you know, is death,  
are  
27 those who are aware of -- help themselves, you know,  
that  
28 will be taken into consideration in -- by the Prosecutor  
29 and by the judge. So you know the difference between



in 1 spending so many years in gaol or spending all your life  
2 gaol."  
3 Do you see that?  
4 A. Yes, I do.  
16:06:21 5 Q. Could you explain what you were doing there?  
6 A. Well, I can explain what I'm doing there, but I would  
like 7 to draw the attention that I think this transcript -- I recall  
8 this, and I don't think that the transcript, to be honest with  
9 you, Your Honour, reflects correctly what was on the tape. I  
16:06:39 10 would be very cautioned about this. You may want to listen to  
11 the tape before you take for granted what's on that  
transcript.  
12 Q. Well, just --  
13 PRESIDING JUDGE: So you're saying there's a disconnect  
14 between the tape and the transcript?  
16:06:52 15 THE WITNESS: Yes, Your Honour.  
16 PRESIDING JUDGE: In respect to that particular extract?  
17 THE WITNESS: Yes, Your Honour. On that, I think the  
18 whole -- in respect to the -- probably the whole transcript.  
19 PRESIDING JUDGE: And you cannot help us with, in terms  
of 16:07:07 20 your recollection?  
21 THE WITNESS: That's 2000 -- October 2002, and I've  
never

there 22 had the opportunity to listen to the tape, but I know that

23 were problem with the tape.

24 PRESIDING JUDGE: Yes. Well, try and help us as much as  
16:07:22 25 you can for the time being.

these 26 MR JORDASH: Just for the information of the Court,

27 are transcripts given to us by the Prosecution. We have not  
been

28 given the tape, so we can't check.

29 PRESIDING JUDGE: Yes. Let him guide us as much as he  
can

1 for the time being.

2 THE WITNESS: Well, basically, again, what I was referring

3 to here is the same thing as I mentioned this morning, and it's

4 the same thing in investigating these type of offence. And we're

16:07:47 5 faced here with a person that, according to the Prosecutor, who

6 has the discretion to say who he charges and who he does not

7 charge, a person that, without naming the name, but a person that

8 we know that is not a free person, and a person that, according

9 to the Prosecutor, does not -- is not one that bears the -- that

16:08:17 10 falls in the category of those who bear the greatest

11 responsibility and, therefore, the Prosecutor has no interest in

12 charging this type of person. So, basically, what we're doing,

13 which is a recognised technique everywhere in the world, when you

14 are investigating organised crime, or Mafia, drug cartels, is

16:08:39 15 we're trying to secure the collaboration of this person as an insider to become a witness for us.

17 MR JORDASH:

18 Q. Well, you're saying to him: Collaborate with us and you'll

19 save yourself the death penalty. That's what you're saying,  
16:08:54 20 isn't it?

21 A. I got difficulty with the transcript, with the tape.

22 Q. What do you think you said then?

23 A. I know we were talking about the death penalty because  
of  
24 the -- at that time, the person, as you know where the person  
is,  
16:09:09 25 in the -- in Sierra Leone, they had -- they had the death  
26 penalty, and this is what this person was facing.

27 Q. Yeah. And you were saying collaborate, and you will  
save  
28 yourself it?

29 A. That's correct.

quite

also

16:09:44

with

16:10:06

16:10:18

seriousness

charge,

16:10:46

1 Q. Yeah. And then you can see on page 14, you make it  
2 explicit: "They want justice," this is about six lines down,  
3 "They," as in the Sierra Leoneans, "want justice and you get  
4 part of this by collaborating with us and you save your life."

5 A. Which page?

6 Q. Sorry, page 14 on the top right-hand corner. "They  
7 want" -- do you see that six or seven lines down -- "They want  
8 justice and you can get also part of this by collaborating  
9 us and you save your life."

10 A. That's correct.

11 Q. And then Mr White says, "Well, anyway, you just save  
12 yourself the rest of your life in prison." So, two offers are  
13 being made there, aren't there?

14 A. That's correct.

15 Q. And you would say that that is proper and legitimate  
16 investigative tactics?

17 A. In this type of crime, yes, Your Honour.

18 Q. Thank you. For you, it all comes down to the  
19 of the crime, doesn't it? That if it is so heinous, the

20 that kind of tactic is legitimate?

21 A. Legitimate, depending also the type of crime, but also,

22 with the person that -- to whom this deal, if you want to, or  
23 these offer are made, I mean, there has to be something in  
24 return. There has to be somebody who can offer something in  
16:11:05 25 return.

in 26 Q. And you're prepared to offer the ultimate life itself,  
27 exchange for information?

28 A. I'm not offering life.

29 Q. Well, you're offering a relief from the death penalty?

1 A. What I'm offering to the person is that if you come on  
2 board with us, if you become a witness, you're not going to be  
an  
3 accused to the Special Court; you're not going to be charged  
by  
4 the Special Court.

16:11:33 5 Q. How could you prevent that man not going to the death  
6 penalty? How could you, an investigator for the Special  
Court,  
7 have that kind of authority?

8 A. I don't have that authority. It's the -- it's the  
9 Prosecutor that decides who is charged and who is not charged.

16:11:49 10 Q. So it was a trick, wasn't it?

11 A. No, it was not a trick. That person, when we went  
there,  
12 we knew right away that he was not the subject of an  
indictment  
13 by the Special Court.

