

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

TUESDAY, 19 JUNE 2007
9.40 A.M.
TRIAL

TRIAL CHAMBER I

Before the Judges:	Bankole Thompson, Presiding Pierre Boutet Benjamin Mutanga Itoe
For Chambers:	Mr Matteo Crippa Ms Nicole Lewis
For the Registry:	Ms Advera Kamuzora
For the Prosecution:	Mr Peter Harrison Mr Vincent Wagona
For the accused Issa Sesay:	Mr Wayne Jordash Mr Tobias Berkman
For the accused Morris Kallon:	Mr Melron Nicol-Wilson
For the accused Augustine Gbao:	Mr John Cammegh

1 [RUF19JUN07A - MC]
2 Tuesday, 19 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. I reckon we're still conducting our trial within a
9 trial proceeding, and this morning we'll be proceeding on the
10 basis of two alternative procedural options. Mr Jordash, one,
11 I'm putting you to your election to call your client as a
witness
12 and or any other witnesses in the voir dire proceeding,
followed
13 by closing legal submissions; or not to call your client as a
14 witness, or any other witnesses, but then to proceed to make
your
15 closing legal submissions.

16 The Bench has thought very carefully through the option
of
17 adopting and transplanting into the voir dire process the Rule
98
18 decision, and has advised itself not to transplant the
process.

19 So I take it this morning you will avail yourself of the
20 two options so that we can advance the process.

will

21 MR JORDASH: Certainly. Could I indicate now that I

22 seek to call Mr Sesay.

23 PRESIDING JUDGE: Very well.

24 MR JORDASH: I would then seek to call Ms Kah-Jallow.

25 PRESIDING JUDGE: Thank you.

Office.

26 MR JORDASH: And also Ms Hanciles from the Defence

27 PRESIDING JUDGE: Very well.

issue

28 MR JORDASH: Before that happens, I do have another

29 to raise.

1 PRESIDING JUDGE: Right. Let's hear it.

2 MR JORDASH: I do in a sense apologise for raising it at
3 this stage because it is at least going to delay things for a
4 short time. I've just passed up two statements to your
learned
investigator
just
5 legal officer. They're statements from our national
6 and a statement from our witness management officer. I'll
7 give Your Honours and opportunity to read them.

8 PRESIDING JUDGE: Right. You can sit down while we read
9 them. Yes, Mr Jordash, you can guide us.

10 MR JORDASH: Now, if I can just set out the information
we
11 have gathered through investigations.

12 JUDGE BOUTET: Mr Jordash, it's not to prevent you to
move
13 ahead, but are these matters, matters that ought to be
discussed
14 in a public forum? I just wonder, both from the perspective
of
15 protective measures that have been issued with respect to some
of
16 your witnesses and, I guess, some witnesses that are in other
17 trials, so I'm just mentioning that. But I don't know how far
18 you want to go. I'm just raising this.

19 MR JORDASH: Certainly.

20 JUDGE ITOE: And are they related to this particular
21 exercise?

22 MR JORDASH: Yes.

23 JUDGE ITOE: This voir dire?

24 MR JORDASH: Yes. And I will explain how it is that we
say
25 they are.

26 JUDGE ITOE: I see. Okay.

27 MR JORDASH: When Your Honours ordered the voir dire --

28 PRESIDING JUDGE: That's why I chose not to be
preemptive

29 but my learned brother's right. They're really judicial

1 curiosity. Yes, educate us on this.

2 MR JORDASH: When Your Honours ordered the voir dire we
3 started to investigate into issues of credibility relating to

the

4 Prosecution witnesses. We discovered that Mr Morissette had
5 taken TF1-046, who is the man named as the man approaching our
6 witnesses, had taken him for lunch at Franco's; taken him for
7 lunch at Franco's on 6 May with another investigator called
8 Abraham Haddad. Now, the chronology we therefore lay before

this

9 Court is this: That on 20 April 2007, we disclosed DIS-281 to
10 the Prosecution. We disclosed his name to the Prosecution.

On 6

11 May, Mr Morissette is having lunch with TF1-046. At some

stage

12 before 11 June, TF1-046 is approaching one of our most

important

13 witnesses and trying to persuade him to come over and help
14 prosecute Mr Taylor.

15 I'd hardly need to say how important that witness is.

Your

16 Honours can see from the statement who he is: Useful to both

the

17 Taylor team, no doubt, extremely useful to the Sesay defence.

18 Now, I raise the matter, therefore, in two respects:

19 Firstly, as an issue for the voir dire and, secondly, as an

issue

20 of witness protection.

recall
21 In the first place, the voir dire, Your Honours will
the
22 the evidence of Mr Morissette, that he had treated TF1-046 in
23 exactly the same way he treated Mr Sesay; the only difference
24 being Mr Sesay was an accused, TF1-046 was a witness. It is
25 therefore deeply disturbing, we would submit, that TF1-046 is
26 being taken for lunch at Franco's by Prosecution
investigators,
27 including Mr Morissette.

ought
28 And we would respectfully submit that the Prosecution
whether
29 to disclose whether our information is correct or not and

1 that was an official minuted recorded meeting with TF1-046 or
2 whether, in fact, it was another of Mr Morissette's unofficial
3 visits to potential witnesses. And we would respectfully
submit
4 that that ought to be disclosed to the Defence.

5 We would also submit that any receipts from that meal
ought
6 to be disclosed. We ought to be given the sum total of what
that
7 meeting was about because, on the face of it, it is a breach
of
8 protective measures to be having lunch in a public forum with
a
9 protected witness. Two, on the face of it, it is an
inducement.
10 Three, on the face of it, it is very similar in nature to what
11 Mr Morissette admitted to doing with Mr Sesay.

12 The second issue is as important if not more important
to
13 us. We cannot afford to lose this witness; his evidence is
14 crucial to our defence. I don't overstate the case to say he
15 must be in the top five of our witnesses, which is one of the
16 reasons we disclosed him early to the Prosecution because we
17 feared that approaches would be made to him by the
Prosecution.

