

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

WEDNESDAY, 13 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 Nsima Kamuzora
For the Prosecution:	Mr Peter Harrison Mr Charles Hardaway
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 [RUF13JUN07A - MC]
2 Wednesday, 13 June 2007
3 [Open session]
4 [The accused present]
5 [The witness entered court]
6 [Upon commencing at 9.40 a.m.]

7 PRESIDING JUDGE: Good morning, counsel. The trial is
8 resumed. Mr Jordash, we'll continue with the cross-
examination
9 of Mr Morissette.

10 WITNESS: GILBERT MORISSETTE [Continued]

11 EXAMINED BY MR JORDASH: [Continued]

12 Q. Good morning, Mr Morissette.

13 A. Good morning, sir.

14 Q. I just want to touch very very briefly on the
circumstance
15 just
16 you find when you arrive at the CID on the 10th. Could you
17 explain exactly where Mr Sesay and Mr Kallon were when you
arrived there?

18 A. Not really, Your Honour, because there was -- I wouldn't
19 say mass confusion but there were a lot, a lot of people and
20 people in every room and I don't know which one was in which
21 room.

22 Q. Well, can you say who you spoke to?

time
23 A. I believe I spoke to Mr Kargbo [phon] who was at that
24 the head of the -- the chief of the CID section.
25 Q. Did you inquire as to the whereabouts of the arrestees?
told
26 A. No. I asked them if the people were under arrest. He
27 me "yes." I said, "We need to move them out now."
28 Q. Could you see where you were when you had this
29 conversation? The building where the accused were held?

SCSL - TRIAL CHAMBER I

1 A. No.

2 Q. Were you with John Berry at that moment?

3 A. Mr Berry was around but I don't know where exactly he
was.

4 I don't recall him being close to me.

5 Q. Do you know where -- had he been tasked at that point to
go

6 and find the accused?

7 A. No, no. The accused were with the Sierra Leone Police,
and

8 we informed them to take the accused and move them out so that

9 they could leave the -- vacate the premises.

10 Q. But if there's you with the CID chief, where else could
Mr

11 Berry have been, if he wasn't --

12 A. Like I said, there was total mass confusion. There were

13 people everywhere.

14 Q. Did he not tell you where he was going before he left
your

15 side?

16 A. No.

17 Q. So when you left the scene you had no idea where Mr
Berry

18 was?

19 A. All I know is he was somewhere with the Sierra Leone
Police

20 getting organised to transfer these people to Jui.

the

21 Q. Right. So he was dealing with the head men in ensuring

22 transfer to Jui took place?

23 A. Not necessarily.

24 Q. Well, dealing with the relevant personnel?

25 A. The relevant personnel, yes.

26 Q. Thank you. Joseph Saffa, where was he at this point?

27 A. Same thing.

28 Q. With Mr Berry?

29 A. I don't know.

he

1 Q. So he had gone off as well in his own direction or was
2 dealing with relevant personnel?

3 A. I don't know.

4 Q. Don't know. Now, I want to ask you about a report, the
5 Registry's confidential report; are you aware of that report?

6 A. I don't know what report you're talking about.

a

7 MR JORDASH: Could I ask the witness please to be handed

learned

8 copy? There is copies for Your Honours with I think your
9 legal officer, and I hope the Prosecution have theirs. Sorry,

10 it's not the right item. I beg your pardon. Do Your Honours
11 have the Registry report? The document that has just been

handed

12 up is the wrong document.

Judge

13 PRESIDING JUDGE: What we have here is a document to

Robin

14 Pierre Boutet, designated Judge of the Trial Chamber, from

15 Vincent, Registrar, dated 2 July 2003 and the subject is

16 Prosecutor versus Moinina Fofana. This is different. I'm not
17 sure whether it relates to this anyway.

from

18 MR JORDASH: In fact, I can deal with an issue arising

19 this and hopefully by the time I finished we can get the right
20 document.

21 PRESIDING JUDGE: Yes. So we'll put this on hold?

22 MR JORDASH: Yes, please. And could I -- well, as you
23 know --

24 PRESIDING JUDGE: Or are you withdrawing it?

25 MR JORDASH: -- I will refer to this very briefly
because I
26 want to ask Mr Morissette about something in there.

27 PRESIDING JUDGE: Very well.

28 MR JORDASH: But while that is happening my legal
assistant

29 can arrange copies of the Registry report. Could I prevail,

the
to

1 please, on the Prosecution to, if they have a blank copy of
2 Registry confidential report in this case, in the Sesay case,
3 allow us to copy it to distribute it? We do have a copy but I
4 have marked up, I think, the only copy.

5 PRESIDING JUDGE: Mr Harrison, what is your response to
6 that request?

down

7 MR HARRISON: Is it a question of wanting us to stand
8 for you to go and find it?

9 PRESIDING JUDGE: Well, let us --

but

10 MR HARRISON: I think there would be one in the office
11 I --

12 PRESIDING JUDGE: You want to stand down?

finger

13 MR HARRISON: -- if you are asking if I can put my
14 on it right now I couldn't but I'm sure if I had less than ten
15 minutes I could.

16 PRESIDING JUDGE: You want to stand down?

17 MR JORDASH: No, I can deal with this other issue while
18 this is happening.

19 PRESIDING JUDGE: Very well.

that

20 MR JORDASH: If that's acceptable to the Prosecution

21 would be appreciated.

22 PRESIDING JUDGE: Would you be able to send someone to
23 locate it?

24 MR HARRISON: Yes. Could I just ask what it is? Is it
the
25 Fofana report?

26 PRESIDING JUDGE: I think it is the one for the RUF
trial,

27 not -- this one relates to the -- the one before relates to
the

28 Fofana case.

29 MR JORDASH: In fact, I can probably deal with this --
it's

1 the 15th of May -- sorry, 13th of May 2003. Subject: Judge
2 Thompson's request for information on the questioning of Issa
3 Hassan Sesay.

4 PRESIDING JUDGE: And this is an interoffice memorandum?

5 MR JORDASH: Yes, it is.

6 PRESIDING JUDGE: Well, it is a different document from
the
7 one you now have.

8 MR JORDASH: Exactly. And the one that you've got now,
I
9 will refer to in a moment whilst the other document is found.
10 Does that make sense?

11 PRESIDING JUDGE: Very well, yes. Provided Mr Harrison
can
12 send someone to locate it; if you give him further
particulars.

13 MR HARRISON: I think I'm probably the only one who
knows.
14 If I can go and look for it?

15 PRESIDING JUDGE: Well, you're excused. I mean, you
have
16 an able deputy.

17 JUDGE ITOE: Since Mr Harrison has been following these
--

18 MR JORDASH: Yes. I wouldn't want to take any advantage
19 while he is doing me a favour. What I could do is have my
copy

ask

20 copied. There is one piece of writing on it and I would just
21 for that to be blacked out and some highlighting but it's
22 inoffensive, I think.

23 PRESIDING JUDGE: And you have the resources for that?

24 MR JORDASH: Yes. Thank you.

25 PRESIDING JUDGE: Well, that's fine.

wrong

26 MR JORDASH: And I'm very sorry, I completely got the
27 document.

28 PRESIDING JUDGE: That's okay.

29 MR JORDASH: Sorry for the bumpy start.

1 PRESIDING JUDGE: That's okay. Let's continue.

2 MR JORDASH: Could I ask, then, that the witness be
given
3 the Fofana document, please.

4 PRESIDING JUDGE: Madam Courtroom Officer, please
assist.

5 MR JORDASH: Could I ask the witness if that interoffice
6 memorandum to Judge Pierre Boutet from Robin Vincent,
Registrar,
7 Prosecutor versus Fofana.

8 THE WITNESS: That is correct.

9 MR JORDASH: Thank you.

10 Q. Just turning to the, I think the 11th page, there is a
11 memorandum from Bob Parnell, 24 June 2003 --

12 A. I don't see any page number 11.

13 Q. No, there isn't. You have to count through.

14 A. Starting from where?

15 Q. Can you see the memorandum from Bob Parnell? It's about
11
16 pages in.

17 A. From Bob Parnell to the security -- to the Registry?

18 Q. Yes.

19 A. Dated 24 June 2003?

20 Q. Yes.

21 A. Yes, I see it.

arrest

22 Q. This deals with Bob Parnell's report concerning the
23 and detention of Mr Fofana and Mr Kondewa.

24 A. Uh-huh.

Bob

25 Q. Am I correct that you were in close communication with
26 Parnell over the arrest of all the accused?

27 A. Yes, I was.

28 Q. Direct contact through satellite phone?

29 A. Satellite phone, yes. Mobile phone, whatever was

1 available.

2 Q. Was, as far as you were aware, Bob Parnell also liaising
3 with UNAMSIL in terms of arranging helicopters in relation to
the
4 arrests of the various accused?

5 A. That's correct, Your Honour.

6 Q. And was he also liaising with the American Embassy in
7 relation to the -- effecting the arrests?

8 A. I'm not sure. I don't recall. I cannot say yes, I
cannot
9 say no. I'm not sure.

10 Q. Right. Could I just ask you to confirm that with Fofana
11 and Kondewa, they were effectively taken from Jui and straight
to
12 Bonthe on a helicopter. You can have a look at the second
13 paragraph, third paragraph, it might assist your recollection.

14 A. The second page, you say?

15 Q. Sorry, the first page in the third paragraph.

16 A. Okay. No. That's not quite correct. Fofana and
Kondewa
17 were taken directly from their point of arrest. I'm trying to
18 remember which one was picked up first. The one that was
picked
19 up first was in Matru Jong, I believe. And then the second
one
20 was picked up and flew directly -- both of them were flown

21 directly to Bonthe Island. Then there was another flight that
22 went to Hastings to pick up Mr Kamara.

23 Q. Okay. And the -- Bonthe was, in effect --

24 JUDGE ITOE: Let me get this clear, Mr Jordash. You
mean

25 both of them were arrested and they were flown directly to

26 Bonthe? They were arrested and flown directly to Bonthe, both
of

27 them, Fofana and Kondewa?

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

29 JUDGE ITOE: Thank you.

1 MR JORDASH:

2 Q. And that was the same with Bazzy Kamara; is that right?

and

3 A. He was on a separate flight. Then the flight came back
4 then he was moved.

at

5 Q. Right. The idea was to transfer them to court custody
6 Bonthe?

7 A. That's correct.

Court

8 Q. It was known that Bonthe was, effectively, where the
9 took custody of the accused?

10 A. That's correct, Your Honour.

right?

11 Q. And it was there that the accused were read their rights
12 and so on during the transfer into court custody; is that

13 A. At Bonthe Island, while in the process, you mean; yes.

14 Q. It wasn't your understanding that Scan office was Court
15 custody, was it?

16 A. Excuse me?

of

17 Q. It wasn't your understanding that Scan office, the OTP
18 office, was the same as the custody of the Court? The custody
19 the Court was Bonthe, wasn't it?

my

20 A. The detention centre for the Court was Bonthe. That's

Special

21 understanding. The Court Scan office is an office of the

22 Court.

the

23 Q. But court custody for all the other accused, Kondewa,
24 Fofana, Kamara and the others, was Bonthe, wasn't it? That's

custody

25 changeover, when the accused went into court custody?

When

26 A. When the accused were in Bonthe, they were in the

27 of the security section at the detention centre in Bonthe.

in

28 we had Mr Sesay in -- at the Office of the Prosecutor, he was

29 the OTP custody.

1 Q. Right. Thank you. Now, yesterday you talked about this
2 first visit by a lawyer from the Registry who came to Scan
3 office; do you recall that evidence?

4 A. You mean --

5 Q. Beatrice --

6 A. Yes, yes.

7 Q. -- I think her name was.

8 A. I do, yes.

9 Q. Isn't it correct that there was some background to her
10 visit and that background was that the Registry had contacted
the

11 OTP and said, "We want a lawyer to visit Mr Sesay."

12 A. I don't know.

13 Q. You don't know?

14 A. No.

15 Q. Isn't it correct that the OTP made a decision to tell
16 the -- to tell the Registry that they could not send a lawyer
17 because Mr Sesay had waived his rights to counsel?

18 A. All I know is that the Registry had been informed that
19 Mr Sesay was being interviewed by the Office of the Prosecutor
20 and that he had waived his right. That's all I recall.

21 Q. Well, I'd ask you to think about it carefully,
22 Mr Morissette, because you obviously were there and Mr Sesay
was

23 primarily in your custody at Scan office; is that right? You
24 personally were the head?

25 A. Well, depend who was with him. It was me, it was the
26 investigation section. If he was with Mr Berry, he was with
27 Mr Berry. It's whoever was with him.

28 Q. Yeah, but you had obviously the overall supervision of
this
29 process; is that right?

SCSL - TRIAL CHAMBER I

1 A. Yes.

2 Q. So you, in collaboration with those above you, were
3 deciding issues about who came to see Mr Sesay when he was at
4 Scan Drive?

5 A. I may have been consulted. I don't recall.

decision

6 Q. Well, I'm suggesting that you do recall and that a
7 was made by the investigation team and the Prosecution to
8 actually prohibit the Registry sending a lawyer.