14 Q. Yeah. You couldn't save him the death penalty, could  
you;  
16:12:03 15 you, personally?

16 A. Your opinion.

17 Q. Well, enlighten us. Perhaps you could.

18 A. I don't know.

19 Q. Well, do you have authority to relieve people in the  
Sierra  
16:12:19 20 Leonean government's detention facilities and prosecution

21 process, do you have the ability to be able to stop them from  
22 receiving the death penalty?

23 A. No.

24 Q. Now, let's turn to the facts in this case again. If I  
can

16:12:54 25 ask that you be given --

26 JUDGE ITOE: Are you through with 216 and 217, Mr  
Jordash?

27 MR JORDASH: Yes, thank you, Your Honour. Yes.

28 JUDGE ITOE: You're through?

29 MR JORDASH: Your Honour, yes.



you  
the

1 Q. Before I turn to this, just to follow on from that, do  
2 accept that Mr Sesay's collaboration, or his potential  
3 collaboration, was far more helpful to the Prosecution than  
4 person who we've just looked at in that last interview?

16:13:48 5 A. Yes.

6 Q. Thank you.

7 JUDGE BOUTET: I missed the first part of your question.

8 MR JORDASH: Sorry, Your Honour.

9 JUDGE BOUTET: If he was more helpful, was it?

16:14:03 10 MR JORDASH: Whether Mr Sesay's potential collaboration  
was

11 worth more than the potential of the witness --

12 JUDGE BOUTET: Than the last one. Okay.

13 MR JORDASH:

14 Q. Is that the way you understood the question?

16:14:14 15 A. That's correct.

16 Q. Thank you. Now, I want to --

of  
have  
officer.

17 MR JORDASH: Please, could the witness be given a copy  
18 the 10 March interview? Mr Sesay's 10 March interview. We  
19 them. We had them and they came from your learned legal

16:14:34 20 PRESIDING JUDGE: Madam Courtroom Officer, please  
assist.

manager  
21 MR JORDASH: I was just asked by the learned court  
22 whether I wanted to re-exhibit 217, but if I can take the same  
23 position as my learned friend from the Prosecution did, which  
was  
24 just to refer to the exhibit which was exhibited during the  
16:15:33 25 application for exclusion under voir dire, and all voir dire.  
26 Does that make sense.  
27 PRESIDING JUDGE: Perhaps the Prosecution will help us.  
28 MR HARRISON: If it's the 10th, it's already an exhibit  
on  
29 the voir dire.

1 PRESIDING JUDGE: Yes.

2 MR HARRISON: It's just called B for "boy." Exhibit B  
for  
3 "boy," is the transcript for the 10th.

4 MR JORDASH: Sorry, I think there have been some crossed  
16:15:57 5 wires. Referring to the interview which I've just dealt with  
6 with Mr Morissette, it was exhibited during the application  
for a  
7 voir dire and we simply refer to that exhibit now.

8 PRESIDING JUDGE: I see.

9 MR JORDASH: Rather than re-exhibiting it as part of the  
16:16:09 10 voir dire. It's my lack of clarity today.

11 PRESIDING JUDGE: We can have it as an exhibit in the  
two  
12 proceedings.

13 MR JORDASH: Yes.

14 PRESIDING JUDGE: Why not?

16:16:28 15 MR JORDASH: Well, I think the procedure already began -  
-

16 PRESIDING JUDGE: Remember that was the first, as a  
17 separate and distinct procedure.

18 MR JORDASH: It's only that the Prosecution took one  
line

19 and I'm happy to take that line, too, rather than changing  
16:16:41 20 mid-stream. This morning, the Prosecution referred to exhibit  
21 from the application without re-exhibiting it and, with

22 Your Honour's leave, I would like to follow that consistency.  
23 PRESIDING JUDGE: I think it's okay. Yeah, quite.  
Let's  
24 proceed.  
16:16:56 25 MR JORDASH: Thank you.  
26 JUDGE BOUTET: So in this voir dire, Mr Jordash, so  
there's  
27 no confusion, when you will be making reference to this  
exhibit,  
28 as being an exhibit in the voir dire, which is an exhibit in  
the  
29 main trial, if I can put it this way, so it will be Exhibit  
217

1 or 216 in the trial, and it is also an exhibit in the voir  
dire.

2 PRESIDING JUDGE: In the voir dire, yes.

3 MR JORDASH: Yes.

4 JUDGE BOUTET: So that's what you're saying. I know the  
16:17:20 5 Prosecution did that this morning. I don't remember which  
6 exhibit it was.

7 PRESIDING JUDGE: It was most probably 217.

8 MR JORDASH:

9 Q. Am I right, Mr Morissette --

16:17:31 10 PRESIDING JUDGE: I think it was 221. Go ahead. Let's  
go  
11 ahead. Quite.

12 MR JORDASH:

13 Q. Am I right, Mr Morissette, that you're not able to  
assist

14 the Court to clarify how the arrest occurred at the hands of  
the

16:17:47 15 CID?

16 A. When we arrived at the CID, the arrest had already been  
17 done.

18 JUDGE ITOE: So the answer is yes?

19 THE WITNESS: Yeah.

16:18:03 20 MR JORDASH:

21 Q. So you're not able to say one way or another what the

22 procedures were?

23 A. No.

24 Q. Did you speak to anyone between the time you arrived at  
the

16:18:18 25 scene of the arrest and the time when you were interviewing

26 Mr Sesay as regards any of the procedure at the time of the

27 arrest?