18 Respectfully, we submit that the evidence suggests that
19 approaches are being made to this witness but instead of
directly

20 through Prosecution investigators they're being made at the
21 behest of the investigators through a Prosecution witness; a
22 Prosecution witness who appears to be very close to the chief
of
23 investigations.

24 So I raise it as an issue relating to both. I am deeply
25 concerned that we do not lose this witness because he has been
26 approached on a number of occasions at the behest of the
his
27 Prosecution. It would be unfair to Mr Sesay; it would damage
28 defence. Those are my submissions and I invite the
Prosecution
29 to confirm whether it's true or not whether Mr Morissette is

1 dining and wining witnesses at Franco's. Those are my
2 submissions.

3 JUDGE BOUTET: But I'm at a bit of a loss to understand
4 what it is you're trying to achieve with this particular
witness;
5 is he a witness for you? I'm talking of TF1-046. Is he a
6 witness, part of your defence --

7 MR JORDASH: No.

8 JUDGE BOUTET: I know you did refer to that particular
9 witness in a statement he made, I know this but, other than
that,
10 I'm trying to understand why all of this allegation this
morning
11 about this particular witness, and the Prosecution in respect
of
12 that witness, it is not clear in my mind what it is you're
trying
13 to achieve with this.

14 MR JORDASH: Well, what I'm trying to achieve is two
15 things: I'm trying to put the Court on notice of our real
16 concerns about our case and the way in which a Prosecution
17 witness, in another trial, is approaching our witness.

18 JUDGE BOUTET: That I understood; it's not that part.
It's
19 the other part.

20 MR JORDASH: The other part is this: That if our

21 information is correct, and Mr Morissette is taking protective
22 witnesses to lunch at Franco's, and there are no records,
23 official records, there are no receipts for that dinner
24 experience, there are no statements emanating from it, then we
25 have further confirmation of off-the-record discussions with
26 witnesses, which is the substance of our case in relation to
27 Mr Sesay. That there were off-the-record discussions in which
28 inducements and promises were made. If it's correct that two
29 investigators, Mr Morissette included, was engaged in dining

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we

on

1 TF1-046 at Franco's you have another example of the same. And
2 would say that's a further example, a further example of
3 Mr Morissette failing to keep to investigative protocol and,
4 the face of it, offering further inducements to a witness, a
5 witness who has already given evidence in one trial and I
6 suspect, but I do not know, may well be giving evidence in the
7 Taylor trial. If he's not then -- well, if he's not, I don't
8 think that changes the situation at all but --

9 JUDGE BOUTET: We'll hear you, Mr Harrison.

concerned

session.

10 MR HARRISON: I just wanted to ask the Court, because of
11 the last, some of the last comments, the Prosecution is
12 that perhaps it would be better if we went into a closed
13 I'm not certain of what's going on with the status of any of
14 these witnesses but I do have a suspicion that there may be a
15 protection concern.

16 PRESIDING JUDGE: Will you make the application
17 straightaway?

closed

18 MR HARRISON: Yes. I'm asking if we could go into a
19 session.

20 PRESIDING JUDGE: Irrespective of --

- 21 MR HARRISON: Alternatively, I could white out certain -

here 22 PRESIDING JUDGE: No. I think, to me, if what we have

box 23 is something that may well lead to the opening of a Pandora's

24 we better accede to your application. So you apply that we go
25 into a closed session to hear this?

be 26 MR HARRISON: Yes. What I would have to say would just

27 a few moments.

28 PRESIDING JUDGE: No, that's okay. Don't anticipate
29 yourself. Would you object to going into closed session?

1 MR JORDASH: I would resist that application.

2 PRESIDING JUDGE: Why?

3 MR JORDASH: Because these are matters --

4 PRESIDING JUDGE: These are very, very delicate issues.

5 MR JORDASH: They are.

6 PRESIDING JUDGE: If you bring to our attention very

7 serious allegations of -- what is that intrusive --

8 MR JORDASH: I beg your pardon; that was my computer.

9 PRESIDING JUDGE: Very well. That's okay. If you bring
10 these serious allegations which clearly, prima facie, reflect

on

11 the due and proper administration of justice, and may well

raise

12 some very serious concerns as to whether what we are having

here

13 is a fair and even playing field, or whether there are certain

14 things going on behind the scenes that are impacting obliquely

15 upon the due and proper administration of justice. I think we

16 need to thrash them out because you raise them with such

17 professional fervour and conviction that it would be better to

18 hear this whole thing in closed session and get done with it.

19 Why would you be so resistant to having the matter dealt with

in

20 closed session so that we have it all out?

21 MR JORDASH: Because I think it could be done by

referring

22 to the witnesses, by the either TFI number or DIS number.

23 PRESIDING JUDGE: Yes, that's one option.

24 MR JORDASH: And these are matters which may well go to
the
25 heart of, the integrity of the process, and the public has an
26 interest in those matters.

27 PRESIDING JUDGE: But the public doesn't have an
interest
28 at this stage in just hearing allegations that are yet to be
29 established and proven. Don't we need to safeguard ourselves

1 against that? We would want to hear both sides.

2 MR JORDASH: Well, Mr Sesay has to sit listening to
3 allegation after allegation after allegation against him in
4 public, not yet proven, and I would respectfully submit if
5 allegations go the other way then they ought to be heard in
6 public.

7 JUDGE BOUTET: Mr Jordash, don't tell me that you're not
8 making differences between an accused person who is facing --
9 mean, that's why we are here today. He is allowed to defend
10 himself with all the means possible that are available to you.
11 When you're making allegation of that nature as such the same
12 means do not exist for that particular organisation or
13 individual.

14 MR JORDASH: Yes, they do. That's why I'm inviting the
15 Prosecution --

16 JUDGE BOUTET: Well, before we go there, I mean, that's
17 what we're suggesting. Maybe we should be careful as to how
18 deal with that and hear that in a different forum.

19 MR JORDASH: Well, I don't know --

20 PRESIDING JUDGE: I'm sure, counsel, we can persuade you
21 that here in a matter of this nature, these are matters of
22 delicacy. Allegations that reflect on the integrity of the

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we

great

23 process are not to be taken lightly. Ought we not, out of an
24 abundance of caution, to hear them in a closed session setting
25 and see what we make out of that, on reflection?