And, I

9 A. A lawyer was sent and, Your Honour, I don't recall.
10 repeat, I don't recall having been consulted.

ask

11 Q. Well, I think I'm going to have to ask for a stand-down
12 because I think I need the Registry's report to see if I can
13 the witness to recollect from the report of the Registrar.

This

14 is quite key and I deeply apologise for the administrative
15 stumble.

16 PRESIDING JUDGE: How long do you think we should stand
17 down?

18 MR JORDASH: No more than 10 minutes. I imagine
19 photocopying is almost complete.

stand

20 PRESIDING JUDGE: Well, to be on the safe side, we'll
21 the Court down for 15 minutes.

22 MR JORDASH: Thank you.

23 [Break taken at 10.16 a.m.]

24 [Upon resuming at 10.35 a.m.]

25 PRESIDING JUDGE: Mr Jordash, let's continue.

26 MR JORDASH: Thank you for the time. Apologies again.

27 Could I ask that the witness please be given a copy of the

28 confidential interoffice memorandum from Judge Bankole

Thompson

29 to -- sorry, from Robin Vincent to Judge Bankole Thompson.

SCSL - TRIAL CHAMBER I

you

1 Q. I want to ask you, Mr Morissette, please, firstly, have
2 seen this report before?

3 A. Never, Your Honour.

of

4 Q. Paragraph 7, could I ask you to have a look at that,
5 please? And do you see there "This transfer," this is halfway
6 down the paragraph, "This transfer," referring to the transfer

done

7 Mr Sesay to the OTP office, on 10 March, "This transfer was
8 by the national authorities of Sierra Leone, at the direct
9 request of the OTP. Mr Bob Parnell may have been aware of

this

10 request but no request was made to the Registrar by OTP to
11 effect." Can you confirm that to be true, Mr Morissette?

this

12 A. Please allow me to read it, sir, please.

13 Q. Sorry.

the

14 JUDGE BOUTET: Maybe, Mr Morissette, you should look at
15 subject matter of this report so you know what we're talking
16 about.

when

17 THE WITNESS: That's correct. That's what I have been
18 saying all along. Once they arrived at Jui Police Station,

the

19 Mr Sesay indicated that he was willing and wanted to talk to

escorted

20 investigator from the Office of the Prosecutor, as I said

21 yesterday, we made arrangement for -- to have Mr Sesay

22 by the Sierra Leone police officer to the Office of the

23 Prosecutor. "We" being the Office of the Prosecutor.

24 Q. No request was made to the Registry or the OTP?

25 A. No, no.

26 Q. Thank you. And --

27 A. Excuse me, you said to the OTP.

28 JUDGE ITOE: By the Registry?

29 MR JORDASH: No request -- sorry, did I make a mistake?

1 Q. No request was made to the Registrar by the OTP?

2 A. Not to my knowledge.

3 Q. Thank you. Then paragraph 8 refers to Mr Sesay arriving
4 into the custody of the Special Court at the point when Mr

Lethol

5 Lamin completed the statement relating to the transfer; that's
6 correct, isn't it?

7 JUDGE ITOE: What paragraph are you reading, Mr Jordash?

8 MR JORDASH: Paragraph 8, Your Honour.

9 JUDGE ITOE: Paragraph 8.

clearly.

10 MR JORDASH: I summarised it perhaps not terribly

11 THE WITNESS: No, I think that's false, Your Honour. I
12 don't recollect it that way. My recollection, and I think if

you

13 look at the -- at the document, you will see that that was

done

14 at Bonthe. I'm pretty sure of that. Not at the Special Court

in

15 the way it's --

16 Q. Right. Well that's just -- Bonthe was the custody of

the

17 Special Court as we discussed before.

18 A. Yes, but are you implying that it was done at the office
19 in -- here in Freetown?

20 Q. No, no.

21 A. Okay.

22 Q. I'm saying it was done at Bonthe.

23 A. Yes, okay. That's correct.

24 Q. Then over the page, please. Paragraph 12?

25 JUDGE BOUTET: Sorry, so I understand this, Mr Lethol

26 Lamin, and whatever he's described in paragraph 8, all of
these

27 actions were done by Lamin and his own people at Bonthe;
that's

28 what you're saying?

29 MR JORDASH: Your Honour, yes.

1 JUDGE BOUTET: Okay.

2 MR JORDASH:

3 Q. If we go over the page to paragraph 12. Well, actually
4 paragraph 11. "Mr Parnell further mentioned to OTP that there
5 were insufficient security staff available to escort Mr Sesay
6 during the transfer and so after escorting Mr Sesay to the

heli

7 pad in Bonthe, Mr Sesay was escorted by two investigators from
8 the OTP." That's correct too, is that right?

9 A. Yes, that would be correct.

10 Q. And then the next paragraph --

11 JUDGE BOUTET: So this is the next day?

12 MR JORDASH: This is the 11th, yes, Your Honour.

13 JUDGE BOUTET: Yes.

14 MR JORDASH: Sorry, 11 March 2003, this is.

15 Q. Is it right that, I think it was Mr Berry came to Bonthe
16 the 11th?

on

17 A. I don't remember which staff member it was.

18 Q. And the transfer from Bonthe involved covering Mr
19 head in a -- some kind of wrap or hood?

Sesay's

20 A. Only when -- when -- that was a security precaution so

that

21 people would not recognise him when we were arriving in

landing

other
22 either. Sometimes we were landing at Cockerill Barracks,
23 times at the diamond airfield. Other time at Mammy Yoko and
24 whenever we were transporting Mr Sesay from the chopper to the
using 25 vehicle, or from the vehicle to the chopper, we would cover
26 whatever we had, a jacket, anything, just to cover his head so
27 that he could see where he was going but that was a precaution
so
28 that we didn't want people to be able to recognise him or to
see
29 his face.

in

1 Q. Why not save all of that trouble and just interview him

2 Bonthe?

Bonthe.

3 A. Because we did not have the facility to do that in

would

4 Q. But what facilities did you need?

5 A. Well, we would have had to take a court reporter; we

up

6 have had to move investigator there. We would have had to set

7 an interview room so, for us, it was impractical.

went

8 Q. So since Mr Berry and -- well, since two investigators

with

9 there, you would have required just to take a court reporter

10 a tape machine and find a room?

video

11 A. Find a room. Set up all the -- set up all the audio-

12 recording. It was a decision that was taken that it was more

13 practical to do it in our office.

14 Q. Well, since the helicopter was going to Bonthe to pick

15 Mr Sesay up and bring him, it wouldn't have been terribly

16 difficult to take that equipment, would it?

for

17 A. There was a decision taken, Your Honour, that for us,

18 the Office of the Prosecutor, it was more practical to do the

19 interview in our office. And that's what we done.

in

20 JUDGE ITOE: Mr Morissette, how many places were there

21 that helicopter that was transporting Mr --

22 THE WITNESS: Just Mr Sesay and --

How

23 JUDGE ITOE: How many places did the helicopter have?

24 many places?

the

25 THE WITNESS: I don't know, Your Honour. Depending on

26 chopper. From -- anywhere from 10 to 20 maybe. 22, 23, 26.

27 JUDGE ITOE: Thank you.

28 MR JORDASH:

29 Q. It was an Mi-8 helicopter, 22 seats, no?

1 A. Sometimes it was an Mi-8. Sometimes it was a Puma I
2 believe. Puma. Depends what was available.

3 Q. So the investigation team made a decision on a practical
4 basis?

5 A. That's correct.

6 Q. Now, reading paragraph 12 there:

7 "In spite of the fact that the staff were requested to
stay

8 away from the Special Court New England site, the day
after

9 the arrest, Robert Kirkwood, Deputy Registrar, Marianna
10 Goetz, legal adviser to the Registrar, Beatrice Ureche,
11 legal intern, and Ms Claire Carlton-Hanciles, duty
counsel

12 from the Registry, Defence Office, met to discuss
13 obligations to the accused."

14 At paragraph 12, Mr Morissette.

15 A. That's correct.

16 Q. Then paragraph 13:

17 "Ms Claire Carlton-Hanciles was instructed by Ms
Marianna

18 Goetz to go to Bonthe and inform the accused of the
19 existence of the legal aid scheme of the Court, advise
them

20 of their rights with more time and detail from a duty

21 counsel point of view, and assist them in a preliminary

22 manner."

23 Do you know anything about that?

24 A. I don't know anything about that, and I don't know -- I

don't

25 said -- when I said that is correct, paragraph 12 there, I

26 know anything. I said it's correct that's what you read. But

of

27 then it's the first time I see this report and I'm not aware

28 that paragraph 12 and 13. I'm not aware of that.

29 Q. "Upon arranging transportation it became apparent that

same

Ms

the

Sesay

the

of

had

to

--

1 Mr Sesay was due to be transferred to Freetown on the
2 flight that Ms Carlton-Hanciles was due to fly out on.
3 Marianna Goetz contacted the Luc Cote, Chief of
4 Prosecutions, to request information as to authority of
5 movement of Mr Sesay and was thereby informed that Mr
6 had waived his right to counsel and wished to speak to
7 Prosecution."

8 Do you know anything about that?

9 A. No.

10 Q. Reading on, paragraph 14:

11 "Ms Marianna Goetz then orally requested OTP for a copy
12 the waiver as well as the tape recording of the waiver
13 being made while the Registry insisted that Ms Claire
14 Carlton-Hanciles be given the opportunity to talk to
15 Mr Sesay, either in Bonthe or Freetown. Security staff
16 been given clear instruction that the Registry was not
17 enter into contact with Mr Sesay as he waived his rights
18 as he had waived his rights to see counsel."

19 Do you know anything about that?

20 A. No.

in

21 Q. I suggest that there was a clear edict issued by the OTP

22 conjunction with the investigation which, effectively, was

23 prohibiting the Registry from having a lawyer visit Mr Sesay?

and

24 A. That's the first time I see this report, your Honour,

25 it's the first time I hear about this.

26 Q. Well, did you speak to Mr Cote during this period?

27 A. We were on regular contact, yes.

Registry

28 Q. Well, and he never mentioned to you once that the

29 wanted a lawyer to visit Mr Sesay?

1 A. That's what I am saying. I am saying that I never heard
2 that there was instruction given that people from the Registry
3 were not allowed to contact Mr Sesay.

the

conversation

4 Q. Well, I'm suggesting that you must have discussed with
5 Mr Cote whether a lawyer should or should not be coming from
6 Registry; I'm saying that would have been a natural
7 to have?

8 A. Maybe. I don't recall.

let's

9 Q. You don't recall. But, Mr Cote, did you speak to --
10 read paragraph 15.

of

She

11 "Around the time that Mr Sesay was due to arrive at OTP
12 noon Ms Beatrice Ureche went to OTP as a representative
13 the Registry, not the Defence Office as stated in John
14 Berry's memorandum, to await the arrival of Mr Sesay.
15 was directed to do so by Ms Marianna Goetz in order to
16 ensure that Mr Sesay was aware of his rights to Defence
17 counsel and legal aid, this being different from the
18 specific right to a counsel being present during
19 questioning. She was given statement initialed but not
20 signed by Mr Sesay that he was advised of his right to
21 counsel as a suspect, though he was an accused at this

22 time. And that he did not require such counsel to be
23 present during questioning."

24 Then paragraph 8 -- well, just dealing with that
paragraph.

25 You suggested, I think one or two days ago, or yesterday
sorry,

26 that when Ms Ureche came to visit the interview, to obtain the
27 waiver, the reason that she hadn't gone into the interview was
28 because it had started and so she was handed the waiver

outside

29 the interview. Could I suggest that the reason that she
didn't

1 come into the interview was because the OTP and the
2 investigations were keeping her out of the interview, and I am
3 suggesting you're completely aware of that fact.

see

4 A. My recollection of the event is when she arrived, the
5 interview had already started. We can look at the tape and
6 when it started, the time would be shown, and my recollection

is

7 that she was given a photocopy of the signed waiver that had
8 the waiver that had been signed by Mr Sesay. That's my
9 recollection.

been

10 Q. Yes, I know that, but I'm suggesting that you must have
11 known that there had been a decision made that Mr Sesay was
12 going to see a lawyer?

not

13 A. I was not aware of any such decision.

14 Q. Well, do you accept this: That even if what you say is
15 right, that Mr Sesay had waived his right to counsel in
16 interview, he was still entitled to see a lawyer to deal, as

this

17 report suggests, with advice about the existence of a legal

aid

18 scheme; other issues concerning the trial in general. Do you
19 accept that he was still entitled to see a lawyer?

20 A. That's correct.

21 continuation

Q. And looking at paragraph 18 you will see the

22 of this on 12 March.

23 "Ms Marianna Goetz had been" --

24 perhaps

PRESIDING JUDGE: There is a light diversion here,

25 for the sake of euphony. May I propose an alternative

26 pronunciation of Marianna's name? Goetz?