28 A. No.

29 Q. So when you went into the interview, you were, in a  
sense,

or 1 going in blind, as it were, in relation to what Mr Sesay had  
2 had not seen?

3 A. Yes.

so 4 Q. As regards, say, for example, the warrant for arrest and  
16:18:47 5 on?

6 A. That's correct.

7 Q. So, for you, it was a matter of going through them, the  
8 documents, the warrant of arrest and so on, as if it was the  
9 first time?

16:19:00 10 A. Yes, that's correct. If I may clarify, Your Honour. I  
11 knew at that time that the procedure was -- the plan was the  
12 procedure would have been done by the arresting officer at the  
13 SLP, but I was not present and I didn't know if it had been  
done.

14 So we were -- you know, I did it again, and I knew, also, that  
16:19:31 15 the plan called for that -- the procedure was to be redone  
again,  
16 completely, with the official turnover of the individual once  
17 they got to Bonthe Island.

18 Q. Right. Now, you're familiar with the warrant of arrest?

19 A. Yes.

16:19:56 20 Q. And the fact that there was an order by the Court that a  
21 member of the Office of the Prosecutor could be present from  
the

22 time of the arrest?

23 A. That's correct.

24 Q. Do you know why there was more than one member present  
from  
16:20:12 25 the time of the arrest?

26 A. Because -- well, at the time of arrest -- let's be  
careful.

27 By the time we got there, they had been arrested, but we were  
28 there. And the warrant calls for -- says "may" -- where is  
it?

29 "Member of the Court may." It doesn't prevent and doesn't say



1 that two, three, four or five members may be present.

2 Q. Let me just understand that evidence. You're suggesting

be

3 that the order, "A member of the Office of the Prosecutor may

as

4 present from the time of arrest," gave you authority to have

16:20:50 5  
needed,

many members of the Prosecution there as was required, or

6 or wanted?

7 A. That's correct.

8 Q. How do you get that reading from this?

9 A. Because that's police -- that's pure police operational

16:21:04 10  
an

work, and that's the way it is done in the world. You go to

11 arrest -- at this time, we were expecting two person to be

12 arrest. I have conducted arrests when I was in charge of the

five

13 intelligence and tracking unit in Rwanda where we would have

ended

14 and six member to go to a -- to do a house arrest, and you

16:21:26 15

up there, there's a dozen people in place. It's just based on

16 intelligence and there's nothing in that warrant that prevents

17 the Prosecutor not to have more than one police officer there.

18 And that's been standard practice since -- at least ICTR since

19 Operation Nike in 1997.

16:21:54 20

Q. So one means more than one when it comes to your

21 investigation?

22 A. More could be a dozen -- one could be a dozen.

23 Q. If that's your evidence, we'll move on.

24 JUDGE ITOE: But was there any reason for going with  
more

16:22:14 25 than one?

26 THE WITNESS: In this case --

27 JUDGE ITOE: Yes.

28 THE WITNESS: In this case, Your Honour, there were two  
29 suspect to be arrested. As a matter of fact, we expected  
three,

1 but only two were there. So it's just a question of planning  
and  
2 based on the information that you have, the intelligence that  
you  
3 have, and to have the right people.

4 MR JORDASH:

16:22:34 5 Q. But what was the point, though? You had, as you've told  
that  
6 us, many CID police officers who were doing the arrest; is  
7 right?

8 A. Yes, that's correct.

9 Q. By the time you arrived, the accused are in handcuffs.

16:22:48 10 A. Right.

11 Q. What was the point of you going, for example?

12 A. To be present for the arrest and if there was anything  
that  
13 either exhibit or whatever that we could look with the Sierra  
14 Leone police officer. It's just a standard practice.

16:23:09 15 Q. Well, it wasn't a standard practice here, because there  
16 hadn't been very many arrests and there wasn't a standard  
17 practice, was there?

18 A. It was the first time here.

19 Q. Right, so --

16:23:18 20 A. But it was based on practice from ICTR.

21 Q. So why did you -- who applied to the Court for a member  
of

22 the Prosecution to be present?

23 A. Nobody.

24 Q. What, there was no request from the Prosecution?

16:23:31 25 A. No.

in 26 Q. Well, who was it who interpreted this order in the way

27 which it was interpreted?

28 A. It's always been interpreted like this.

like 29 Q. No, no. Who was it who interpreted it at this Court

1 that?

2 A. I don't know.

3 Q. Well, you must have, because you were in charge of that  
4 team heading there.

16:23:51  
that

5 A. I was in charge of that team and there were other team

6 were going all over the place, and the teams were put together  
7 with the SLP, and we went in.

of

8 Q. Well, could I suggest that you went to start the process  
9 seeking the collaboration with Mr Sesay?

16:24:14

10 A. Excuse me?

when

11 Q. Well, let me put it a different way: What did you do  
12 you were there, according to you?

the

13 A. When we arrived, these people they were already in  
14 different -- in different office. Like I said this morning,

16:24:35

15 people were starting to gather. There were a lot of officer  
16 around. There were civilians that were starting -- and we  
17 informed the CID to make arrangement to have these people  
18 transferred right away; immediately. I left the place and I  
19 returned to my office.

16:24:49  
point

20 Q. So what did you do? You, personally? What was the  
21 of you being there?

22 A. Just to be present in case something happened.

23 Q. Like what?

24 A. Anything.

16:25:02 25 Q. Well, such as? Why is it necessary for the chief or the  
26 deputy chief to be there to effect a physical detention of an  
27 accused in get him into the custody of the Court?