26 MR JORDASH: If it's to protect the reputation of the
27 investigator then I would, as forcefully as I can, resist such
a
28 move.

29 PRESIDING JUDGE: But you misunderstand me; certainly
not.

1 It is to protect the integrity of the process. In some cases
2 where allegations are made, and we've not heard the other
side,
3 it may be that somebody may well have misinformed somebody.
It
4 may be that one side may well have got the facts differently
from
5 the other side, and that's all that we are saying. That we,
the
6 judges, have got to keep an open mind to hear this and come to
a
7 very fair and impartial decision on these matters.

8 MR JORDASH: And the public have a right to hear the
9 allegations, and they have a right to hear the Prosecution
answer
10 them, as they do the Defence answer allegations against them.
11 It's not that the Prosecution don't have a right to reply.
They
12 have a right to reply and I've invited them to reply and
13 Mr Morissette can come into the courtroom and deny the
allegation
14 if he so chooses.

15 PRESIDING JUDGE: But since some of the witnesses, or
the
16 witness here is a protected witness, does that put a different
17 complexion on it; a slightly different complexion?

18 MR JORDASH: A completely different complexion.

19 PRESIDING JUDGE: Yes.

reputation
20

MR JORDASH: If it's to do with protecting the

21 of investigators, who we say are engaged in wrongdoing, then I
22 would resist it completely.

23
24
hope

PRESIDING JUDGE: Well, I can assure you that the
practice -- the Bench is not giving you that impression. I

25 you don't draw that conclusion from us.

26
Honourable

MR JORDASH: I did draw that conclusion from the

27 Justice Boutet.

28 PRESIDING JUDGE: No, I'm pretty sure that you did not.

29 You may have misconstrued his response. I'm sure that that is

1 not the posturing of the Bench.

2 MR JORDASH: I'm grateful for the indication. If it's
to

3 do with protection of witnesses, then of course I -- I'm in
the

4 Prosecution's hands to a certain extent. If they say it
cannot

5 be done by writing the names down on a piece of paper, then,
of

6 course, I withdraw any objection. But if it can be done in
that

7 way, we must take that route, because we must try to ensure
that

8 as much of this trial is in public as is possible. As we have

9 done with key witnesses, such as TF1-045, writing down

10 commanders' names as commander C and so on, we can do it that
way

11 with witnesses, we can do it, perhaps, with this issue.

12 PRESIDING JUDGE: Mr Harrison, there's a carrot from

13 Mr Jordash. What's your response?

14 MR HARRISON: Yes. I indicated I could write some of
those

15 down.

16 PRESIDING JUDGE: Very well. Well, let's proceed that
way.

17 Yes. The Prosecution is agreeable to your suggestion.

18 MR JORDASH: I'm grateful.

19 PRESIDING JUDGE: Let's proceed. Mr Cammegh.

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gravest
discuss
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20 MR CAMMEGH: Before the Court goes into closed session,
21 I make an application, please? I've spoken to Mr Gbao. He is
22 very anxious to consult with me about a matter which is
23 him the gravest concern. I should say it causes me the
24 concern as well. I hope Your Honours will trust me with that.
25 It may take some time, but I'm asking Your Honours, please, to
26 allow me to go outside of the courtroom with Mr Gbao and
27 matters with him. It is important.
28 PRESIDING JUDGE: Mr Cammegh, leave is granted.
29 MR CAMMEGH: I'm very grateful. Your Honour, I'm afraid

1 can't put a time on this. It could be 15 minutes --

2 PRESIDING JUDGE: No. We'll certainly leave it to your
3 discretion.

4 MR CAMMEGH: I'm much obliged. Thank you.

5 PRESIDING JUDGE: So, Mr Jordash, we now will continue.

So

6 what's the position now?

7 MR JORDASH: Well, I'm seeking disclosure from the
8 Prosecution of this lunch or dinner.

we'll

9 PRESIDING JUDGE: You've made your point, yeah, and

10 probably give the Prosecution a chance to respond to the
11 submissions that you've come out with and your allegations.

12 Mr Harrison, your chance to respond to --

just

13 MR HARRISON: I've written a rather cryptic note and I

14 ask if it can shown to Mr Jordash.

15 PRESIDING JUDGE: Very well. Madam Courtroom Officer,
16 please assist us. Yes, Mr Jordash.

17 MR JORDASH: Well, I'm not sure where we go from here.
18 I've set out what we would want. I've set out why we say the
19 disclosure would be relevant. And I've set out our concerns
20 about our witnesses and the integrity of our defence and the
21 threats to it. And I'm not sure there's much more I can do.

I

22 would hope that the Prosecution would accept that such --

23 PRESIDING JUDGE: So what directions or remedies are you
24 seeking from the Bench on this issue now? Remember, we're in

a

25 voir dire and when you were articulating your position on this
26 issue, you did say in fact that the matter that you're now
27 raising has three dimensions. One, it's relevant to the voir
28 dire process and, also, it's an issue of witness protection.

29 MR JORDASH: Yes.

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1 PRESIDING JUDGE: And you've verified that TF1-046 is a
2 protected witness at this point in time?

3 MR JORDASH: Well, it's a bit unclear. And I think
that's
4 the thrust of the Prosecution note. It is --

5 PRESIDING JUDGE: Since your submissions are based on
three
6 foundations: One, relevance to the voir dire; two, as an
issue
7 of witness protection; and also there's a third, which, in a
way,
8 is similar in nature to what Morissette admitted to doing.

9 MR JORDASH: That's a part of the first. That's why we
--

10 PRESIDING JUDGE: Quite right, yes. One and three can
be
11 blended?

12 MR JORDASH: Yes.

13 PRESIDING JUDGE: Yes. But the second one, are you in a
14 position now to say candidly to the Court whether this witness
is
15 a protected witness at this point in time?

16 MR JORDASH: I cannot say that at this point in time.

17 PRESIDING JUDGE: Yes, you don't know.

18 MR JORDASH: Well, actually, I do know that, thinking
about
19 it, because this witness was protected for the purposes of
this

20 trial but wasn't called in this trial. So the orders must be
21 extent.