27 THE WITNESS: Goetz.

28 MR JORDASH: Goetz. Thank you.

29 Q. Ms Marianna Goetz, G-O-E-T-Z --

1 PRESIDING JUDGE: The "O" is silent. The German kind.

2 MR JORDASH: Could you say it again?

3 PRESIDING JUDGE: The "O" is silent.

4 MR JORDASH: Could you say the name again?

5 PRESIDING JUDGE: Goetz.

6 Q. Goetz. Thank you:

7 "Ms Marianna Goetz contacted Luc Cote, Chief of

8 Prosecutions, again, and explained that a waiver to
counsel

9 being present during questioning was different from

10 legal aid altogether, in view of the fact that the
waiving

11 was indicted on serious crimes and was due to appear

12 a judge shortly, he had to see duty counsel in order to
accused

13 briefed as to the procedures at the initial appearance,

14 cetera."
before

15 Now, you spoke to Luc Cote during this period, didn't

16 be
et

17 you?

18 A. I was speaking to Luc Cote on a regular basis.

19 Q. Yes. So, did he ever express his misunderstanding of

20 waiver of counsel, to you?

 A. Not that I recall.

 Q. Well, did you have an understanding of the waiver of

21 counsel to be, if he waives counsel --

22 JUDGE ITOE: Mr Morissette, are you suggesting you never
23 discussed anything about a waiver with Mr Luc Cote
24 notwithstanding your frequent conversations with him on this
25 topic?

26 THE WITNESS: I understand, sir, but I don't remember.

27 JUDGE ITOE: You don't remember discussing anything
28 concerning a waiver?

29 THE WITNESS: That's right.

SCSL - TRIAL CHAMBER I

1 JUDGE ITOE: With Mr Luc Cote?

2 THE WITNESS: That's correct.

3 MR JORDASH:

4 Q. And was it your understanding at the time that Mr Sesay
had
5 waived his right to counsel per se, that by saying "I don't
want
6 counsel in the interview," it waived his right to counsel per
se,
7 because that appears to have been Mr Luc Cote's
interpretation?

8 A. My understanding is every morning he would be given his
--
9 read his rights. Every morning.

10 Q. Yep.

11 A. And every morning was the same thing. He would waive
his
12 right to have a lawyer. On a couple occasions we went back
with
13 the -- the specific right advisement. It was the same thing.
My
14 understanding that Mr Sesay did not want to have a lawyer
present
15 during the interview. That's my understanding.

16 Q. So when --

17 A. That's what I have been saying.

18 Q. -- when Ms Ureche turned up, why did you not invite her
in

19 to deal with any preliminary issues outside of the interview?

20 A. All she wanted was a copy. She didn't ask to see Mr
Sesay.

21 All she wanted was a copy of the waiver.

22 Q. Well, I suggest she would have asked to see Mr Sesay
23 because that was what she's been sent for. And I suggest
24 further, Mr Morissette, that because she was a legal intern
she
25 was effectively leant on by the investigation team to keep
away.

26 Is that right?

27 A. It's a suggestion. That's what you said; you're
suggesting

28 it. To me, that's not a question.

29 Q. Well, did you lean on her to stay away?

1 A. No.

2 Q. Were you interested -- let's -- let's put the matter
3 clearly: It was not in your interest, was it, for Mr Sesay to
4 see a lawyer at this time?

lawyer

5 A. Mr Sesay had told us that he did not want to see a
6 and he did not want to have a lawyer present.

7 Q. Well, he told you he didn't, according to you, want a
8 lawyer present because that's the waiver. He hadn't told you
9 anything other than that, had he, if what you say is right?

10 A. Excuse me?

11 Q. He told you, by virtue of ticking the boxes on the
12 waiver --

13 A. That's correct.

14 Q. -- he didn't want counsel present.

15 A. That's correct.

16 Q. He hadn't told you he didn't want a lawyer, did he?

17 A. He waived his right to have a lawyer present.

did

18 Q. But he didn't tell you he didn't want a lawyer, per se,
19 he?

20 A. I guess if you put it this way, no.

to

21 Q. Well, I am putting it this way because this is -- goes

22 your understanding of what waiving his right to counsel during

that
23 interview meant. And you appear to be giving the impression
24 you think it meant he didn't want a lawyer, per se. Was that
25 your understanding of his ticking of the boxes on the waiver
26 document?
27 A. My understanding, that when you tick the box on the
waiver,
28 on the document, on the waiver, that you don't want to have a
29 lawyer present during the interview, that means you don't want
to

1 have a lawyer present during the interview.

the

2 Q. Right. Exactly. Now, there were no discussions, were
3 there, about his waiving the right to counsel except those on
4 tape; am I right?

5 A. Yes, that's correct.

6 Q. Could I just ask you to turn, I think, to appendix or
7 annex -- annex 5, please, at the back of that report?

8 A. Yes.

9 Q. Sorry, go back to annex 4. My fault.

10 A. Four?

and

11 Q. Four, yes. It's an affidavit from Mrs Claire Hanciles,
12 it's paragraph 3 there. See if you can cast any light on

that:

13 "One of the detainees, Issa Sesay, left Bonthe on board the
14 helicopter which flew me into Bonthe."

very

15 A. Which paragraph?

2003.

16 Q. Sorry. It's annex 4, paragraph 3, affidavit from
17 Mrs Claire Carlton-Hanciles, concerning a visit on 17 March

18 Paragraph 3, that: "One of the detainees, Issa Sesay, left
19 Bonthe on board the very helicopter" -- sorry, it's got 844 on
20 the right-hand top of the document.

21 A. Okay, got it.

Hanciles, 22 Q. Paragraph -- is it affidavit from Claire Carlton-
March 23 who is duty counsel, referring to a visit to Bonthe on 17
24 2003. Paragraph 3, that:
the 25 "One of the detainees, Issa Sesay, left Bonthe on board
26 very helicopter which flew me into Bonthe and I did not
been 27 speak with him because, prior to my departure, I had
understand 28 told by the Deputy Registrar that he was made to
29 that Issa Sesay had signed a waiver to duty counsel."

1 Were you in touch with Robert Kirkwood, the Deputy
2 Registrar at this time?

3 A. Maybe, I mean, you know, doing business.

4 Q. Yeah. You would have been speaking to him on a regular
5 basis?

because

6 A. Well, on a regular basis less often than at the OTP
7 they were -- their office was not in our same compound.

8 Q. Well, did the Deputy Registrar ever discuss with you his
9 misunderstanding of the waiver of counsel?

10 A. No.

you

11 Q. Now, you made mention yesterday about the way in which
12 investigated drug cartel. And am I right that what you were
13 talking about was some kind of confidence-building
14 where you infiltrate a criminal gang of some sort?

investigation

15 A. If you're talking about an undercover operation, yes.

and a

16 Q. Well, you drew the analogy between this investigation
17 drug cartel investigation, yesterday, so that's what I'm
18 to understand?

trying

19 A. The analogy that I was drawing yesterday is that these

type

20 of investigations have to be investigated from the inside, as

you

organised 21 would do in a drug cartel or any organised crime, major
22 crime operation. That's what I was --
is 23 Q. Just the information then. So what you're talking about
gang 24 infiltrating into a gang and building confidence with that
25 in order to obtain information?
things 26 A. No. That's too -- we are talking about two separate
secure 27 here, Your Honour. If you're going to be infiltrating an
28 operation, a gang, in an undercover operation, you dare to
29 for yourself, by yourself, the evidence that you need to carry

1 on, to be able to eventually cease the activity of that gang.
2 Nobody in that gang knows that you are a police officer or an
3 investigator. This is totally done deep undercover and you
are
4 always not known by nobody. That's to extract the -- if
you're
5 using, let's say, to investigate from the inside, when you're
6 actually looking to bring somebody to come over, and the term
we
7 use "roll over" this person knows who you are. He knows
you're
8 an investigator. This is when the confidence building that I
9 was talking about yesterday, where you have to build on that
10 thing to develop that rapport with this person, and it's clear
11 from the beginning that this is the objective of the exercise.
12 Q. Right.
13 A. So it's two different technique.
14 Q. Well, the techniques are the same, aren't they, it's
just
15 that one is undercover and one is not?
16 A. That's correct.
17 Q. In both cases what you're doing is creating a
relationship
18 with the suspect, or accused, in which that person trusts you
and
19 gives you some information.

want
you're
You
at

20 A. No. It's different objective. In one objective you
21 the person to come on your board. On the other objective
22 trying to secure evidence. You're trying to convince these
23 people to sell you drugs. You are trying to buy the drugs.
24 are trying to get the evidence against them. On the other
25 objective you want the person to come forward to you and to
26 collaborate with you.
27 Q. Right. To roll over, as you termed it?
28 A. Yes.
29 Q. And, in order to do that, in both scenarios you have to,

1 times, become like a friend, their friend for the moment?

2 A. Yes.

is

3 Q. And you have to persuade them that you are a friend who

4 looking after, to a certain extent, their interests?

5 A. Yes.

understand

6 Q. And, by that manner of persuasion, they slowly

7 that their interests may be looked after by collaborating with

8 you?

9 A. Yes.

say

10 Q. And so, by persuading them that if they collaborate and

11 what you find useful, they will receive something for their

12 efforts; is that fair?

13 A. Yes.

there's

14 Q. And so, as part of that process of being a friend,

friend

15 also the flip side of the coin; that if you're not their

16 their interests may not be best served, does that make sense?

you

17 A. The way it's, you know, the way it's presented is that,

18 know, if we can help, we can help. But if you don't help

19 yourself, you know, then there's no deal.

20 Q. Then, if you don't help yourself then we can't help you.

21 If you don't speak, you can't help yourself?

22 A. That's correct.

23 Q. If you don't speak, we can't help you either?

24 A. That's correct.

25 Q. And the consequences, if you don't speak, may be pretty
26 bad; that's part of the discourse, isn't it?

27 A. The what?

28 Q. If you don't speak, the consequences for you could be
29 pretty bad; that's what you effectively are communicating to

that

1 person?

2 A. Well, it's explained to the person, this is what you're
3 facing and, you know, if you collaborate, we see what we can
do.

4 If you don't collaborate, well, you know what you're facing.
5 You're the one that -- you know what you have done so you know
6 what you will be facing. You will be facing the Court and
that's
7 it.

8 Q. What then did you say to Mr Sesay he would be facing?

9 A. Nothing.

10 Q. You said he would be facing nothing?

11 A. No, no. I said he would be facing -- he would be facing
12 whatever the Court, you know, would -- depending on the result
of
13 the trial. Whatever the Court would impose on him, that's
all.

14 Q. But what did you tell him could be imposed on him?

15 A. Nothing.

16 Q. You never once mentioned a sentence?

17 A. Not in numbers, but I did mention that the maximum was -
-
18 could be up to life for maximums, the maximum sentence.

19 Q. So you effectively said: If you collaborate with us you
20 can save yourself perhaps the life sentence?

21 A. Yes, that's correct.

22 JUDGE BOUTET: I'm sorry, Mr Jordash, what was the
23 suggestion you put to the witness?

24 MR JORDASH: That if what he'd said to Mr Sesay was: If
25 you collaborate with us you can save yourself perhaps the life
26 sentence.

27 JUDGE BOUTET: Thank you. And the answer was "yes"?

28 MR JORDASH: And the answer was "yes."

29 Q. And you were tasked to, as a deliberate policy, to keep

1 Mr Sesay, if you like, on side?

2 A. My goal was to, as I said from day one, to, you know,
make
3 friends with Mr Sesay and try to see if he could, you know,
4 convince him to become a witness for the Office of the
5 Prosecutor.

6 Q. When was that decision made for you to play that role?

7 A. I made that from the first day that we started
interviewing
8 Mr Sesay.

9 Q. Why was it necessary if he'd agreed to come, if he'd
agreed
10 to cooperate?

11 A. He had agreed to cooperate, yes.

12 Q. Why was it necessary for you to be giving that specific
13 task if he's already agreed?

14 A. No. It's like I said, it was a question of confidence
15 building to reassure you that, you know, we would take care of
16 things, to build up a confidence and to assure him that, you
17 know, what we were discussing, it was in his best interests.

18 Q. Yeah, but what I'm asking is: Why, if he'd made a
decision
19 to cooperate in the few minutes he spoke to Mr Berry, was it
20 necessary, then, to pull in such a senior man like you to keep
21 him on-side during the investigation process?

that

22 A. Just to re-emphasize, you know, what we were doing and

23 we would be keeping our word. We would keep our word.

24 Q. What do you mean keep your word?

25 A. What we would do for him.

26 Q. So there was some fear that he might not go through with
27 it?

28 A. That's always a possibility.

29 Q. So you would meet him on several times a day when he was

SCSL - TRIAL CHAMBER I

1 being interviewed?

2 A. Maybe once, maybe twice, maybe some day I don't remember
if 3 I ever met him but, normally, I would meet him once or twice a
4 day, yes.

5 Q. And reassuring him that you would do what had been
6 promised?

7 A. That's correct.

8 Q. And so it was his -- well, it's his cooperation for --
in 9 exchange for the promise?

10 A. His collaboration in exchange to what we could do for
him, 11 yes.

12 Q. Thank you. Yesterday, we spoke of, I think it was the
end 13 of the day, you spoke of using Rule 42 because -- sorry, you
14 spoke of using the word "suspect" because Rule 42 was in the
15 words of -- sorry. Can I just have a moment, please? I will
16 leave that point until -- it's not entirely my fault. It's
lack 17 of organisation. It's the desks are not terribly good for
having 18 things exactly where you want them.