28 A. Because that's how we do police work, that's how we do  
29 arrests.

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1 Q. What, the deputy chief of a station would go and arrest  
2 someone?

3 A. In this case, yes, and the chief was there also.

4 Q. Who; Alan White?

16:25:27 5 A. Yes.

6 Q. So he was there too?

7 A. That's correct.

8 Q. And you didn't speak to Sesay, according to you?

9 A. No.

16:25:32 10 Q. Did Mr White speak to him?

11 A. Not that I know of.

12 Q. Did Mr White do anything?

13 A. No.

14 Q. Did Mr White return with you to --

16:25:40 15 A. Yes.

16 Q. Could I suggest that you did do something: That you --  
you

17 wanted the collaboration of Mr Sesay, and he was very  
important

18 to your investigation; is that not right?

19 A. It's your suggestion.

16:26:01 20 Q. Well, is it right? Was he an important man? Had a  
21 decision been made that he was an important man, to see if he  
22 would collaborate? Either one had or one hadn't.

23 A. Mr Sesay was taken along, in custody, transferred to the  
24 CID, by the CID, to Jui. Mr White and myself returned to the  
16:26:29 25 office and then we were contacted by Mr John Berry.

Had a 26 Q. I'm not sure that's the answer. What I'm asking is:  
man 27 decision been made prior to Mr Sesay's arrest that this was a  
28 who could be extremely useful?

29 PRESIDING JUDGE: That's not a complicated question,

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1 Mr Morissette.

2 THE WITNESS: No, no, I misunderstood the first  
question.

3 PRESIDING JUDGE: It's a question of time.

4 THE WITNESS: Whenever an operation like this is  
planned,

16:26:58 5 Your Honour, we -- you know, definitively, we look at who are  
the

6 targets and if there is any likelihood that any of the target,

7 you know, would agree to collaborate, or where we could be at

8 advantage for us to talk to these targets. When we arrive  
there,

9 the targets had already been arrested. Nobody from my office

16:27:19 10 talked to them. They were sent to Jui and it's when they got  
to

11 Jui that they got the call from John Berry that Mr Sesay had

12 indicated that he'd be willing to talk to us.

13 MR JORDASH:

14 Q. I'm sorry, Mr Morissette, but that's still not the  
answer

16:27:40 15 to the question. Had a decision been made to effectively  
target

16 Mr Sesay as somebody who ought to be approached to  
collaborate?

17 A. It had been discussed in the past with other members of  
the

18 Sierra Leone Police who worked with me at the Special Court.

made

19 Q. Again, had a decision been made? Had a decision been

16:28:11 20 that was implemented that day?

a

21 A. The decision was not implemented, because we didn't get

have

22 chance to talk to him. But if there was somebody that could

23 been of interest, the feeling among the team, of us, was that

24 Mr Sesay could be a candidate.

a

16:28:27 25 Q. Well, you've said two separate things then. You've said

26 decision couldn't be implemented because of the arrest already

27 being made.

28 A. It's gone. No.

--

29 Q. Yeah, so a decision had already been made. It couldn't

1 A. No, you asked me. I told you how the decision was made.

2 It was made by talking among ourselves, amongst colleague.

3 Q. Well, that's how decisions generally are made.

4 A. That's right.

16:28:51 5 Q. So a decision had been made to target Mr Sesay for his  
6 collaboration, and was Mr Berry --

7 JUDGE ITOE: Stop there. Let him answer that.

8 THE WITNESS: Before -- weeks before, prior to the  
arrest

9 was going to take place, and we do that regularly, we were

16:29:17 10 discussing among ourself, with my staff, and should, you know,

11 this happen, who, you know, would be at most advantages, who

12 would be the person with the most knowledge that could, if  
that

13 person agreed, could, you know, give us the most information,

the

14 most intelligence in regard to this investigation. And

amongst

16:29:42 15 ourself, we had decided that it would probably be Mr Sesay.

16 PRESIDING JUDGE: So there was a decision?

17 THE WITNESS: To -- yes, there was a decision that if

18 anyone --

19 PRESIDING JUDGE: It was based on probabilities?

16:29:55 20 THE WITNESS: Yes, that's correct.

21 MR JORDASH:

22 Q. What were the probabilities then?

23 A. Don't know. We didn't go into that.

24 Q. Well --

16:30:01 25 A. We didn't go into that detail.

arrested 26 Q. Well, the bottom line was Mr Sesay was going to be

27 by the CID?

28 A. Yes.

29 Q. You would then, in whatever numbers you thought

necessary,

1 come along from the OTP; yeah?

2 A. That's correct.

3 Q. And there can't really be any possibilities or  
4 contingencies which would have prevented you from approaching

16:30:26 5 Mr Sesay, or was there some? You decided: We'll approach him  
in

6 this circumstance, but we won't approach him in this  
7 circumstance?

8 A. No, there was no approach made then and there was -- the  
9 reason there was no approach, the arrest was made and it was a

16:30:39 10 question to take them out, right now.

11 Q. Yes, but Mr Berry then went on to approach Mr Sesay?

12 A. Once at Jui, I believe.

13 Q. Well, let's not split hairs about where it was, but  
14 Mr Berry must have been acting on instructions; no?

16:30:55 15 A. Mr Berry was asked to ask Mr Sesay if he wanted to  
16 collaborate with us.