22 PRESIDING JUDGE: What about -- what about in the AFRC
23 trial; do you know anything? Was he protected there?

24 MR JORDASH: No.

25 PRESIDING JUDGE: So he testified publicly?

26 MR JORDASH: Yes.

27 PRESIDING JUDGE: And, of course, projecting oneself;
that

28 meaning, again, if you can give information, do you know
anything

29 about the Taylor trial?

1 MR JORDASH: No, I don't.

2 PRESIDING JUDGE: So that becomes what, in a sense, on
3 reflection, a non-issue for us?

4 MR JORDASH: Well, he's a protected witness in this
case.

5 He's been taken out for lunch with the Prosecution
investigator.

6 JUDGE BOUTET: I don't think he's a protected witness
any

7 more. I don't think he was. I may be wrong on this, Mr
Jordash,

8 but I think he was protected for a while and then it was
lifted.

9 PRESIDING JUDGE: At this point in time.

10 JUDGE BOUTET: But we can look at the record for that.
But

11 my recollection, he has not been a protected witness for some
12 time.

13 MR JORDASH: Well, my understanding is that any of the
14 original protective measures orders are in place, which is why
we

15 have a motion before Your Honour seeking the lifting or the
16 varying of protective measures so that we can speak to some of
17 the Prosecution witnesses who have not been called. And so --

18 JUDGE ITOE: And this is one of them.

19 MR JORDASH: No, this is not one of them. As Your
Honours

want 20 will recognise from the name, this is not somebody who would

21 to help us, and isn't trying to help us.

22 PRESIDING JUDGE: Are you saying once there is
protection,

23 there is a continuity of protection until otherwise ordered?

24 MR JORDASH: This is what the Prosecution position is
and

25 this is what we accept to be the law: Once an order is made
an

26 order is made. But this can be dealt with in a number of
ways.

27 One, that it's clear that he is under protective measures if,

28 once, he was in this case until the Prosecution apply to vary

29 them or before the judges vary them proprio motu; two, he
might

1 well be a protective witness in the Taylor trial, and that's
2 something that's within the knowledge of the Prosecution.

3 If he is a protective witness in that case, then we have
an
4 additional reason to be concerned about him being dined in a
5 public forum with the chief of investigations, if that's true.
6 And I put it as an allegation. I don't say we have definitive
7 evidence, but we have pretty good evidence. It's an eye
witness
8 who saw it happen. So we know it, in our minds. We're
satisfied
9 it happened, otherwise I wouldn't have raised it.

10 And I understand Your Honours' concerns but we have a
11 ruling in the United Kingdom that we don't raise allegations
12 against a third party unless you are in a position to be able
to
13 demonstrate --

14 PRESIDING JUDGE: Substantiate.

15 MR JORDASH: And I wouldn't have raised it. And there
are
16 a number of other allegations we've discovered on the -- and I
17 don't raise them because I cannot substantiate them in the
time I
18 have. I can substantiate this, and if forced to, then I will.
19 What I'm asking for is candour from the Prosecution.

20 JUDGE BOUTET: I would like to be informed on some
related

21 matters. If this is -- assuming, for the sake of this
22 discussion, that this is indeed a protected witness, that this
23 person is still a protected witness and was at the time in
24 question -- you say he was, I'm not sure anymore -- but I know
25 for a while, certainly, that was a protected witness who had
been
26 listed, as such, what was the status -- but let's -- this is
not
27 important for the purpose of my question for now: Assuming
that
28 he was still a protected witness, is it your position that it
29 precludes the Prosecution to discuss these witnesses under any

protected 1 circumstances, if it is a witness who's been accorded
to 2 witness status at the request of the Prosecution? I'm trying
protected 3 follow your reasoning on this, saying, well, this is a
that 4 witness and, therefore, they should not talk or discuss with
5 particular witness because he is a protected witness. Am I
6 misquoting you or am I misunderstanding something here?

7 MR JORDASH: I think the issue is one more of: Is he a
8 witness, potentially a witness in this trial, and, perhaps, a
9 witness in the Taylor trial? Because obviously we still have
got 10 the rebuttal stage to come. So he might still be a witness in
11 this case. So is he a witness? If he's a witness, are there
12 certain investigative protocols which apply to witnesses?

Then, 13 clearly, the answer is yes.

14 Taking a witness to lunch at Franco's does not have the
15 hallmarks of proper investigative protocol. Now, why is that?
16 Because one --

17 JUDGE BOUTET: What's the proper investigative protocol
to 18 meet with a witness? I'd like to be enlightened about that,
19 because --

professional
20

MR JORDASH: To meet with a witness, yes, in

no
21

circumstances in a professional environment where there can be

where
22

suggestion of inducement, where a proper note can be taken,

counsel
23

there can be proper disclosure to the Defence or to the

24

in the Prosecution team. That, to my mind, is proper

25

investigative protocol. The alternative --

26

PRESIDING JUDGE: What is not proper investigative

27

protocol?

28

MR JORDASH: Anything which has the smell of inducement

29

about it.

1 PRESIDING JUDGE: To wit?

2 MR JORDASH: To wit: Taking a witness to one of the
more
3 expensive and, how can I put it, delicate restaurants in the
4 town. We all know how lovely Franco's restaurant is and how
5 expensive Franco's restaurant --

6 PRESIDING JUDGE: Where is it? Where is it?

7 MR JORDASH: Why is it?

8 PRESIDING JUDGE: Where is it?

9 MR JORDASH: Where is it? I --

10 JUDGE ITOE: It's not in town.

11 MR JORDASH: Sorry, it's not in town. It's on the
beach.
12 His Honour Judge Itoe obviously knows it well.

13 JUDGE ITOE: It's a luxurious place, I must say.

14 MR JORDASH: It is luxurious. And I hear there's a
Wayne's
15 Special there, too. But I'm not suggesting they had that for
16 lunch.