19 JUDGE BOUTET: I'm glad to hear that.

20 MR JORDASH: That's my excuse anyway.

21 JUDGE BOUTET: I will not challenge you on that,
22 Mr Jordash.

23 MR JORDASH:

24 Q. Let me ask you about this, Mr Witness.

25 JUDGE BOUTET: No, Mr Jordash. Before you go any
further,
26 what do we do with these reports?

27 MR JORDASH: Well, I would like them to be exhibited
with

28 Your Honours' leave. With Your Honours' leave, could they be
29 exhibited?

1 JUDGE BOUTET: We have been using them, but I don't know
2 what you intend to do with them.

3 MR JORDASH: Yes. Please, could they be exhibited?

4 PRESIDING JUDGE: Right. Let's proceed with the first
one.

5 The first one is the one in respect of the Prosecutor versus
6 Moinina Fofana, am I right? The first one is in respect of --
on
7 the subject matter the Prosecutor versus Moinina Fofana.

8 MR JORDASH: Yes, please.

9 PRESIDING JUDGE: Dated 2 July 2003.

10 MR JORDASH: Well, to be honest, I am happy for that not
to
11 be exhibited.

12 PRESIDING JUDGE: Exhibited, right.

13 [Overlapping speakers]

14 JUDGE BOUTET: I'm happy to hear that too because I was
15 going to ask you what the relevance is to --

16 PRESIDING JUDGE: Yes.

17 MR JORDASH: Certainly.

18 PRESIDING JUDGE: So we exhibit the one dated 13 May
2003.

19 MR JORDASH: Yes, please.

20 PRESIDING JUDGE: Prosecution, any objection?

21 MR HARRISON: No.

and
22 PRESIDING JUDGE: The document is received in evidence
23 marked exhibit?
24 MS KAMUZORA: Number I, Your Honour. Letter I.
25 PRESIDING JUDGE: Letter I. Exhibit I. Thank you.
26 [Exhibit No. I was admitted on the voir
dire]
27 MR JORDASH: Thank you.
28 Q. Can I just confirm with you, Mr Morissette, that the
29 waivers documents which we looked at yesterday, if you just
turn

1 to the waiver documents, are they in front of the file?

2 A. Yes, they are, sir.

3 Q. Would you just confirm for the record that the waiver
4 documents are termed "suspect statements"?

5 A. Yes, that's correct.

6 JUDGE BOUTET: So, for the record, which is which, and
if
7 you can give us a more specific reference, Mr Jordash.

8 Presumably, you're talking about page --

9 MR JORDASH: The waiver document of the --

10 JUDGE BOUTET: It's page 28302 of Court Management
numbers?

11 MR JORDASH: Sorry, could Your Honour say the number
again?

12 JUDGE BOUTET: 28302.

13 MR JORDASH: Yes.

14 JUDGE BOUTET: That's the one you're talking about?

15 MR JORDASH: That's a good example.

16 Q. 28302, Mr Witness.

17 JUDGE BOUTET: Mr Witness, do you see this at the top of
18 the page 28302, on the right-hand corner of the page?

19 THE WITNESS: In the -- in the centre? Witness
statement?

20 MR JORDASH:

21 Q. Yes, in the centre of the page there: At the top
"suspect

22 statement;" do you see that?

23 A. Yes. If I may explain, Your Honour. The reason -- the

24 rights -- what we did is -- the Prosecution did is that we --

25 this is the witness statement is a statement that we take when

we

26 interviewing people, whether it is witness or suspect,

accused.

27 And what we had done is we use that form and you see at the

28 bottom: "This document is the property of the Office of the

29 Prosecutor." We use -- what the Prosecution had done is use

that

advisement
recording.

on

was

place

week

was

from

to

1 form and added at the beginning of the form the right
2 and, on the other side, the suspect statement for the
3 So that this form became part of -- if there was any statement
4 that would have been taken, it would have followed up behind
5 page 3, 4 and 5 would have been the written statement, if it
6 going to be handed. So, basically, it was just a working
7 document that was provided to us so that we could have some
8 where it was going to be recorded.

9 Q. I don't know if you've read the transcript from last
10 for the application, when the application for this voir dire
11 made?

12 A. No, I haven't.

13 Q. It was suggested last week by the Prosecution that,
14 although there had been a brief conversation during the lunch
15 between you, Mr Berry and Mr Sesay, on 31 March 2003, apart
16 that, there hadn't been conversations off tape?

17 PRESIDING JUDGE: Yes, Mr Harrison.

18 MR HARRISON: I stand corrected. If I could be referred
19 the transcript, I just don't recall that taking place.

20 PRESIDING JUDGE: Mr Jordash?

first

21 MR JORDASH: Sorry, it's 7 June, and I am looking at,

22 of all, page 49. I did alert --

23 PRESIDING JUDGE: Yes.

24 MR JORDASH: -- your legal officers to this.

25 Q. Page 49, bottom of the page, if I can read it to you, Mr

26 Morissette.

on?

27 JUDGE BOUTET: Mr Morissette, do you hear what's going

28 THE WITNESS: Yes, I do now. It was on and off.

29 MR JORDASH:

which
the
which
one
to
being
the
is
an

1 Q. What I'm referring to is a transcript from last week
2 involved the application for a voir dire. So you understand
3 point, we were suggesting that the conversations off tape,
4 were part of the coercion and persuasion in order to obtain Mr
5 Sesay's consent, and it was suggested, what we say, by the
6 Prosecution, there hadn't been such conversations except for
7 on 31 March 2003?

8 PRESIDING JUDGE: Will you read the section?

9 MR JORDASH: Yes. It's line 29, page 49.

10 "Prosecution wants to advise the Court and feels bound
11 do so that the transcript of 31 March 2003, although
12 accurate, does not include a brief conversation during
13 lunch break between Mr Morissette, Mr Berry and Mr Sesay
14 during which Mr Morissette" --
15 And then I objected.

16 PRESIDING JUDGE: Mr Harrison, do you acknowledge that
17 your ipse dixit.

18 MR HARRISON: Yes. And I just point out that there was
19 objection and that the matter was not canvassed in its

20 completeness.

21 PRESIDING JUDGE: Yes. But up to that point before the
22 objection --

23 MR HARRISON: Yes.

24 PRESIDING JUDGE: You acknowledge that as your ipse
dixit?

25 MR HARRISON: You are correct.

26 PRESIDING JUDGE: Yes.

27 MR JORDASH: Well, there is more. Page 56, when the
28 Prosecution were making submissions based on Halilovic, it was
29 quite clearly implied.

1 PRESIDING JUDGE: Precisely where?

2 MR JORDASH: Line 16.

3 PRESIDING JUDGE: Yes.

4 MR JORDASH: The same comments were made with respect to

a

5 suggestion made at page 29348, which refers to Mr Sesay saying

different

6 something during the break. But this is what makes it

break

7 from Halilovic. In Halilovic something was said during the

8 but everyone forgot about it. No one discusses it. At 29348,

"During

9 you see the investigator doing the right thing. He says,

10 the break I heard you say this. What is it you want to say?"

appropriate.

11 And he is given the opportunity to do it. This is

12 PRESIDING JUDGE: Shall we hear, then, from the

13 Prosecution?

14 MR HARRISON: I understood that there was an objection

15 raised and, because of the objection and the Court's ruling, I

16 didn't discuss matters any further.

17 PRESIDING JUDGE: But is that particular section that he

of

18 has read, is that a correct attribution to the representation

19 what you said?

20 MR HARRISON: That's what I said, but I just want to

the
21 emphasise for the Court that when the objection was raised,
22 Prosecution understood that the Court did not want to hear any
23 more from the Prosecution on that topic, and the Prosecution
24 tried to avoid it.

that,
25 PRESIDING JUDGE: And so what was the legal effect of
26 in your submission, that the Court not wanting to hear any
more.

27 What would you say -- your submission --

28 MR HARRISON: The legal effect of it was the Prosecution
29 accepted that it ought not to refer any further to what it was

1 that the Prosecution knew.

2 PRESIDING JUDGE: So where do we stand, Mr Jordash, in
3 respect to that response?

4 MR JORDASH: Well, I would respectfully submit --

5 PRESIDING JUDGE: What is your submission?

6 MR JORDASH: My submission is this: That it was quite
7 clear the Prosecution were pitching their submissions that
there
8 had been no conversations off tape. Secondly, sorry, that
there
9 had been one conversation off tape. I think we can reasonably
10 infer that from the way in which the Prosecution cross-
examined.

11 PRESIDING JUDGE: In other words, the fact that the
Bench
12 indicated that we didn't want to deal with that, did it affect
13 the prior utterances or submissions of Mr Harrison on behalf
of
14 the Prosecution?

15 MR JORDASH: The order said that what was said during
the
16 break --

17 PRESIDING JUDGE: Yes.

18 MR JORDASH: -- referred to on 31 March, could not be
19 adduced by the Prosecution during their submissions. The
20 Prosecution then went on to effectively say: Look, this is
not

21 the same as Halilovic --

22 PRESIDING JUDGE: Yes.

23 MR JORDASH: -- because there wasn't conversations off
24 tape, as in Halilovic, which weren't then referred to on the
25 transcript. That was the substance of their submission. The
26 implication is clear : The Prosecution were submitting at

that

27 stage there had been no conversations except for conversation

on

28 31 March, but that was not a problem, said the Prosecution,

29 because it had been properly referred to by the investigators

on

1 tape. Now --

2 PRESIDING JUDGE: Then if I understand the Prosecution
3 rightly, and they're at liberty to correct this impression,
4 they're virtually saying that the fact that the Bench

indicated

5 that it would not, in fact, deal with this, rendered what they
6 were saying legally untenable. I stand corrected on that.

7 MR JORDASH: Sorry, I don't --

8 PRESIDING JUDGE: Legally untenable, in other words.

9 MR JORDASH: Yes, because they were saying their defence
10 position was legally untenable because any conversations had

off

11 tape had been referred to appropriately on tape.

12 JUDGE BOUTET: If I can intervene here. If you look at
13 page 55 of that transcript, I do recall very vividly that

issue,

14 because you objected to it because you objected to the part

that

15 Mr Harrison should now be reporting words that would have been

or

16 words or discussion that had taken place at the time, and

17 Mr Harrison was trying to bring to the attention of the Court

an

18 issue that he felt he was ethically bound to bring to the

19 attention of the Court. Because, in his recollection, he had

20 informed the Court that every single break that had taken

place

the
one
page
in
not
recollection,
moment
trying

21 or would have taken place in interviews were already found in
22 transcript and he had now a recollection there was certainly
23 scenario where he was not there. That's why I take it, at
24 55, in his recollection, he thinks he has to put to this Court
25 that all conversations with Sesay have been recorded and are
26 the transcript. He has now discovered that at least one is
27 there. That is all he's saying. So this is, to my
28 the matters that were being discussed at that particular
29 nothing more, nothing less than that. So Mr Harrison was

1 to bring to the attention of the Court that he might have,
2 improperly, informed the Court as to the scenario that had
3 existed, but has now discovered there might be one incident
where
4 he was not accurate. That's all it is. I'm not sure what
you're
5 making of all that.

6 MR JORDASH: What I'm making --

7 PRESIDING JUDGE: Mr Sesay --

8 JUDGE BOUTET: Mr Jordash.

9 JUDGE ITOE: Sorry, Mr Jordash. I think it's you who
10 objected to this. Because, you know, you sort of took
11 Mr Harrison on because he was trying to give an explanation to
an
12 incident to which he was not a witness. He was merely wanting
to
13 clarify what he -- what he knew about what must have happened,
14 and he said he was doing this because of his -- he was
15 professionally bound to reveal certain things which may have
16 happened during this interview. You were of the opinion, you
17 know, that since he did not witness the incident, he could not
18 report on that to the Court. And it was on this basis, you
know,
19 that the Court -- that we did not visit this matter any
further.

20 So, I think that if the matter was not properly
canvassed

this
that,
at
give
there

21 because it was nipped in the bud at the time, this thing, at
22 time -- and crediting Mr Harrison with having said this or
23 would not appear to be the right thing to do at this point in
24 time. It would not appear, to me, to be the right thing to do
25 this point in time because Mr Harrison, from what I understood
26 him to be doing at that time, was only to help the Court to
27 us details as to what must have happened during these
28 off-interview conversations with the accused person. But
29 was this objection and I think we did say, yes, there was some

1 reason in that and we stopped there. So, that is --

2 MR JORDASH: I'm not criticising Mr Harrison. I'm not
3 criticising Mr Harrison. What I'm seeking to do is criticise
4 Mr Morissette. Because submissions were put forward on a
5 which were not accurate, and I'm suggesting that was because
6 Mr Morissette has not been frank with the Prosecution.

basis

7 What I'm saying is you cannot make submissions on the
8 of Halilovic submitting that everything was okay here because
9 conversations off tape were then discussed on tape, and then
10 adduce evidence saying, well actually, there is a lot of
11 conversations off tape which were never then discussed on

basis

all

tape.

12 I'm not going to press the point because the point I would

submit

13 is clear, but I'm not going to proceed with it. It's a small
14 point. It's a point about inconsistency and we say

inconsistency

15 coming about because Mr Morissette has not been frank with the
16 Prosecution.