17 Q. Right. Well, we got there in the end.

18 A. Yeah.

19 PRESIDING JUDGE: I don't want to disturb the rhythm of  
16:31:11 20 your cross-examination, but I think you could take a break and  
21 recharge your batteries. We can take the afternoon break now.

22 MR JORDASH: Your Honour, yes.

23 [Break taken at 4.31 p.m.]

24 [RUF12JUN07D - MC]

16:47:01 25 [Upon resuming at 5.05 p.m.]

26 PRESIDING JUDGE: Please proceed with the  
27 cross-examination, Mr Jordash.

28 MR JORDASH: Thank you, Your Honour.

29 Q. So we were at the point of a decision having been made

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be 1 about trying to obtain Mr Sesay's collaboration, and just to  
2 clear --

3 JUDGE ITOE: And this was before his arrest.

4 MR JORDASH: Your Honour, yes.

17:07:16 5 Q. And am I right that collaboration meant effectively to  
6 implicate others or himself so as to become useful as a  
witness?

7 A. That is correct, Your Honour.

8 Q. And was that the way Mr Berry was instructed, if he was  
9 instructed, to approach Mr Sesay?

17:07:44 10 A. Mr Berry -- Mr Berry approached Mr Sesay and asking him  
if  
11 he wanted to collaborate with the -- if he was willing to  
12 collaborate with the Office of the Prosecutor, yes.

13 Q. Was there any direction given to Mr Berry about how he  
14 should approach, specifically?

17:08:01 15 A. No.

16 Q. So, it was a matter for Mr Berry?

17 A. To find the right time.

18 Q. And the right words?

19 A. That is correct.

17:08:11 20 Q. Now, when Mr Berry called you, can you remember  
21 approximately, the words he used to explain the extent of the  
22 agreement to cooperate?

23 A. There had been no, absolutely no extent or no agreement  
24 whatsoever. Mr Sesay was asked if he was willing to discuss  
with  
17:08:33 25 the investigator for the Office of the Prosecutor and his  
answer  
26 was yes, and that was the end of it. Nothing else was said  
until  
27 Mr Sesay was brought to the office.  
28 Q. Well, it wasn't the case, was it, that he'd agreed to  
just  
29 talk, because what you told us before lunch was that Mr Berry

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1 said that Mr Sesay had agreed to cooperate?

2 A. That's correct.

3 Q. And talk.

17:09:05  
under

4 A. Yeah, but you said agreement there, there had been no  
5 agreement. He had agreed, yes, to talk to investigator but

the

6 what condition, or whatever, nothing else was done. That was  
7 end of it and Mr Sesay was brought to the office.

8 Q. But somehow there'd, according to you, been an agreement  
9 between Mr Berry and Mr Sesay that Mr Sesay would cooperate?

17:09:22

10 A. That's correct.

when

11 Q. And what -- was the word "cooperate" used by Mr Berry to  
12 you? Did Mr Berry -- what were the words used by Mr Berry

13 he called you and told you of the results of the approach?

indicated

14 A. I don't recall the exact word, word-for-word but

17:09:41  
the

15 to me is that Mr Sesay had agreed to talk with the Office of  
16 Prosecutor and to collaborate with us.

17 Q. Did you see Mr Berry before the interview began on the  
18 10th, after that phone call?

19 A. No.

17:10:05  
agreed

20 Q. So when you met Mr Sesay, all you knew was that he'd

21 to cooperate?

22 A. Yes, from the phone conversation with Mr Berry.

23 Q. And, according to you, there was no further conversation

would 24 concerning the details or the way in which that cooperation

17:10:22 25 work?

26 A. No. Not until he arrived at the office.

was 27 Q. And when you arrived -- when he arrived at the office

28 there further conversation before the tape was turned on?

29 A. No.

1 Q. Now, could I ask you, please, to turn to 28333 of the  
2 transcript interviews, which are the 10th of March  
transcripts.

3 Actually, if I can ask you to turn to 28334, and if you would  
4 just read through from the bottom of the right page there,  
where

17:11:35 5 you're reading -- sorry, from the top of the page where you're  
6 reading Article 17 and then over the page to the bottom of the  
7 page. Just read them to yourself, to remind you, yourself.

8 A. Yes.

9 Q. Could you, without looking at the paper, tell us what it  
17:12:51 10 says about legal assistance, please, without looking at the  
11 paper?

12 A. That he is entitled to have legal assistance.

13 MR HARRISON: The Prosecution objects. It's the  
question  
14 of giving solemn evidence. It is not an attempt to catch  
people

17:13:10 15 out on how well they can read something before the Court and  
then  
16 repeat it, and the Prosecution suggests that the question is  
17 objectionable on that basis.

18 PRESIDING JUDGE: What is your response to that?

19 MR JORDASH: It's the Prosecution case that by a single  
17:13:32 20 reading of these rights, Mr Sesay was fully cognizance of his  
21 rights. Mr Morissette has had years of working with these

aspect 22 rights, ought to be able to read them and then tell us an  
23 of those rights. If he cannot, it is powerful evidence that  
world 24 somebody such as Mr Sesay couldn't have had a hope in the  
17:13:55 25 of understanding the rights from a single reading.  
26 PRESIDING JUDGE: Isn't this issue germane to the very  
trying 27 point of the inquiry? Why do we need to be so narrow in  
28 to elicit the evidence? I reckon that in an exercise of this  
29 nature, a trial within a trial, when we're trying to determine

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1 the circumstances surrounding the taking of these statements,  
and  
2 also the circumstances culminating in their being obtained,  
the  
3 question which would be before the Court would be a kind of  
what  
4 you might call interaction of the evidence of the witness who  
17:14:44 5 took the statement, or who was part of the process and also  
how  
6 these -- what they did interacted with the Rules. So how do  
we  
7 make this clear-cut separation really, when you have an  
8 experienced investigator trying to give us the environment,  
the  
9 background against which these statements were taken? It  
would  
17:15:11 10 seem to me that, really, this would be splitting hairs and I  
am  
11 inclined, and I hope my brothers concur, to overrule the  
12 objection. Proceed.