17 JUDGE ITOE: You say what? Is he here?

18 MR JORDASH: Your Honour, it was a terrible joke.

19 PRESIDING JUDGE: Proceed counsel.

20 MR JORDASH: Taking a witness to an expensive
restaurant,
21 without notes being taken, with a clear suggestion that
benefits

our
22 are being accrued by the witness through the hands of the
23 investigator, this does not have the hallmarks of proper, fair
24 play. Would that be disclosable to the Defence, that we took
25 witness out to an expensive restaurant? Of course, it would.
26 That's what we've been engaged with, disclosure from the
27 Prosecution of meal receipts, health assistance, schooling
28 assistance, and so on and so forth. Expensive meals fall
disclosed
29 completely within that category, because it ought to be

1 to the Defence so that they can cross-examine a witness as to
2 whether the witness is motivated by things other than the
truth.

3 It might be a one off. It might not actually be a
series
4 of meals and socialising with Mr Morissette. We're not
5 suggesting it was. We don't know. We know it happened once.
6 Once is more than enough and certainly enough to have to
7 disclose. Did the Prosecution disclose that to us? No. Did
8 they disclose that to the Taylor team, if he's a witness in
the
9 Taylor team? Well, I suspect not, if we, from the RUF
Defence,
10 have not received disclosure.

11 JUDGE ITOE: Mr Jordash, I think -- I see where you're
12 coming from because if this witness is protected and remains
13 potentially a witness, you know, for any of the parties, I
think
14 a lot of care should be exercised as to how and where he's
met; I
15 agree. But we are still at a level of an allegation which an
16 informant, you know, gave you --

17 MR JORDASH: Yes.

18 JUDGE ITOE: -- are we -- it's an allegation. It is not
19 yet proven. And even if it were proven, you know, that
20 Mr Morissette went to that restaurant with this witness, I
mean,

21 did he, himself, you know, disclose it to the Prosecution for
the
22 Prosecution to be able to have these facts in their possession
23 and then to disclose them to you? You see, we've always
talked
24 of issues of bona fides in matters of disclosures and things
like
25 that. I mean, the Prosecution can only disclose to you what
is
26 in its possession and what is in its knowledge. I think that
is
27 the thrust, you know, of the provisions on disclosure.
28 So that's my difficulty. If you're saying the
Prosecution
29 ought, ought, yes, I agree, on condition that they knew of the

1 existence of this wining and dining in Alex's [sic].

2 MR JORDASH: I'm not suggesting that my learned friends
who

3 are in court from the Prosecution knew about it. My
submission

4 to Your Honours is that they would know a lot about what

5 Mr Morissette does. But that's not a reason for not engaging
in

6 some reasonable inquiry once they're put on notice, an inquiry

7 from the investigation team who are part and parcel of the

8 Prosecution as to the truth or otherwise of the allegation.

9 PRESIDING JUDGE: Let me ask one question: Suppose at
that

10 point in time Mr Morissette, even if as of -- what you
represent

11 about him, suppose he was on a frolic of his own? Suppose he
was

12 on a frolic of his own, how do the Prosecution come in here?

13 What would be the obligation of the Prosecution?

14 MR JORDASH: To disclose it. If he was on a frolic of
his

15 own, and I use a hypothetical example, and he was going around

16 threatening Defence witnesses, it would be disclosable. Now,

17 because this is a bit more mild in the sense that it's an

18 inducement --

19 PRESIDING JUDGE: The difficulty for me is that whenever
he

20 carries or engages in his social life or activities, does he
21 always carry the badge of an investigator?

22 MR JORDASH: Of course he does, when he's dealing with a
23 protective witness, yes. Yes. He cannot abdicate that
24 responsibility, just simply because it is a social occasion.

It

25 is part and parcel. It's impossible not to. If I went wining
26 and dining with Mr Sesay's witnesses, I would disclose it
27 it's right to disclose it, because it goes to the integrity of
28 the proceedings.

because

29 We have been very careful to ensure -- in fact, Mr

Kneitel,

1 our legal assistant, has been overly zealous at times in not
2 providing meals and so on to our witnesses because we have
been
3 concerned to ensure that the process remains a fair one. And
the
4 obligation on the Prosecution is just as great, if not
greater,
5 especially when it concerns the chief of investigations, whose
6 integrity is being challenged, and challenged through evidence
by
7 the Defence.

8 May I say this: I don't raise these issues to simply
9 pursue some vendetta against Mr Morissette. I've thought long
10 and hard about raising this allegation because I don't want it
to
11 be seen like I'm on some sort of witch-hunt against
12 Mr Morissette. I'm not.

13 But I hope Your Honours will recognise I have an ethical
14 duty to raise these issues. If I see our defence case being
15 challenged or potentially affected, I have to raise them on
16 behalf of Mr Sesay, and I wouldn't be able to face Mr Sesay at
17 the end of the day if he loses a key witness like this, and I
18 knew what had been going on, if I hadn't raised it with the
19 Court.

20 PRESIDING JUDGE: We've given you every opportunity to
do

21 that and we'll continue to do that.

22 MR JORDASH: I'm simply saying it is not a personal
thing.

23 It is an issue of the protective process. It's an issue of
24 saying to the Court: This is going on, we say it's going on.

25 Can the Prosecution either disclose it or will the Court order
26 the Prosecution to make enquiries into it? If it turns out
not

27 to be true, according to the Prosecution, we may just simply

28 leave it there. But we may not; we may call evidence to prove

29 it's true. But we'll make that decision if the Prosecution go
on

1 an inquiry and depending on the answer we receive.

2 PRESIDING JUDGE: Counsel, we'll stand the Court down
for a
3 while.

4 [Break taken at 10.30 a.m.]

5 [Upon resuming at 10.55 a.m.]

6 PRESIDING JUDGE: Mr Cammegh, we'll hear you.

7 MR CAMMEGH: Thank you very much for the accommodation
8 earlier on, Your Honour. I don't want to be cryptic, but this
is
9 a matter that does require my urgent attention.

10 PRESIDING JUDGE: Yes.

11 MR CAMMEGH: I would be very grateful if you release me
and
12 Mr Gbao. It's probably going to take up until about lunch
time.