17 JUDGE ITOE: I think those are grounds which you can
18 explore during your cross-examination because you've made the
19 point that there were off the tape interviews during breaks,

and

20 so on and so forth, and you're free to exploit them with the

21 witness who was there at the time. Mr Harrison wasn't and I
22 think Mr Morissette is in a better position to tell the Court
23 what must have happened during these intervening moments, you
24 know, at the time they had breaks at lunches and so on and so
25 forth.

26 MR JORDASH: I'll move on, Your Honour.

27 Q. Can I ask you, Mr Morissette, please, to turn to the 31
28 March interview, 29362.

29 JUDGE BOUTET: Mr Jordash, could you repeat the page

again?

1 MR JORDASH: 29362, Your Honour.

2 JUDGE BOUTET: Thank you.

3 MR JORDASH: And --

4 MR HARRISON: There is another binder.

5 MR JORDASH: Could I ask Court Management, please, to
give
6 Mr Morissette the next binder? Apparently we have. 29362.

7 JUDGE ITOE: Is it not Mr Berry here? Is it Mr
Morissette?

8 MR JORDASH: Yes, this is Mr Berry here, although we
don't
9 know if Mr Morissette was in the background somewhere.

10 JUDGE ITOE: It is Mr Berry who is right on the scene.

11 MR JORDASH: Yes.

12 JUDGE ITOE: I don't notice the presence of Mr
Morissette
13 here. Well, you can go ahead with it.

14 MR JORDASH: He may be in the wings.

15 Q. Can you see there line 18, Mr Morissette?

16 A. Yes.

17 Q. You can see 31 March, and it's at 12.45 p.m. and there
is a
18 very long break there from 12.45 to 2.31. Now, it's a long
time

19 ago, and I certainly don't want to take advantage, but do you

20 remember if you were there on 31 March?

21 A. During the break?

22 Q. During the break.

23 A. Yes, I did visit with Issa during that break, Mr Sesay.

24 Q. And this is -- it was a particularly long break, it
wasn't

25 usual to have a lunch break for one hour and 45 minutes; could
26 you confirm that?

27 A. I didn't take track of all the breaks. Depends. Some
days

28 short, some days long. I don't know.

29 Q. Yes. But an hour and 45 is on the long side.

1 A. Right.

2 Q. And so can you remember that break?

3 A. Yes, I do.

4 JUDGE BOUTET: Was there an answer as to whether it was

a

5 long or a short break?

6 MR JORDASH: Yes, I think it was on the long side. I

7 thought that was what -- maybe I am hearing voices again.

8 THE WITNESS: Yes.

9 MR JORDASH:

10 Q. Yes, it was on the long side?

11 A. Yes, that's correct.

12 Q. Could I suggest that a huge amount of pressure was put

on

13 Mr Sesay during that break?

14 A. What was put on during that break for Mr Sesay was that,

15 from the beginning, he had agreed to collaborate with us and

this

16 is what he kept telling us, that he had agreed to collaborate

17 with us, but we felt that at this stage we were not sure

whether

18 it was worthwhile to continue the collaboration because we

felt

19 that he was holding back on us and that's why the break was a

20 little longer because I had a conversation with Mr Sesay and

21 explained to him what -- I'm sorry, I'll just slow down, Your

22 Honour.

23 JUDGE ITOE: You say you had a good session?

him

24 THE WITNESS: Yes, a longer session, and explained to

25 that, you know --

26 JUDGE ITOE: A long session off the records?

27 THE WITNESS: Yes, off the record, Your Honour.

28 MR JORDASH:

29 Q. And --

SCSL - TRIAL CHAMBER I

could

and

work

the

incidents

that

say,

also

1 A. And had a frank discussion with him that, from what I
2 see, and what we were -- from our discussion with the
3 investigation and Prosecution, you know, he was holding back
4 we knew that, that he was holding back, and I explained to
5 Mr Sesay that this could not work that way; that it had to
6 both ways. He had offered his entire cooperation to us.

7 JUDGE ITOE: He was holding back what?

8 THE WITNESS: Holding back that he was not telling us
9 whole truth.

10 JUDGE ITOE: He was not telling you everything --

11 THE WITNESS: Everything that he knew about the
12 that we had been discussing with him. And that unless he was
13 willing to come forward in the interview, and tell us exactly
14 what it is that he had done, and so that -- and that we could
15 prove it, we could corroborate it, you know, we were saying

16 at this stage we were -- there were basically no more use to
17 continue this -- this interviewing. So, we had a frank
18 discussion back and forth and, you know, asking him, like I

19 we all people do things bad sometimes in their life but they

--

20 do good things and you have to -- life goes on. And I was
21 explaining to him that if he did things that, you know, he was
22 thought were bad, that these things he had to come out with
23 Mr John Berry and he had to explain that to Mr John Berry when
24 was being interviewing by Mr John Berry.

he

25 MR JORDASH:

work

26 Q. So, as you said, you explained to him that it had to
27 both ways?

28 A. That's correct.

out

29 Q. And that if you were going to help him, he had to come

1 with evidence which would help you?

2 A. That's correct.

3 Q. Back to that phrase again, quid pro quo; exchange for
4 exchange?

5 A. That is correct.

6 MR JORDASH: I note the time Your Honour. I don't know
7 if --

8 Q. Did you -- did you then inform him of what he
potentially
stopped?

9 was going to lose if the arrangement, the collaboration,

10 A. Well, I informed him that the reason we would need, you
11 know, the collaboration would have to stop is because we would
12 not be able to use his testimony unless he told us the whole
13 truth and nothing but the truth, so that if when he would --
14 because otherwise, if the Prosecutor would not risk to call
15 somebody as a witness without knowing if the witness was fully

on

16 board. So, in other words, if he had done thing wrong, and we
17 didn't know about it, but this -- these things were more

likely

18 bound to come out during the trial then he would lose his --

his

19 credibility.

20 Q. Well, it was -- you have to -- basically what you were
21 saying was: Confess to what you've done. Then you will be

22 useful to us. If you don't confess to what you have done, you
23 won't be?

24 A. Yep.

25 Q. Or, in fact, actually wider than that, wasn't it?
Confess

26 to something and then --

27 A. No, no. Not confess. We know, we knew that he had

28 thing -- we knew he has done thing wrong and the investigation
--

29 Q. Stop there. Stop there. How do you know that?

1 A. We know that from our investigation.

2 Q. Well, I don't want to state the obvious, but that's one
3 side of the story. So you didn't know it, you suspected it?

4 JUDGE ITOE: At least as far as they are concerned,
5 Mr Jordash. I mean, they had investigated and that was their
6 opinion of the situation they were handling at the time, as
7 investigators.

8 MR JORDASH: Yes, but they didn't know --

9 JUDGE ITOE: They were not taking evidence from just
10 anybody. Anyway you can go on. He's answered that, you know,
11 that as far as they're concerned at their level they had some
12 indicia of what their subject was before they were
13 interviewing him.

14 MR JORDASH: Which I think is an unobjectionable
15 description but for an investigator to say: We knew he had
16 something wrong --

17 JUDGE ITOE: According to them; I am sure that's what he
18 would like to add.

19 JUDGE BOUTET: On the information they had at that
20 particular moment, aside from him, from other sources, were
21 he was or was not involved in something. I mean, yes, they

own

interviewing

done

that

may

22 put it to him: Well, we know that when you say this, it's not
23 quite true, whatever. And they only have this information on
24 file, not necessarily from your client, from other sources.

How

25 they do their investigation, it is their work and their job.

26 PRESIDING JUDGE: Suppose he were to say from an
27 investigative perspective, would that take care of your

problem?

28 MR JORDASH: Well, I'm happy to leave it but I would --

29 PRESIDING JUDGE: Yes. I think probably one would

1 understand it from that context. He wasn't making a
2 pronouncement other than from an investigative perspective,
which
3 pronouncement may be wrong from other perspectives.

4 JUDGE ITOE: That's why we are here.

5 PRESIDING JUDGE: Yes, that's so.

6 JUDGE BOUTET: If I may intervene here, Mr Jordash, not
on
7 that issue, just to clarify a response given to you by the
8 witness. Mr Morissette, you said when you were asked the
9 question that when you spoke to Sesay during that break, you
said
10 that you had to know, and you were saying to Sesay you had to
11 know that the witness was still on board with you, so, and
that
12 his credibility was important because if he was to be
challenged

13 and you had to make sure that he would stand one challenge in
14 court. So, you're talking to that person at that time as a
15 witness; you're not anymore on a suspect scenario. So this is
16 clearly an interview with a witness, not a suspect. Am I --
am I
17 misquoting the facts to you? Or am I misdescribing what is
18 happening at that time.

19 THE WITNESS: Yes. I would say misdescribing. I was
20 talking to -- because I did not go with Mr Sesay to actual
facts

discussing 21 in regards to the investigation. What I was doing is
to 22 with him what he had provided to the -- to the investigation,
conducted 23 Mr Berry, so far, and exactly quoted in that, according to our
go 24 investigation, based on our investigation that we had
we 25 so far, we knew that he had done thing wrongs, but I did not
show 26 into that so -- but I explained, I was explaining to him that
27 knew things that he was not telling us the truth, and he kept
28 insisting that, well, you want to collaborate, you have to
29 that you're genuine and you have to show that you're serious

cannot
having
come
to
at

1 about this. And unless these things come out we cannot, I
2 justify -- you don't have any credibility. And so we were
3 one-on-one discussion like this, back and forth, and I was
4 telling him that this -- if you -- these things will have to
5 out. So when you're talking with Mr Berry, these things have
6 come out. Unless, otherwise, you won't have any credibility
7 all.

8 MR JORDASH:
9 Q. We can see this more clearly, can't we? Sorry, Your
10 Honour.

11 PRESIDING JUDGE: Perhaps we'll take a short break and
12 come
13 back and pursue that further. Yes.

14 MR JORDASH: Yes. Thank you.

15 [Break taken at 11.42 a.m.]

16 [RUF13JUN07B - CR]

17 [Upon resuming at 12.14 p.m.]

18 PRESIDING JUDGE: We'll continue with the
19 cross-examination, with the expectation, consistent with
20 Mr Jordash's commitment, that we'll wind up today.

MR JORDASH: I'll do my very best. That shouldn't be a

21 problem.

to

22 JUDGE ITOE: Please do, Mr Jordash. So that we can move

23 Mr Berry, I hope.

24 MR JORDASH: Yes.

2003,

25 Q. Mr Morissette, please turn to the 15 April interview,

26 page 29535.

27 JUDGE ITOE: Sorry, Mr Jordash, 29?

28 MR JORDASH: 535.

29 Q. You're in the interview at this point. 29535.

have

1 JUDGE BOUTET: What's the date of this interview? I
2 that page. I'm just asking --

3 MR JORDASH: 15 April, Your Honour.

4 JUDGE BOUTET: 15 April.

5 MR JORDASH:

6 Q. And you see there question, I think -- it might be from
7 Mr Berry, it might be from you, it's unclear. But Mr Sesay
8 answers, "Mr John," so it's probably Mr Berry.

truthfulness

9 "Q. Your credibility is going to lie on the
10 of what you and I speak of, okay?

11 "A. But some people make allegation, Mr John.

of

12 "Q. No, I realise that, but that's why I'm just
13 emphasising to you, okay, that not to hold back because

that

14 any fear of anything else. But, I mean, if you feel

the

15 there is something that you did and you're not telling

truth

16 whole amount, the reason why I need you to tell the

exactly

17 is I need the credibility that Issa is telling me

18 what happened. Because, obviously, there may be other

19 people, as you say, who are going to say something

if

20 differently, okay. That's why I want to make sure that
21 the stories are the same, that they are the same. If
22 they're not the same, no problem. We'll deal with that
23 when we get to it."

24 Do you recall that?

25 A. Very vaguely, Your Honour, and I don't know if it's me
26 speaking or John. We'd have to listen to the tape.

has

27 Q. Right. But you can see there it sounds as though there
28 been an agreement that Mr Sesay will be a witness, and that --

is

29 that right?

be a
we
wasn't

1 A. I cannot say that there was an agreement that he would
2 witness, but this was the idea, to eventually make sure that
3 want him to have -- we wanted him to be a witness, but it
4 my call to decide if he was going to be called as a witness or
5 not. But definitely the plan was to have Mr Sesay for us, for
6 our investigation -- as far as investigation was concerned, we
7 wanted to have him as a witness.

8 Q. It was effectively being said to him: What you say to
9 us -- hopefully what you'll say to us is consistent with the
10 evidence we already have, that way you'll be a useful witness.

11 A. Yes, that's correct, Your Honour.

that,

12 Q. If it's not consistent, then we'll have to deal with
13 presumably, at the time he testified for Prosecution.

14 A. Not necessarily. It means we have to deal with that.
15 That's one way to do it but also to do other -- to expand our
16 investigation and try to corroborate what Mr Sesay was telling
17 us.

being

18 Q. You don't say, do you, anywhere, when discussing him
19 a witness, that the decision lies with anyone else besides
20 yourself?

21 A. I don't recall. I know we've discussed that the

think

22 Prosecution would be involved, but I don't know. I don't

23 so.

24 Q. Yesterday you mentioned, at the end of the day, that you
25 used the word "suspect" because Rule 42 and 43, which you were
26 purporting to apply, used the word "suspect"; is that right?