13 MR JORDASH:

14 Q. Mr Morissette, could you tell us, please, your  
17:15:28 15 understanding of what it says about legal assistance?  
16 A. That he is entitled to have legal assistance.  
17 Q. Is that your total understanding of these provisions?  
18 A. We're talking about the provision about legal  
assistance?  
19 Q. Yes.

17:15:46 20 A. He is also presumed to be innocent, so which one do you  
21 want to cover?

of 22 Q. The legal assistance. What does it say, the sum total  
23 the rights, as you understand them, having years of experience  
24 working with them?

17:15:59 25 PRESIDING JUDGE: Give him a chance to answer without  
26 interruption.

it 27 THE WITNESS: What I understand it to be, that he is  
28 entitled to have a lawyer. If one cannot be provided to him,  
29 would be provided to him, and what's the other one? There is

1 another part I forget.

2 MR JORDASH:

3 Q. You forget. Okay, thank you. Let's move on. 28336,

43

4 please. Top of the page there. You say, "Under Rule 42 and

17:16:34  
for

5 of the Rules of Procedure and Evidence of the Special Court

6 Sierra Leone, there are also rights of suspects during

7 investigation." Then you say, "Basically, the rights of the

doing

8 suspect is when you're being interviewed by -- like we are

9 now."

17:16:54

10 What does that mean, please, or what did you mean?

suspect

11 A. That this is what -- he was being interviewed as a

12 and that these right would apply.

misleading?

13 Q. Do you agree that statement might be a little

14 Mr Morissette?

17:17:23

15 A. No.

16 Q. No, you don't?

17 A. No.

18 Q. Okay. Let's go on, then. If I can ask you to turn,

19 please, to 28349.

17:18:02

20 A. 49?

please,

21 Q. Sorry, just give me a moment. If you would turn,

22 to 28341?

23 A. 341, yes.

you

24 Q. And I want to take you to the -- two-thirds down where

17:18:37 25  
considered

say, "So being a suspect, which is the reason why there was an

26 arrest warrant issued for you, and that's why you are

27 as a suspect, okay."

28 Do you accept Mr Sesay was not a suspect, he was an

29 accused?



1 A. He was an accused being suspected of having committed  
some  
2 offence, not having had trial, not having found guilty. So,  
to  
3 me, it was a -- it's a term I use; he was a suspect.  
4 Q. Yes.  
17:19:10 5 A. Being charged.  
6 Q. But if he had been just a suspect, there was a prospect  
of  
7 him, after that interview, not becoming an accused; am I  
right,  
8 if he had been just a suspect?  
9 A. Yes.  
17:19:31 10 Q. Yes. But if he had been an accused, as he was --  
11 A. That's correct.  
12 Q. --- there was no prospect, simply by what he said in the  
13 interview, in not being proceeded with; are you with me?  
14 A. I don't know. I cannot answer that question.  
17:19:51 15 Q. Let me put it in a different way: An accused, is this  
16 right, is this your understanding, if an indictment has been  
17 approved by a judge --  
18 A. Right.  
19 Q. -- then the person is an accused; is that right?  
17:20:04 20 A. That's correct.  
21 Q. In order for that accused not to be then prosecuted, the

22 judge has to make an order; is that right?

23 A. Or the Prosecutor has to make a request, no? I don't  
know.

24 Q. But it has to go through a judge once an indictment has  
17:20:25 25 been approved; is that not correct?

26 A. I'm not sure.

27 Q. You don't know?

28 A. No.

29 Q. You don't know?

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1 A. No, I don't.

2 JUDGE ITOE: It's a matter for submissions. You can do  
3 that.

4 MR JORDASH: Well, it's --

17:20:35 5 JUDGE ITOE: He says he doesn't know.

6 MR JORDASH: Yes.

7 Q. You see, I'm suggesting that by telling him he was a  
8 suspect only, that was misleading him into believing that he  
9 might be able to get out of that situation simply by talking  
to

17:20:55 10 the Prosecution, which was not true; isn't that right?

11 A. I'm not sure I follow you.

12 Q. Well, the point is this: If he's been a suspect after  
that  
13 interview --

14 A. Yes.

17:21:12 15 Q. The Prosecution could have made the decision that that  
was  
16 the end of the matter?

17 A. That's correct.

18 Q. Yes. If he's an accused, that decision does not lie in  
the  
19 hands of the Prosecution --

17:21:21 20 A. I don't know that.

21 PRESIDING JUDGE: Yes. That would be also a matter for

22 address.

23 MR JORDASH: Well, it is, but I'm suggesting --

24 PRESIDING JUDGE: I know you're trying to lay some  
17:21:32 25 foundation, evidential foundation, but it is properly a matter  
26 for address too.

27 MR JORDASH: Well, I'm suggesting that --

28 JUDGE ITOE: It's like you used quid pro quo a couple of  
29 minutes ago. Don't take Mr Morissette down that lane.

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1 MR JORDASH: Well, I'll put my case firmly to the  
witness.