13 I understand that security are willing to take Mr Gbao back to
14 the detention centre and that will be my request, please.

15 PRESIDING JUDGE: Leave is granted.

16 MR CAMMEGH: Very much obliged.

17 PRESIDING JUDGE: Mr Jordash, on the issue that you
raised,
18 the Bench rules that the Prosecution shall here now disclose
to

19 the Defence any information they may have in their possession
20 concerning the allegation that Mr Morissette did take TF1-046
to

notes
21 lunch at Franco's restaurant. For the records, the Bench
22 that TF1-046 is as at present not a protected witness in this
protected 23 trial and that as of 15 June 2006, he was no longer a
24 witness in the said trial.

25 The Prosecution will now comply with the order of the
26 Bench. After the Prosecution's response, we'll proceed with
27 phase two of the trial within a trial, namely, the
representation 28 of the Defence position.

29 MR JORDASH: Thank you, Your Honours.

1 PRESIDING JUDGE: Short response?

2 MR HARRISON: I take it it's appropriate for me to seek
an
3 adjournment to obtain this information?

4 PRESIDING JUDGE: Very well. We can do that, take a
short
5 adjournment for you, just to clear the air and get on with
this
6 and make some progress.

7 JUDGE ITOE: Do you -- as you're now on your feet, do
you
8 have any information to disclose in these terms, you know, to
9 this effect?

10 MR HARRISON: I have no information whatsoever. I'd
have
11 to go and make enquiries.

12 PRESIDING JUDGE: Yes.

13 JUDGE ITOE: Was any information communicated to you?

14 MR HARRISON: No, none whatsoever.

15 JUDGE ITOE: I'm just asking this.

16 MR HARRISON: None whatsoever. But if I can just point
out
17 that, under Rule 66, the Prosecution is only obliged to
continue
18 to disclose for witnesses the Prosecution intends to call,
19 because there is literally hundreds of witnesses the
Prosecution

don't 20 does not -- will not call and does not intend to call, we
21 keep on reviewing what's going on with witnesses.
22 JUDGE ITOE: But this is not the purpose, you know, for
23 which we are asking for this disclosure.
24 MR HARRISON: No, I understand that.
25 JUDGE ITOE: This is not for this --
absolutely 26 MR HARRISON: That's the explanation why I have
27 no knowledge of any contact with persons who are not intended
by 28 the Prosecution to be witnesses in this trial, and I have no
29 knowledge of any other proceedings which persons may or may
not

1 be involved with.

can

enquiries

2 PRESIDING JUDGE: If you can be helpful, what we need,
3 really, for the purpose of the trial within a trial, if you

4 get anything on this issue, this narrow issue, if your

5 come with no return, we take it, and then we just want to move

6 on. Right.

not

perhaps,

7 MR HARRISON: Can I just also advise the Court that I'm

8 even sure if the persons are here. If I could ask for,

9 a very brief adjournment just so that I can make enquiries

10 whether appropriate individuals are around.

accommodate

11 PRESIDING JUDGE: Very well. We certainly can

12 you. We certainly will stand the Court down.

13 [Break taken at 11.00 a.m.]

14 [RUF19JUN07C - MC]

15 [Upon resuming at 11.56 a.m.]

16 PRESIDING JUDGE: Mr Harrison.

the

17 MR HARRISON: Yes. I made enquiries and I can inform

18 Court of the following: Through Witness and Victims Services,

19 there had been arranged a regular Sunday trip provided to TF1-

that

20 because of, as I understand it, the lengthy period of time

21 he had been in -- with WVS and provided with the services that

22 they can provide. And, on occasion, WVS does not have enough

23 staff to take this person on this Sunday drive and so, on the

24 occasion that has been referred to and, as I understand it on

referred

25 prior occasions, it's also happened, but on the occasion

26 to Mr Morissette and Mr Haddad took 046 on this Sunday drive,

27 away from his residence, and decided to stop and have lunch at

there

28 the location that was indicated. And, as I understand it,

29 was no discussions about any evidentiary matters.

1 PRESIDING JUDGE: Thank you.

2 JUDGE ITOE: That is what he says, that is the
information
3 that has been given to you?

4 MR HARRISON: Yes, that's right.

5 JUDGE ITOE: You do not know what was discussed over
there.

6 MR HARRISON: No, no, of course.

7 JUDGE ITOE: Yes.

8 MR HARRISON: I was trying to make clear that I just
went
9 and made enquiries during the time afforded.

10 JUDGE ITOE: Yes, that's right. Yes.

11 MR HARRISON: And one other thing I should have added,
that
12 it turned out that Mr Vahidy and Mr Ahmed, were at the same
13 location where the -- by coincidence.

14 PRESIDING JUDGE: Yes. Mr Jordash, you may now proceed
15 with phase two.

16 MR JORDASH: Your Honour, yes. Could I call, please,
17 Mr Sesay, to give evidence.

18 WITNESS: ISSA HASSAN SESAY [Sworn]
19 [The witness answered through interpreter]

20 EXAMINED BY MR JORDASH:

21 PRESIDING JUDGE: Madam Courtroom Officer.

22 MS KAMUZORA: Yes, Your Honour.

23 PRESIDING JUDGE: Please administer the oath to the
24 witness.

25 MR JORDASH:

26 Q. If I can take you to February 2003, Mr Sesay, just very
27 briefly. Did you go anywhere of interest in that month?

28 A. Yes.

29 Q. Where did you go?

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Ombudsman.

1 A. I went to the boss man, Mr Gabidon [phon], the

2 Q. And what did you go to see the Ombudsman about?

for

3 A. I went to report Gibril, who had some money, to house

4 the RUF party. That was the report I took to Mr Gabidon.

5 Q. Sorry, who is Gibril?

6 A. Gibril Massaquoi, the then RUF spokesman.

that

7 Q. Sorry, you went to see the Ombudsman; can you explain

8 again, please?

man

9 A. Yes. I went to see the Ombudsman to complain about the

the

10 Gibril gave the money for the house; that was why I went to

11 Ombudsman.

12 Q. So Gibril had given somebody money for a house?

13 A. Yes.

14 Q. You went to the Ombudsman to do what?

talk

15 A. Well, I went to the Ombudsman for him to intervene to

16 to the individual who had the house that they had given the

17 money.

what

18 Q. Sorry, this isn't very clear, Mr Sesay. What -- for

Ombudsman?