27 A. That's correct, Your Honour.

28 Q. Are you familiar with Rule 63?

29 A. Vaguely.

the

and

only

to

accept

1 Q. Questioning of the accused.

2 A. Yes, vaguely. I haven't used it --

3 Q. Rule 63(A):

4 "Questioning by the Prosecutor of an accused, including
5 after the initial appearance, shall not proceed without

6 presence of counsel unless the accused has voluntarily

7 expressly agreed to proceed without counsel present. If

8 the accused subsequently expresses a desire to have

9 counsel, questioning shall thereupon cease, and shall

10 resume when the accused's counsel is present."

11 A. That's correct.

12 Q. So it wasn't that you had to refer to Mr Sesay as a

13 suspect, because there was a specific rule which enabled you

14 refer to him as an accused, which is what he was; do you

15 that?

16 A. Yes.

17 Q. And Rule 63(B) goes on to deal with the same, audio or

18 video recording of any waiver in accordance with the procedure

19 provided for in Rule 43. So -- well, let's move on.

20 JUDGE BOUTET: Was that a question?

comment 21 MR JORDASH: No, it wasn't. I was going to make a
22 and I thought better of it.
23 Q. Can I ask you, please, Mr Morissette, to turn to 29518
24 which is the 15 -- sorry, 14 April interview. It's -- as you
25 told us yesterday, this is the point when you turn up to deal
26 with the intervention of John Jones. Just have a look at
29518.
27 A. I am.
written. 28 Q. And you dealt with the letter which John Jones had
29 And it's right that you read out part of the letter, didn't
you?

1 A. That's correct, sir -- Your Honour.

2 Q. But one aspect, and it's -- I forget the exhibit number

--

3 our computer has crashed here. The letter from John Jones,

which

4 was exhibited yesterday, you -- it's right that you did

include

5 part of the letter when you read it to Mr Sesay?

6 A. No, just the --

7 Q. Yes, just a selection. But one bit you missed out was

8 this: "I am extremely concerned about the circumstances

9 surrounding the apparent waiver of Mr Sesay's right to remain

10 silent and to have a lawyer present during his investigation

by

11 your office."

12 That's something that you didn't read to Mr Sesay.

13 A. Can you read the paragraph again for me, please?

14 Q. Yes. "I am extremely concerned about the circumstances

15 surrounding the apparent waiver of Mr Sesay's right to remain

16 silent and to have a lawyer present during his investigation

by

17 your office."

18 A. No, I did not read that part.

19 Q. Is there any reason why you did not read that part?

20 A. I'm trying to remember. That's some place that, if I

21 recall, Mr -- somewhere else, Mr -- what's-his-name, Mr Jones,

22 had been to see Mr Sesay twice, I believe, while at Bonthe
23 Island. And Mr Sesay had informed us of this, but I'd have to
24 find it, and Mr Sesay apparently had told that he did not want
to
John
25 have any lawyer present when he was being interviewed by Mr
26 Berry.
27 Q. Yeah. The point I'm asking, really, is this -- well,
let
28 me put it specifically. Can I suggest that you intentionally
29 missed out the word "lawyer"?

1 A. I don't know why I did not do it.

here

2 Q. Well, could I suggest that what, in fact, was going on
3 was that you were seeking to distinguish duty counsel from
4 lawyers, to confuse Mr Sesay into waiving his right to duty
5 counsel and not, in fact, to a lawyer.

6 A. No, this thought never occurred to me.

referring

7 Q. Okay. Let's read on. 29519. Look at line 23,
8 to the specific rights advisement. Line 23:

duty

9 "It's called a specific rights advisement. We have just
10 received a letter from John Jones, Defence adviser and
11 counsel, telling us that you wanted to reconsider your
12 collaboration with the Office of the Prosecutor."

13 And then over the page, and we can refer to the specific
14 rights advisement, but we can do this more quickly on the
15 transcript. Line 7, 29520:

collaboration

16 "Q. Did you tell John Jones, the duty counsel, Defence
17 adviser, that you wanted to reconsider your
18 with us."

19 Okay, you see that?

20 A. Yes.

21 Q. Is there any reason why the rights advisement, which had

to
counsel
was

22 been specifically drafted to deal with problems which appeared
23 be arising did not mention lawyer, but referred to duty
24 and Defence adviser?
25 A. I have no explanation for that.
26 Q. I mean, it's right, isn't it, that you were aware that
27 Mr Sesay had requested a lawyer?
28 A. Yes.
29 Q. And we can see that, can't we, from the document which

1 signed by Mr Berry.

last

2 MR JORDASH: Your Honours have in the bundle we filed

I've

3 week. Your learned officer gave me a copy which, of course,

of

4 lost. Could I ask for the witness, please, to be given a copy

our

5 this. It wasn't exhibited last week, but I referred to it in

6 submissions. It's the letter dated 24 March.

7 Q. Now, are you aware of this letter?

but

8 A. Yes, I'm aware. I don't know if I've seen it before,

9 I'm aware -- I was aware of it, yes.

10 Q. Okay. So it's a letter written by or on behalf of

represent

11 Mr Sesay, saying: "I, Issa Sesay, want Mr Robinson to

12 me and not Mr Edo Okanya."

13 A. Yes.

14 Q. Do you know the circumstances upon which this letter was

15 signed by Mr Berry?

when

16 A. I don't recall the circumstance, but I believe it was

the

17 Mr Sesay -- on one occasion, when Mr Sesay -- no, that's on

18 third -- is it the 24th? I don't recall, Your Honour, but I

19 believe it would have been when Mr Sesay was brought in for an

20 interview with John Berry.

21 Q. So John Berry knew Mr Sesay was asking for a lawyer, at
22 least on 24 March?

23 A. Yes. But he was asking for that specific lawyer.

24 Q. Yes.

25 A. And we were waiting for the Registry to make the
26 arrangement for that.

27 Q. Right. And the waivers had been counsel, they'd always
28 been termed counsel, hadn't they, not lawyer?

29 A. Yeah. To be honest, we were not making the difference.

I

1 don't know why, but we were not making the difference. And,
2 still, Mr Sesay, even though he wanted -- he had expressed his
3 wish to be represented by a specific lawyer, he also expressed
4 his wish to continue collaborating with us, at the same time.

5 Q. Well, collaborating with you is one thing, but doing so
6 without a lawyer is a second thing, isn't it?

7 A. Is a what?

one
to

8 Q. Well, collaborating with you and continuing to talk is
9 thing, but, of course he could have collaborated and continued
10 talk with you with a lawyer.

11 A. Yes, that's correct.

12 Q. And simply because he says I want to continue talking to
13 you doesn't mean he is saying, "I want to do it without a
14 lawyer."

15 A. That's correct.

16 Q. Mr Berry must have told you that Mr Sesay asked for a
17 lawyer, at least on this date.

for

18 A. Mmm. And, if I recall, we had informed the Registry of
19 this, and that is why he was put on paper, and he was asking
20 that specific lawyer.

transcripts.

21 Q. And I'm suggesting -- well, let's turn to the

22 29520.

23 A. 520?

about

24 Q. Yes, please. 14 April. There's Mr Sesay being asked

"I'm

25 the specific rights advisement at line 19. Mr Sesay says:

that,

26 willing to continue talking to you -- with you, because I've

27 started it already." So he was saying that it is his right

28 because there had been some agreement before, he was going to

29 continue because of that agreement. Yes?

1 A. Excuse me. Yes.

2 Q. Yes?

3 A. That he was -- continued to talk, yes, that's correct.

4 Q. That was the agreement before reached, that he was

5 to continue; is that your understanding?

6 A. He was willing to continue, like he said, "Because" --

7 willing to continue talking to you because I've started

8 Q. Yes. Okay. 29521, line 12:

9 "Q. Do you want your duty counsel present during an

10 interview. Again, it is either yes or no."

11 JUDGE BOUTET: Did you say 29521?

12 MR JORDASH: 29521.

13 PRESIDING JUDGE: There is no such --

14 JUDGE BOUTET: I have no such page. That's why I'm

15 PRESIDING JUDGE: The next one is 29522.

16 JUDGE BOUTET: In my book as well. There is a page

17 missing, again.

18 MR JORDASH: Well, I've got 29521.

19 PRESIDING JUDGE: We'll follow you carefully.

20 MR JORDASH: I can read it.

21 Q. To be fair to you, Mr Morissette, you do say, at line

willing

"I'm

already."

asking.

15:

the 22 "Q. Do you want your duty counsel to be present during
23 interview? Again, it's either yes or no.
24 "A. My --
25 "Q. Lawyer to be present when we interview you.
26 "A. Well, my lawyer is not yet -- I don't have a lawyer
27 yet.
be 28 "Q. That's why I said duty counsel. Duty counsel would
29 a lawyer that's been appointed temporarily by the person

1 that came and see you here at the beginning there.
2 Remember the lady that came and see you, she's a duty
3 counsel. This person is also duty counsel. Do you want
4 any duty counsel to be present?"

itself

5 Now, of course, I suggest there is nothing wrong in
6 with that paragraph. You appear to be saying, is this right,
7 duty counsel were like lawyers, temporary lawyers; yes?

the

8 A. That's correct.

9 Q. Then, I suggest, we get into problems. 29521:

us

10 "Q. There's a couple more questions here. Do you want
11 to tell the duty counsel that you are talking and
12 collaborating with us every time we interview you? Do
13 want us to inform them, to tell them?

you

14 "A. Well, that -- they will not inform my friends over
15 there so that I will not be -- I mean, they will not be
16 looking at me awkward, you know. Because the whole

thing,

17 I don't -- the date of the trial, okay, but, you know, I
18 think it's too early now for these guys to know that,

oh,

19 our own man now is going against us. He's telling a

story

20 about us, you know?"

21 THE INTERPRETER: Your Honours, can learned counsel --

22 MR JORDASH:

23 Q. Then, over the page --

24 THE INTERPRETER: -- please go over his question.

25 MR JORDASH: The whole thing? The whole thing?

26 THE INTERPRETER: Yes, Your Honours.

27 MR JORDASH:

28 Q. "A. Well, that -- they will not inform my friends over

29 there so that I will not be -- I mean, they will not be

thing, I

1 looking at me awkward, you know, because the whole
2 don't -- the date of the trial, okay, but, you know, I
3 think it's too early now for these guys to know that.
4 our own man is going against us. He's telling a story
5 about us, you know."

Oh,

Morissette?

6 Let me ask you, Mr Morissette, if I may -- Mr

7 A. Yeah.

about;

8 Q. You've told Mr Sesay at this point duty counsel are like
9 temporary lawyers. Mr Sesay then says, well, actually, duty
10 counsel will tell the other accused of what he's talking
11 is that right?

12 A. That's right.

counsel

13 Q. So he was saying to you, effectively: Well, duty
14 are not like my lawyer because they won't be private to me; is
15 that right?

16 A. That's correct.

17 Q. Do you correct that misapprehension?

18 A. No.

19 Q. No. 29522, question, you straight afterwards:

because,

20 "Q. Okay, it's important we have a clear answer

a 21 as you know it's your right. You have the right to have
22 duty counsel. If you want to have a duty counsel
present, 23 it's your right."
24 Now, do you accept this simple proposition, Mr
Morissette:
25 That you're not offering Mr Sesay a lawyer, as far as he
26 understands one, at this point? You're offering him duty
27 counsel, who he believes does not have a duty of
confidentiality.
because 28 A. The reason that we are offering him duty counsel is
29 we are informed by the Registrar that Mr Sesay insists that he

the
and
my

1 wants nobody else but Mr Robinson. And we're informed that
2 Registrar are making these arrangements to get Mr Robinson,
3 until he gets Mr Robinson, he doesn't want to talk -- that's
4 understanding -- he does not want to talk to other lawyer.

5 Q. Yes.

6 A. So that's why we're saying that, well, go to the duty
7 counsel.

is

8 Q. But do you accept this: An essential part of the lawyer
9 confidentiality between client and lawyer?

10 A. Yes, Your Honour.

11 Q. So if you offer him somebody who he does not believe to
12 have that confidentiality, you're offering someone who he does
13 not believe to be a lawyer, logically; do you accept that?

14 A. I accept that.

15 Q. So when you're offering him duty counsel, you're not
16 offering him a lawyer, according to him?

17 A. According to him, you're correct.

18 Q. And did you correct that misapprehension?

19 A. You mean with him?

20 Q. Yes.

21 A. No.

the
waive
duty

22 Q. So will you accept this: That when you've gone through
23 rights of the waiver, when you've said, "Mr Sesay, do you
24 your right to counsel?" if he thinks that's counsel who is
25 counsel, he's not waiving his right to a lawyer, as he
26 understands it, is he?

27 A. If he understands that duty counsel is not a lawyer?

duty

28 Q. If he understands that counsel on the rights waiver is
29 counsel and he doesn't believe duty counsel have a

1 confidentiality obligation, he's not waiving his right to a
2 lawyer?

3 MR HARRISON: Objection. That's a question asking
4 something of which only Mr Sesay could ever give the answer.

5 PRESIDING JUDGE: Your response?

6 MR JORDASH: Mr Morissette says he properly explained
7 Mr Sesay's right to counsel and Mr Sesay, in an informed way,
8 waived his right. The logic Mr Morissette can either accept

or

9 not, and my learned friend's objection simply is because the
10 logic is clear, and Mr Morissette would have to answer in a
11 particular way. It's not whether it's in Mr Sesay's mind.