2 Q. I am suggesting that, having worked at the ICTR for many  
3 years, and having worked here for some years, you must have  
known  
4 the difference between a suspect and an accused?

17:22:00 5 A. I know the difference between a suspect and an accused.  
6 What you're telling me is that an accused, if he's an accused,  
7 then he cannot be -- he has to be charged. I don't know how  
the  
8 procedure is for an accused to have the charge withdraw or not  
9 proceeded. I don't know.

17:22:36 10 Q. But you know what it is for a suspect?

11 A. Yes, and I said that.

12 Q. Thank you. Now, just going to the next page,  
13 Mr Morissette, 28342. Top of the page there, "Okay.  
Basically,"  
14 this is you. Sorry, I'll let you find it.

17:22:46 15 A. Yes. 38242 [sic].

16 Q. Yes, fourth line there. You're saying, "Okay, basically  
17 it's what -- the rights of the accused I read to you earlier  
18 here. It's a repetition of what we're doing now. But the  
reason

19 we're doing this is this will become part of the suspect's  
17:23:09 20 statement if there is such a thing, that we -- if we do take a  
21 suspect's statement."

22 A. That's correct.

23 Q. What did you mean then?

24 A. Well, if there was going to be a suspect statement. If

17:23:22 25 Mr Sesay was going to agree for us to take a statement.

26 Q. But what then is a suspect's statement in your mind?

27 A. The suspect statement.

28 Q. What is one?

29 A. Somebody who's giving us information that has been  
charged

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1 as a suspect that has not been found guilty, that has not had  
2 trials, that's still under investigation.

3 Q. So what's the difference between this, then, interview  
4 transcript and a suspect statement?

17:23:56 5 A. The interview transcript, I say its the same thing.

6 Q. Well, exactly. Why do you say if we do take a suspect  
7 statement when you're in the middle of taking one?

8 A. Because I've used that term, what I meant by this is  
later  
9 on, if I use this term on a regular basis, meaning that right  
now

17:24:14 10 we are in the process of discussing trying to find out from  
11 Mr Sesay, and we make no secret about that, that what is it  
that  
12 he knows and once this is done we interview in the interview  
13 process, then we would go and, if necessary, take a formal  
14 statement from him.

17:24:31 15 Q. But you've just told us that the two are the same and  
this  
16 is a formal statement. You couldn't have a more formal  
17 statement; am I right?

18 A. So I used the wrong term.

19 Q. Well, what term did you mean to use then?

17:24:44 20 A. That's the term I meant to use.

21 Q. So you used right term?

I'm

22 A. So I used the wrong term, according to you.

23 Q. What was it dependent on? Sorry, let's go back because

24 confused. The interview transcripts --

17:25:05 25 A. Yes.

26 Q. -- and the suspect statement are the same thing; is that

27 what you have told us?

28 A. Could be.

29 Q. When could it be different?

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we

court

17:25:26  
reporter.

condensed

is:

we

17:25:44

to

17:25:56  
back

what

1 A. Well, if we are taking -- we are talking to -- let's say  
2 are talking to a witness, we interview the witness, with a  
3 reporter.

4 Q. Okay.

5 A. Okay. This has become the interview of the court

6 Based on that, we can go back to the witness and take a

7 formal statement, if you want to.

8 Q. Okay. So, effectively, what you're saying to Mr Sesay

9 What we are doing at the moment is a witness statement. What

10 might do later is a suspect statement?

11 A. No, no. What we were saying to Mr Sesay: What we are

12 doing at the moment there, we are doing an analysis. We want

13 know what it is that you know, and you tell us what it is that

14 you know and after that, when we find out what it is that you

15 know, what it is that you're willing to tell us, we'll get

16 and we will do a formal statement.

17 Q. How would it differ to this?

18 A. I don't know, depending of what he is saying here, and

19 he may be saying later.

17:26:12 20  
formality?

Q. But how would it differ in form, in protocol, in

21 How would it differ?

22 A. In this case it would probably going to be in the  
23 transcript because of the length of it; in the court  
transcript.

24 Q. So, what was it dependent upon then? I can't understand  
17:26:29 25 the distinction myself but what was it dependent upon in this

26 instance? At what stage would you have taken a suspect  
27 statement?

28 A. We were taking a suspect statement.

29 Q. Yes, so why did you say: If we take a suspect  
statement?

1 A. Like I said, maybe I used the wrong term.

2 Q. Well, I'm asking you what the term you meant to use was  
3 then?

4 A. A suspect statement.

17:26:58 5 Q. No, that's the term you used --

6 A. Yes.

7 Q. -- to work out what term you meant to use?

8 A. Well, as I say, maybe I'm wrong -- I used the wrong term  
9 but that is the term I meant to use.

17:27:17 10 Q. Could I suggest that the truth of the matter is that you  
11 were suggesting to Mr Sesay that he wasn't a suspect and that  
12 depending upon what he said would depend upon whether he  
became a  
13 suspect or not; isn't that what you were saying to him?