19 purpose, what did you hope to achieve by going to the

of

20 A. Well, the Ombudsman, I expected him to talk to the owner
21 the house, who was in England, to return the money back to us.
22 Since they demand -- since they demand the house owner, they
23 demand the house owner asked for, we were unable to raise the
24 amount, so I went.

that

25 THE INTERPRETER: Your Honours, can the witness take
26 bit again?

all

27 PRESIDING JUDGE: I think Mr -- you need to go over it
28 again. It's not coming out well, and I'm not sure whether we
29 having interpretational problems too, because it seems as if

it's

1 disjuncted and not really coming out.

2 MR JORDASH: Yes. I was going --

focused

3 PRESIDING JUDGE: Let's begin again, probably in a
4 way. What was the complaint about?

we

5 THE WITNESS: My Lord, the complaint was about a house
6 wanted to buy before the elections for the RUFPP party.

7 PRESIDING JUDGE: Well, slowly, slowly Mr Sesay, yes.

lawyer

8 THE WITNESS: So Gibril Massaquoi was in charge of this
9 agreement in Freetown, and the money was passed through a

said

10 who was Mr Manly-Spain to pay the money to the house owner who
11 was based in England. So during the elections the house owner
12 said we should hand over another \$15,000 of the money. So I

house

13 if that was the case we don't have any more money, so the

14 owner should return the one we had given before. That was the
15 complaint I went to report to Mr Gabidon. And Mr Gabidon

the

16 directed me and he said, "Issa, I've tried to intervene but

director

17 only way you can get this money back is to report to the

18 of CID," who was Mr Daboh.

19 MR JORDASH: Right. I think that's clearer.

20 PRESIDING JUDGE: Yes, it's making sense now.

21 MR JORDASH:

22 Q. And what happened after he directed you to the director
of

23 the CID?

24 A. Well, he said that was only the police that would
intervene

25 to get the money back because he was only an Ombudsman; that
was

26 not his job. So that was why he had advised me to go to the

27 director of CID while he himself, Mr Gabidon, called on the

28 director of CID and told him that Issa would come to you and

29 relay a complaint.

1 Q. And what happened?

2 JUDGE ITOE: Mr Sesay, how much money did this landlord
say
3 you should pay him? How much in addition? You said you had
paid
4 some money. How much did he say was -- did I hear you say
5 \$12,000 or \$15,000?

6 THE WITNESS: No, sir, My Lord. It's the balance should
7 have been \$15,000 and we had already paid \$60,000. The
balance
8 would have been \$15,000 which the landlord said we should pay.
9 So I told him that we would not have that amount to pay again.

10 MR JORDASH:

11 Q. So, if I understand you correctly, you were seeking the
12 return of the rest of the money?

13 A. Yes.

14 Q. And so, after being directed to the CID, what happened?

15 A. Well, I went, I met Mr Daboh and I reported the matter
and
16 they took a statement from me and Mr Daboh said that I should
go
17 to CID with the people who were involved with Gibril
concerning
18 the house arrangements. So I called on the people and they
went
19 to give -- they gave statements at CID. One was Pa Alpha,

CID

20 Pa Alpha from Port Loko. Mammy Isatu, they all went to the
21 to give statements. So, from that point, the director told me
22 wait. He said he would contact lawyer Manly-Spain and he
23 contact the man in England so that they can retrieve the
money.

24 MR JORDASH:

25 Q. So, what happened?

last

26 A. So when the director told me that, I waited. So, the
27 week in February, I had -- I received a call from the
secretary
28 to the president, Mr Sheku Mansaray. He said the president
29 wanted to see me.

1 Q. And did you go?

2 A. Yes, I went there. I went to see Pa Kabbah.

3 Q. What happened?

4 A. So Pa Kabbah, when I went there, he was in the waiting
5 room. I was in the waiting room and then he came. So I went
6 inside. They said I should go. I met him in the office. So

he

7 said, "Issa, I summoned you." He said, "How are you getting

on?"

8 I said, "Pa, thank God." He said, "How is your family?" So I
9 said, "They're fine." So he said, "I called you to inform you
10 that there would be a court in this country and it will be an
11 international court," he said, "But this court" --

12 Q. Go on.

13 A. Pa Kabbah said the court would not arrest both of us
14 because the role we played --

15 MR HARRISON: The Prosecution objects.

16 PRESIDING JUDGE: Grounds? Objects to what?

17 MR HARRISON: The question and the last answer.

18 PRESIDING JUDGE: Yes.

19 MR HARRISON: The issue on the voir dire is solely the
20 voluntariness of the statement. Events that took place and

the

21 conversations with others that are irrelevant to the

22 determination of the voluntariness of the statement are not

23 relevant to the issues on the voir dire.

24 PRESIDING JUDGE: What is your response to that, that
we're
25 now in an area of possibly questions that might multiply the
26 issues?

27 MR JORDASH: Well, the first issue, the issue of the
money,
28 relates to the suggestions we made to Mr Lamin about a trip,
29 getting Mr Sesay to the CID. And that's something which we'll

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lawfulness
visit
you
in
had

1 ask Your Honours to take into account in terms of the
2 of the arrest, number one. Number two, in relation to the
3 to President Kabbah's office, and President Kabbah saying that
4 the Special Court is not coming for you, because of the role
5 played in the peace, relates to Mr Sesay's state of mind when,
6 fact, he was arrested, and the surprise and the feelings he
7 about being arrested.

8 PRESIDING JUDGE: Mr Harrison, are you persuaded?

be
the

9 MR HARRISON: No, the objection stands. An event that
10 happened several weeks before the interview, cannot -- this
11 discussion, alleged discussion, with President Kabbah, cannot
12 relevant to the witness's state of mind at the time which is
13 crucial, the only relevant time; that is the time when the
14 interviews and Mr Sesay's alleged voluntary participation in
15 interviews took place.