It's

12 the logic of what was going on in Mr Morissette's mind which
13 is
14 key at this moment.

at

15 PRESIDING JUDGE: But wouldn't it also -- when you look
16 the kind of nuance that the question raises, isn't it properly
17 one for address that the Court can be fully addressed on the
18 implications of the answers that he's given in the context of
19 that.

20 MR JORDASH: I'll leave it.

making

21 PRESIDING JUDGE: Considering the distinction you're
22 between duty counsel and counsel, lawyers simpliciter.

22 MR JORDASH: I'll leave it, Your Honour.

23 PRESIDING JUDGE: Very well.

24 JUDGE BOUTET: I support entirely the Presiding Judge.

I

25 was just about to say that's enough. I think this is not for

the

26 witness to respond to this question: It's for you to make

27 arguments to the Court on.

28 MR JORDASH: I'll leave it at that, Your Honour.

29 JUDGE BOUTET: Thank you.

SCSL - TRIAL CHAMBER I

1 MR JORDASH:

2 Q. Page 29523, Mr Morissette. Sorry, 29522, bottom of the
3 page, Mr Sesay says:

4 "Okay, so -- so every time we talk we'll inform the" --
5 Sorry, the question is:

6 "Q. So every time we talk, we will inform them and
every
7 time in the future, like today, we will inform them and
if
8 we talk again tomorrow or next week, or whenever, we'll
9 inform the duty counsel?

10 "A. Yeah. So whatsoever we discuss here --

11 "Q. Not of what we've discussed, no, no, no. What
we're
12 discussing here is in straight confidence with us, but
we
13 will tell them that we're discussing with you."

14 So do you accept this: That instead of saying to Mr
Sesay
15 that the right of confidence lay between duty counsel and him,
16 you're suggesting to him that confidentiality, in fact, lies
17 between you and him?

18 A. No. I believe the -- this one -- it's the way the
question
19 was worded on the rights advisement. And if I could have
access

20 to it, because I don't remember by -- it was -- at one point,

21 they're asking Mr Sesay --

look

22 Q. If you need the rights advisement, if you need it to

23 at --

24 A. Yes, please.

25 MR JORDASH: Could the witness please be given --

question

26 THE WITNESS: That's the second one with the two

27 on it.

afraid

28 MR JORDASH: I don't know the exhibit number. I'm

29 this computer has crashed. All our notes are on there.

Prosecution

inform

you

of

have

1 Q. Let me deal with it in a different -- let me ask another
2 question while we're waiting. You are saying to him that --
3 you're reassuring him that you won't tell anyone, the
4 won't tell anyone about the contents of these interviews.

5 A. Yes.

6 Q. And you're reassuring him that even though you can
7 them, duty counsel, that he's been interviewed, they won't see
8 the contents of the tapes.

9 A. Right. If I recall correctly there -- in one question,
10 he's asked us if we want -- if he wants us to inform the duty
11 counsel when we are -- when we are interviewing him. And I
12 believe the answer is yes. Then, the next question is: Do
13 want to be -- do you want them to be informed of the content
14 the interview? And the answer is no, if I recall properly.

15 Q. And obviously, not to belabour the point --

16 PRESIDING JUDGE: Yes, Mr --

17 MR HARRISON: If Court Management doesn't have it, I
18 an extra copy. The exhibit should be before Court Management,
19 but here's a copy that can be handed to the witness.

20 THE WITNESS: If I may read, Your Honour, the question.

21 PRESIDING JUDGE: Yes. Question, please.

22 THE WITNESS: The question is:
23 "Do you want us to tell the duty counsel that you are
24 talking and collaborating with us every time we
interview
25 you?"
26 And the answer is: "Yes."
27 Then the second question:
28 "Do you want us to give a notice to your duty counsel of
29 all future interview if you still want to collaborate
with

1 us?" And the answer is: "No."

2 So, it's --

3 MR JORDASH:

4 Q. The questions were not clear and the answers were even
less
5 clear.

6 A. I agree with you.

7 Q. But the point I'm making about page 29523, line 11, is
that
8 instead of you informing Mr Sesay that he could have
confidence
9 with the duty counsel, you inform him that he can have
confidence
10 with you?

11 A. Yes, that everything he tells us will be in confidence.

12 Q. Yes. Is it -- well, let's move on to line 20 -- line
19,

13 Mr Sesay asked:

14 "A. They are going to go through the interview we are
15 having," talking about duty counsel.

16 "Q. I don't follow. Do you mean they'll be present, or
17 they're going to remember we're talking about a duty
18 counsel? This is not your permanent lawyer, your
appointed
19 lawyer, because you don't have an appointed lawyer yet.
20 He's telling us in the letter that he hopes to have a

21 lawyer appointed for you."

22 Then at the bottom, the bottom sentence:

23 "Q. So this is the duty counsel here we're talking
about,

24 not your lawyer."

25 A. Which one, please?

26 Q. Sorry, line four, towards the bottom. Don't you agree
that

27 you had some obligation to explain to Mr Sesay that duty
counsel

28 were de facto lawyers for Mr Sesay, with all their attendant

29 responsibilities?

Sesay

1 A. To be honest with you, it never entered my mind. Mr
2 had met with these people before, at the office, and also on
3 Bonthe Island, had discussions with these people. So, no, it
4 never entered my mind that it was my duty to pursue this.

5 Q. Well, he's had discussions with them.

6 A. Yes.

doesn't

7 Q. But, obviously, it follows, doesn't it, that if he
8 trust them, he may not have discussed that much, and I'm
9 suggesting it was incumbent upon you in those circumstances to
10 tell him he could have trust in them?

11 A. Never entered my mind, Your Honour.

12 Q. Never entered your mind. Bottom of the page there.

one

13 Mr Sesay asks, in reference to John Jones: "But he's not the
14 who is going to choose a lawyer for me." Over the page:

with

15 "Q. No, you choose the lawyer. They will present you
16 a list of names and CV and then you'll have to make a
17 choice, a selection."

of

18 Do you agree with this: Mr Sesay showing a clear lack

duty

19 understanding of the process, not just the process of what a
20 counsel is, but also how he gets a lawyer.

21 A. For the selection, that's correct.

do, 22 Q. Then let's keep going to the next interview. Before we

23 did you ever clarify with Mr Sesay off tape why he wanted the
24 Defence Office to be informed about --

25 A. No.

26 Q. -- the interviews?

27 A. Not that I recall, no.

some 28 Q. Did ever occur to you that it might be that he wanted

keep 29 protection, but couldn't feel confident in their ability to

1 things quiet? Did that ever occur to you?

2 A. Well, definitely, he had expressed a fear in their
ability,

3 like you say, to keep things quiet, but the issue of security
was

4 never raised.

5 Q. The second rights entitlement, specific rights
entitlement

6 which you deal with on the next day, in which you return,
don't

7 you, to try to get some clarity to the situation?

8 A. Yes.

9 Q. Again, the rights entitlement -- I don't know if Court
10 Management have this one, the second one from the 15th -- the
11 first one from 15 April, two specific questions. Where the
12 question is asked:

13 "Do you want us to tell the duty counsel that you are
14 talking and collaborating with us every time we
interview

15 you."

16 You have that, Mr Morissette?

17 A. Well, I don't know. It's just the same -- exactly, is
it?

18 That has the 1st -- the 14th.

19 MR HARRISON: It's Exhibit G from yesterday and it's
just

20 two questions on that.

21 MR JORDASH: Thank you.

22 Q. It says:

23 "Q. Do you want us to tell the duty counsel that you
are

24 talking and collaborating with us every time we
interview

25 you?

26 "A. No.

27 "Q. Do you want us to give notice to your duty counsel
of

28 all future interview if you still want to collaborate
with

29 us?"

the

1 Why, given the obvious misunderstanding Mr Sesay showed
2 day before about the role of the duty counsel, why did you not
3 make it clear on the specific rights advisement that what you
4 were talking about was a lawyer?

5 A. I took for granted that Mr Sesay, having talked to these
6 people, that he knew who they were and -- you know, I couldn't
7 make --

understand

8 Q. This was the day before when he showed he didn't
9 what a duty counsel was, and yet, a specific question -- who
10 drafted the questions, please?

11 A. Prosecution office.

12 Q. Who?

13 A. I don't know.

14 Q. On whose instruction?

15 A. I don't know.

is

16 Q. So you accept this as well, that, on this day, Mr Sesay
17 not being asked whether he wants a lawyer to be told -- to his
18 mind, he's been asked about duty counsel; yes?

19 A. That's the term they use.

20 Q. Yes. And was there any greater clarity brought to the
21 situation by these two questions?

22 A. Not to my knowledge, Your Honour.

still

23 Q. What we can say, do you agree with this: Mr Sesay is

24 wanting some kind of notice given to the duty counsel?

25 A. According to those two document, yes, Your Honour.

26 Q. Yes. So if I can take you to 15 April, 29529.

27 A. 2952?

clarity

28 Q. 29529, line 21, Mr Sesay asks, when you're seeking

29 in relation to these two specific questions:

1 "A. But by informing them, I mean, they will not know
what 2 we are discussing?

3 "Q. No. Your lawyer will know eventually when you have
a 4 lawyer appointed to you. We will disclose the material
to 5 your lawyer."

6 You were intentionally making a distinction between duty
7 counsel and lawyers there, weren't you?

8 A. Well, I'm not making a distinction as a distinction,
9 because he doesn't want these people to be informed, but his
10 lawyer will need to be informed.

11 Q. Well, he wants them to be informed about him being
12 interview, doesn't he?

13 A. Yes, but not about the content.

14 Q. Yeah. But the point I'm making here is, you're
reassuring 15 him: Don't worry, duty counsel won't know what's been said.
16 We'll save that for your lawyer when he comes?

17 A. I guess that's one way to put it, if you want to.

18 Q. Well, do you agree with that or not; is that what you
were 19 doing?

20 A. Well, he asked us not to inform them, so we were not
giving

21 them the information.

isn't

22 Q. Right. So he said he wants a lawyer, but his lawyer

23 there.

24 A. That's the problem.

right?

25 Q. Yes. And then at the bottom, Mr Sesay shows further
26 misunderstanding about the role of duty counsel; is that

ones

27 And you do correct him, saying that duty counsel are not the

--

28 who arrange visitors; yes? Mr Sesay thought that duty counsel

29 A. That's correct.

1 Q. -- were the ones who arranged visitors?

2 A. That's correct, Your Honour.

3 Q. And visitors was something that Mr Sesay was extremely
4 worried about during this process, wasn't he, access to his
5 family?

6 A. Yes, Your Honour.

7 Q. And we can see that. Can I ask you to turn to the very
8 first interview again, page 28349, of 10 March 2003.

9 A. I don't have the binder, Your Honour.

10 Q. Could I please. 10 March 2003, 28349.

11 A. 28349. 28349.

12 Q. 28349, bottom of the page there, Mr Sesay, says -- well,
13 Mr Sesay is crying in the interview and he says:

14 "You know, I said, what got me so shattered, when you
asked

15 me about my children, because presently they don't even
16 know my whereabouts. You know, that caused me to cry."
17 Do you remember that?

18 A. Yes, I do.

19 Q. Why didn't his children know his whereabouts?

20 A. That's the day of the arrest.

21 Q. Yes. Well, isn't it customary, I think in most

22 jurisdictions, to give an accused or a suspect a phone call so
he

23 can inform his family where he is?

24 A. We didn't know where the family was.

25 Q. Well, why didn't you at this point say to him: "Let's
stop
26 the interview. I don't want to take unfair advantage of you.

27 Let's inform your family where you are. They must be
worried"?

28 Why did you not do it?

29 A. I did not do it.

SCSL - TRIAL CHAMBER I

1 Q. No. You'd do it in Canada, wouldn't you?

2 A. In certain cases, yes.

3 Q. Right. And it would be humane and would not be taking
4 advantage of an accused; do you accept that?

5 A. Yes.

6 Q. Now, can I ask you to turn to 14 March, please, 28839.

7 Then we have quite an important statement at the bottom there,
8 question --

9 JUDGE ITOE: What page again? What page is this?

10 MR JORDASH: 28399, 14 March interview.

11 Q. The rights have just been read -- actually. No, I will
12 ask. You're not in this interview, it appears, although I
13 don't -- it's unclear whether you're in the wings. But the
14 rights are read by Mr Berry. And Mr Sesay appears to ask some
15 sort of -- well, some kind of question, perhaps, or statement:

16 "A. Yeah, but according to you I'm a suspect of, you
17 know --

18 "Q. Yes, you're a suspect, and that's why you've been
19 advised of your rights; who you have the right to

contact

20 and speak with, and have a lawyer present or an
21 interpreter or to --

22 "A. So all these days I'm saying yes, meaning yes, I'm

not

23 guilty?

24 "Q. No, no, you're not admitting guilt.

25 "A. Okay.

26 "Q. You are being advised that you're a suspect?

27 "A. Okay.

28 "Q. And that, as a suspect, you're entitled to these
29 rights.