14 A. What I was saying to Mr Sesay: Mr Sesay, you agree to  
17:27:48 15 collaborate with the Office of the Prosecutor. You agree to  
16 become a witness for the Office of the Prosecutor. We'll do  
17 these things. You want us to assist you with your -- with  
18 your -- protection of your family. We will do that. That's  
what

19 I was saying to Mr Sesay.

17:28:04 20 Q. Right. And if -- if he gives you what he wants, what  
you

21 want, he won't have a suspect statement taken; that's what you

not  
22 said to him, isn't it? Tell us what we want, then we might  
23 take a suspect statement.  
24 A. If you want to use the term fine, okay. I have no  
problem  
17:28:31 25 with that.  
26 Q. Right. Okay. So you agree with that. Now, over the  
page  
27 please, 28343. And you see halfway down the page this waiver  
28 which you rely upon: "Good. Now we continue as saying, are  
you  
29 willing to waive the right to counsel and proceed with the

1 interview and preparation of a witness statement, yes or no?"

2 What did you mean by that?

3 A. What do you mean what I mean by that?

4 Q. Well, I am asking you to tell us what you meant by it?

17:29:20 5 A. I'm reading from him -- I am reading to him from the  
form

6 what's written on the form.

7 Q. What do you take that to mean?

8 A. Are you willing to waive the right to counsel and  
proceed

9 with an interview. What it says.

17:29:33 10 Q. Well, what does it mean to you?

11 A. So, are you willing to -- are you willing to waive your  
12 right.

13 Q. Right.

14 A. And are you willing to proceed with the interview.

17:29:41 15 Q. So it doesn't just mean what you then said afterwards  
then.

16 In other words, are you willing to discuss with us your

17 involvement? Are you willing to tell us what happened and  
what

18 you know of these events?

19 A. Yes. And make sure that he's understanding what I'm

17:29:55 20 saying. That's why I am using other words and that's why I'm  
21 clarifying, and that's what I've been doing to all these  
persons,

over 22 to clarify the rights that I have been reading him over and  
23 again.  
24 Q. But, in other words, are you willing to discuss with us  
17:30:08 25 your involvement is hardly the most important part of the  
waiving  
26 the right to counsel, is it; do you accept that?  
27 A. Please repeat that again.  
28 Q. Let me put it a different way. Do you not accept that  
29 asking a witness -- asking a suspect or an accused whether

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saying: 1 they're willing to waive the right to counsel, and then

2 In other words, are you willing to discuss with us your

3 involvement, might be misleading if you -- for an accused or a

4 suspect?

17:30:41 5 A. No.

6 Q. You don't?

7 A. No.

8 Q. What about an accused or a suspect who's not come across

9 the English words "waive" before; could it be misleading?

17:30:54 10 A. "Are you willing to waive the right to counsel and

proceed

11 with the interview in preparation of a witness statement; yes

or

12 no?" In other words, and that's what I'm clarifying, I take

13 the -- I take the time to clarify. In other words: Are you

14 willing to discuss with us your involvement? Are you willing

to

17:31:08 15 tell us what are then and what you know of these events?

That's

16 why I clarified that. And I made no bone about it. I've been

17 telling you since I've been here, the whole idea of the object

18 was to ask Mr Sesay to seek his cooperation, and that's what

I'm

19 doing here.

17:31:28 20 Q. Okay. Is it your evidence that --

It 21 A. I'd like to make a comment here, Your Honours, please.

22 seems that --

23 PRESIDING JUDGE: You have my leave to do that, yeah.

using 24 THE WITNESS: Thank you. Because it seems that I'm

17:31:47 25 the wrong term when I'm talking about suspect, because he's an

rights 26 accused. But when you read the title of Article 42 of the

27 of the accused, it says, "Right of suspect during

investigation."

I'm 28 It doesn't say "accused." It says "suspect," and that's why

29 using the term. When you read the Article 43 for the



1 questioning, it doesn't say, "Recording questioning of an  
2 accused." It says, "Recording questioning of suspects." And  
3 that's in the context that I've been using the term suspect.

4 PRESIDING JUDGE: So, in other words, you're sticking to  
17:32:21 5 the Rules?

6 THE WITNESS: Thank you, Your Honour.

7 PRESIDING JUDGE: Carry on, counsel. Mr Jordash,  
perhaps  
8 that's a very rather felicitous note on which to bring today's  
9 proceeding to a close and, hopefully, we can see our way clear  
10 towards concluding your cross-examination tomorrow, depending  
17:32:47 on  
11 how things develop.

12 MR JORDASH: I will definitely finish tomorrow.

13 PRESIDING JUDGE: Yes, quite. And so we certainly will  
now  
14 adjourn to --

15 JUDGE ITOE: Knowing fully well, of course, that we're  
17:33:02 just  
16 working up to 12 tomorrow.

17 PRESIDING JUDGE: Yes.

18 MR JORDASH: 1.00.

19 JUDGE ITOE: I'm sorry, up to 1.00. Oh, you're very  
happy,  
17:33:15 20 it's 1.00.

Wednesday,

21

PRESIDING JUDGE: We will adjourn to tomorrow,

22

13 June 2007 at 9.30 a.m..

23

[Whereupon the hearing adjourned at 5.33

p.m.,

24

to be reconvened on Wednesday, the 13th day

of

25

June 2007, at 9.30 a.m.]

26

27

28

29

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EXHIBITS:

23	Exhibit No. A
25	Exhibit No. B
28	Exhibit No. C
34	Exhibit No. D
46	Exhibit No. E
50	Exhibit No. F
52	Exhibit No. G
99	Exhibit No. H

WITNESSES ON VOIR DIRE:

12	WITNESS: GILBERT MORISSETTE
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12	EXAMINED BY MR HARRISON
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56	CROSS-EXAMINED BY MR JORDASH
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