SCSL - TRIAL CHAMBER I

1 "A. Okay."

2 Were you aware that Mr Sesay had said in the interview
that
3 he'd been saying, yes, meaning: I'm not guilty, in relation
to
4 the rights waivers?

5 A. No.

6 Q. You weren't aware of that?

7 A. No.

8 Q. I'll save these questions for Mr Berry then. Could I
just
9 deal with two final issues. Firstly, you mentioned yesterday
an
10 operation, Operation Neki, or is it Nike?

11 A. Yes, Neki, in Kenya.

12 Q. In Kenya.

13 A. Yes, Your Honour.

14 Q. You were involved in --

15 A. Operation Neki.

16 Q. Right. And Operation Neki was -- Neki. Is it Neki or
17 Nike, sorry?

18 A. Neki, N-E-K-I. Neki.

19 Q. Yes, that's what I thought. Neki. Anyway, I think
we're
20 talking about the same thing. Which was the arrest and
detention

21 of various people in Kenya.

22 A. That's correct, Your Honour.

23 Q. In, is it 1996?

24 A. 1997.

25 Q. 1997.

26 A. Yes.

27 Q. What role did you play in that?

28 A. I was the coordinator of the operation.

29 Q. And it involved crossing from Tanzania into Nairobi, or

was

1 it Kenya generally?

2 A. You mean the arrest operation?

3 Q. Yes.

4 A. The arrest operation was to bring down people from Kenya
5 into Tanzania, to Arusha.

6 Q. And you were heading up the operation?

7 A. Well, I was in charge of the team that had mounted the
8 operation, but the operation itself was being headed by the

chief

9 of investigation and the deputy prosecutor.

10 Q. Did you go on the operation?

11 A. Yes, I was on the operation -- excuse me.

12 Q. Yes.

13 A. I was on part of the operation. My main role during the
14 arrests that were taking place was not on the ground itself.

I

15 was at the command centre but then become involved in the
16 operation for the transfer of one specific accused.

17 Q. And who was that?

18 A. Jean Kambanda.

19 Q. Kambanda?

20 A. Kambanda.

21 MR JORDASH: Could I ask at this point that Your Honours
22 get a copy of an Amnesty report, please, which we have here.

23 Q. During this -- could the witness also have a copy,
please?
24 This, I think, by any stretch of the imagination, turned out
to
25 be a controversial affair, both in relation to Kambanda, and
also
26 in relation to other people arrested during this operation.
Do
27 you agree with that?
28 A. It's -- I have a different opinion.
29 Q. Well, what's your opinion?

SCSL - TRIAL CHAMBER I

1 A. I think the operation was well carried out and a
success.

2 Q. Well, let's have a look at what Amnesty said. Page 3,
3 please. Fourth paragraph down, when talking about
strengthening

4 the ICTR:

5 "In a few cases, there have been insufficient regard to
6 international standards and the tribunal's rule of
7 procedure, which has compromised the rights of detainees
8 and set dangerous precedents. In one case, an accused
has
9 been held in an unrecognised place of detention."

10 That was Kambanda, wasn't it?

11 A. That's correct.

12 Q. In another case, a detainee who had been mistakenly
13 arrested in Nairobi was held in unlawful detention for almost
two
14 months in Arusha, denied access to a lawyer, not brought
before a
15 judge at all, and then returned to Nairobi where he was
promptly

16 arrested by local police. That was one of the men arrested in
17 that operation, wasn't it?

18 A. That's correct, Your Honour.

19 Q. Then let's just keep going through the report. Let me
ask
20 you this question: Were you involved in the questioning of

21 Kambanda?

22 A. At the beginning. I had a discussion with him at the
23 beginning, yes.

24 Q. Were you involved in visiting him in this unlawful place
of
25 detention?

26 A. On a couple of occasion, yes.

27 Q. Outside the UN detention centre?

28 A. That's correct.

29 Q. He also waived his right to counsel?

1 A. Yes, that's correct.

2 Q. Were you involved in that?

3 A. No.

4 Q. Are you aware he complained long and hard about being
held
5 in the unlawful place of detention?

6 A. No.

7 Q. You weren't aware? Let's deal with the -- page 16,
please,
8 paragraph 10. I --

9 PRESIDING JUDGE: What's your estimation of this?

10 MR JORDASH: Five minutes.

11 PRESIDING JUDGE: Five minutes. Okay.

12 MR JORDASH: I just want to put this [overlapping
speakers]
13 my case and I'm finished then.

14 PRESIDING JUDGE: Okay.

15 MR JORDASH:

16 Q. Number 10, unlawful detention of Esdras Twagirimana.

17 JUDGE ITOE: Page what?

18 MR JORDASH: Page 16 of 23.

19 Q. Esdras Twagirimana was arrested during the Neki
operation
20 after he was mistaken for an accused wanted by the tribunal.

He

the

21 was unlawfully held in detention for almost two months after

over

22 mistake became clear. Do you know how it was he was brought

23 the border during the operation?

of

24 A. This -- Esdras was mistakenly taken for another target

25 this operation.

26 Q. But -- sorry.

looking

27 A. Although he knew that he was not the person we were

28 for, he didn't mention anything to the arresting and it's only

29 after, upon arriving in Arusha, that he informed the arresting

1 that he was not the right individual.

2 Q. Sorry --

3 A. If I may explain the situation, Your Honour, please.

4 PRESIDING JUDGE: Proceed.

5 THE WITNESS: This became [indiscernible] a nightmare
for
6 the Registrar. Once he was declared that he was the wrong
7 person, once we confirmed that he was the wrong person, then
the
8 team, we started doing some research for the right person.
But,
9 this gentleman was illegally in Kenya. He had been living
there
10 illegally as a Rwandan citizen. Now he finds himself in
Arusha
11 and the Canadian -- the Kenyan government didn't want him
back.

12 MR JORDASH:

13 Q. Well, he didn't just find himself in Tanzania, did he?

14 A. No.

15 Q. He was brought across the border without any papers.

16 A. No, no, he was brought across -- he was arrested. All
17 these persons were arrested on what we call 40bis.

18 Q. Yes.

19 A. And that's how they were arrested.

20 Q. Well, he wasn't, because he wasn't the right man, so he

21 couldn't have had any papers.

22 A. We thought he was the right man.

brought 23 Q. Well, he didn't have any papers on him and he was

24 across the border without any papers; do you accept that?

on 25 A. I don't -- I don't recall. I don't know if he had paper

26 him or not.

have 27 Q. Well, if he wasn't the right man, he presumably didn't

28 the right papers.

29 A. Well then maybe he didn't have paper.

1 Q. Could I suggest to you you know perfectly well he was
2 basically kidnapped from Kenya without papers, and your team
got
3 the wrong man.

4 A. The team that arrested this person thought they had the
5 right man. How, I don't know; I wasn't there. But they
thought
6 they had the right man. And it's only once they got to Arusha
7 that he made them know. Why would they bring somebody who had
no
8 interest to Arusha, why would they arrest anybody, knowing
that
9 he wasn't the right man, that he was the wrong man and bring
to
10 Arusha for what? They had no reason for that.

11 Q. Sorry, are you suggesting then that this man never once
12 said on his journey to Tanzania, a four-hour journey in the
car,
13 that he wasn't the right man?

14 A. That's my understanding of it, yes, sir.

15 MR JORDASH: Could I apply to exhibit this report,
please?

16 PRESIDING JUDGE: The entire report?

17 MR JORDASH: Yes, please.

18 PRESIDING JUDGE: Very well. Prosecution, any
objection?

19 MR HARRISON: None.

and

20 PRESIDING JUDGE: We'll take the report into evidence

21 mark the report Exhibit --

22 MS KAMUZORA: J, Your Honour.

23 [Exhibit No. J was admitted on voir dire]

24 MR JORDASH: If I can just finish.

the

25 Q. Could I suggest that what happened during this interview

26 and arrest process, Mr Morissette, you went into the cell at

you

27 CID with John Berry and John -- Saffa to see Mr Sesay, when

28 arrived at the CID.

29 A. No, Your Honour.

Sesay

1 Q. That's why you went to the scene, to go and grab Mr
2 and get him firmed up to collaborate.

3 A. No, Your Honour.

you

4 Q. And you said to him, along with John Berry: "You better
5 corroborate with us, because this is the end of your life if
6 don't."

7 A. No, Your Honour.

okay.

8 Q. Mr Sesay said what did you want him to do, and you all,
9 effectively, said: Collaborate, cooperate, and you'll be

office

10 A. I never talked to Issa Sesay until he arrived at our
11 in the afternoon of the 10th of March.

12 Q. And when he came to Scan Drive, the process of coercion,
13 threat and inducements continued; isn't that right?

14 A. There was never any coercion, threat or inducement to
15 Mr Sesay.

someone,

16 Q. Let me just ask this: Did you not see saying to
17 "If you collaborate with us, we can save you from the life
18 sentence," as potentially likely to make Sesay see it as a
19 threat? You don't see it --

20 JUDGE BOUTET: Isn't it an argument again, Mr Jordash?

21 JUDGE ITOE: We have visited that. We have seen that,

22 Mr Jordash.

don't

23 JUDGE BOUTET: We'll hear your arguments on that. I

24 think it is for this witness to answer that question.

25 MR JORDASH: Well, if this witness defines threats and
26 inducements in one way, and they're defined another way, his
27 assertions --

determine

28 JUDGE BOUTET: It will still be for this Court to

29 what it is, not for the witness.

1 MR JORDASH: Yes, but he's being asked whether Mr Sesay
was
2 threatened or induced, it may be that he doesn't see
threatening
3 somebody with life imprisonment is a threat. His answers of
4 denial therefore are less worth --

5 JUDGE ITOE: Would that not be a matter for addresses as
6 well? Wouldn't you think that that's a proper matter for
7 addresses?

8 PRESIDING JUDGE: His answers will be final from a
purely
9 evidential perspective. But, as a matter of law, his answers
10 would not be final for the Court.

11 MR JORDASH: I'll leave it, Your Honour.
12 Q. You, and your colleagues, including Alan White, on the
13 11th, told Mr Sesay that he was going to be a witness; isn't
that
14 right?

15 A. The only time I talked to Mr Sesay on the 11th -- 10th,
16 11th, second day, is when I introduced Mr Berry and I was
present
17 when the rights advisement were read to him.

18 Q. And Mr White said, in your presence, that he shouldn't
get
19 a lawyer because they'll get him a white lawyer later on.

20 A. I don't remember even Mr White meeting with Mr Sesay.

you're

21 Q. And it was also said to him: "Make sure that when

22 on the videotape, you make sure you come across in the right

23 way," wasn't it?

24 A. I wasn't there.

25 Q. And repeatedly throughout the process he was told he was

26 going to be a witness; yes?

27 A. He was told that we wanted him as a witness.

dropped

28 Q. And he was also told that the indictment would be

29 if he collaborated?

1 A. Not in my presence.

2 Q. And on 14 April, you, off tape, threatened him and
insulted

3 him and told him the deal was off if he involved the Defence
4 Office any further.

5 A. No, Your Honour.

6 Q. And he was told by you and John Berry on that day that,
7 again, "You don't need counsel to be a witness, you can just
work

8 with us"; isn't that right?

9 A. I cannot answer for Mr John Berry, but I never said that
to

10 Mr Sesay.

11 Q. And you also said to him that if he continued -- you
also

12 said to him if he continued collaborating, you would make sure
13 his wife could come and visit him when he wanted whilst he was
in

14 your custody.

15 A. That was an agreement that we had done. We had put his
16 wife in custody. That was an understanding that we had come
to

17 at his request. We had put his wife and his two children into
18 the witness victim support unit for temporary protective
measure,

19 and we had agreed that she would be able, or he would be able
to

20 visit -- they would visit. Yes, Your Honour.

21 MR JORDASH: I've got nothing further for this witness.

22 Thank you.

23 PRESIDING JUDGE: Thank you, Mr Jordash. The trial is
24 adjourned to tomorrow -- yes, Mr Harrison.

25 MR HARRISON: Can I just tell the Court there will be no
26 re-examination of this witness.

27 PRESIDING JUDGE: Very well. Thank you. Who will we
have
28 tomorrow?

29 MR HARRISON: Yes, the plan of the Prosecution is to
have

1 Mr Berry available.

2 PRESIDING JUDGE: Very well.

3 MR HARRISON: But I should say I leave it to Defence
4 counsel, if they wish to change the order, we could

accommodate

5 them. But also available is Mr Litho Lamin and Mr Joseph

Saffa.

6 PRESIDING JUDGE: Well let's have Mr Berry as the next
7 witness. We'll adjourn to tomorrow, Thursday, 14 June 2007,

at

8 9.30 a.m..

9 [Whereupon the hearing adjourned at 1.16

p.m.,

10 to be reconvened on Thursday, the 14th day
11 of June 2007, at 9.30 a.m.]

12

13

14

15

16

17

18

19

20

21

22

23

24

25

26

27

28

29

SCSL - TRIAL CHAMBER I

EXHIBITS:

30

Exhibit No. I

72

Exhibit No. J

WITNESSES ON VOIR DIRE:

WITNESS: GILBERT MORISSETTE

2

EXAMINED BY MR JORDASH

2