16 JUDGE ITOE: Mr Harrison --

17 PRESIDING JUDGE: You're saying that --

Kabbah

18 JUDGE ITOE: Mr Harrison, I would be very brief. This
19 witness alleges, Mr Sesay alleges, that he was received by

20 and he says, he alleges, you know, that Kabbah said, well, you
21 know, a court is going to come into this country, that he will
22 not be prosecuted. We know -- we have evidence already, you
23 know, on the records, that when he was arrested he became
24 depressed and was crying, "Is this the peace that I signed
for?"
25 You know, how do you put the comfort in which he was put by
the
26 President, if any at all, I'm saying if any at all, against
his
27 arrest at that time? And what link do you want the Court to
make
28 about the distress in which he was at the time he was
arrested,
29 and the comfortable stage where -- you know, in which he was
put?

when

to

1 I'm not saying this is evidence that should be lead, but he's
2 alleging that he was put in a very comfortable position: Oh,
3 well, don't you worry. And your witness has testified that
4 he was arrested, he cried. You know, even when he was flown
5 Bonthe, he kept crying, and he was very, very depressed. So
6 would you link this issue of his depression, you know, to the
7 assurances which he may have? I say he may have, in inverted
8 commas, received from the President? If indeed he was put in
9 that comfort and he was arrested, and we know that he cried, I
10 think that it could well be that it is relevant for these
11 proceedings on the voir dire.

he

time

that,

like

12 PRESIDING JUDGE: Before you answer, let me just add
13 something so that you can answer together: Why should time be
14 the conclusive criteria here now in determining whether what
15 might have been told by anyone in authority did continue to
16 operate on his mind, or ever, you know? I mean, why should
17 be just the conclusive criteria? Why should it not also be
18 depending on what he was told, allegedly told, at a point in
19 time, it is still possible that, over time, that kind of
20 information would still be operating on his mind. I would

ago,

21 to be satisfied whether, if you are told something ten years

22 it's because the time ten years as elapsed. Would you

operate

23 necessarily say that what you were told does not anymore

24 on your mind, depending on the impact that it may well have on

25 your mind?

26 MR HARRISON: Yes. Of course, the Court is quite right.

27 It may well be an event from ten years ago may well have some

28 impact on a person's life.

29 JUDGE BOUTET: I would like to say, for the record, that

I

1 have not concluded that Mr Sesay was depressed. There is some
2 evidence that he cried, but whether or not it amounted to
3 depression at the time. I know this is the position advanced
by
4 Defence, but we'll have to assess in the circumstances to see
if
5 he was or was not. But, yes, there is evidence that he cried.

6 PRESIDING JUDGE: Well, we'll proceed.

7 JUDGE ITOE: [Microphone not activated] from the
8 Prosecution. Witnesses from the Prosecution.

9 MR JORDASH: Yes.

10 JUDGE ITOE: They're the ones who provided the evidence.

11 PRESIDING JUDGE: We'll proceed. The objection is not
12 taken --

13 MR JORDASH: Thank you.

14 PRESIDING JUDGE: -- by the Bench.

15 MR JORDASH: Thank you.

16 PRESIDING JUDGE: Thank you.

17 MR JORDASH:

18 Q. When was this meeting with President Kabbah?

19 A. Well, I can't recall the exact date but it was in the
last
20 week in February, 2003.

21 Q. And, as accurately as you can, tell the Court what he
said.

will

22 A. Yes. The President said, told me, he said, "Issa," he
23 said, "They will be a court in this country and this court
24 be an international court." He said, "But this court will not
25 arrest me and you." He said, "Because" -- "it's because of
26 our" -- "It's because of you and me that we are stable in this
27 country." He said, "Issa, I was here in this country with
Foday
28 Sankoh, and all of us were aware that Foday Sankoh was not
ready
29 to play the role you played. So I will not deceive you." He

1 said, "So you should be rest assured that the court will
2 not arrest you, Issa and me, Pa Kabbah." He said, "In fact,
very
3 soon I would arrange so that you would go to Nigeria to
Obasanjo
4 so that you would be educated." And, indeed, the SRSG called
me
5 between the 1st and the 5th of March 2003, and he told me that
6 the President in Sierra Leone and Obasanjo have made
arrangements
7 so that I would go to Nigeria with my relatives so I would be
8 educated.

9 Q. Let me take you forward: Did anything happen around 10
10 March?

11 PRESIDING JUDGE: Which year?

12 MR JORDASH: 2003.

13 THE WITNESS: Well, before the 10th of March -- this
was, I
14 think, the 8th of March 2003, which was on a Friday, in the
15 evening. I was not in my house. So Gibril Massaquoi went to
my
16 house with his vehicle and he dropped a message at my place.

17 PRESIDING JUDGE: Not so fast, Mr Sesay. Moderate your
18 pace a bit so that we -- now that we have a competing
phenomenon,
19 it's making it almost difficult for us to hear. So go very
20 slowly. Go back to 8 March 2003.

21 THE WITNESS: Yes, My Lord. On the 8th of March 2003,
22 which was on a Friday, in the evening, around 6.00 to 7.00,
23 Gibril Massaquoi drove to my house, which is at Shell Company,
24 number 60.

25 JUDGE ITOE: 6.00 to 7.00 p.m.?

26 THE WITNESS: Yes, sir.

27 JUDGE ITOE: In the night?

28 THE WITNESS: Yes, sir. Between 6.00 to 7.00 in the
29 evening, sir, on the 8th, March.

1 MR JORDASH:

2 Q. Let's just not deal with the address, just the house.

3 A. Yes. Well, I'll go slow. So when Gibril went to the
4 house, he told my wife and the people he met there, because he
5 left a message at the veranda where my wife and others were
6 there. And Mr Daboh, who was director, told him that the
7 money -- he had received the money from the person at England

and

8 the money was available. So I should go to CID on Monday

morning

9 to receive -- to collect the money. So when I received the
10 information from my wife, on Saturday I told Kallon, when I

met

11 Kallon at the office. So that was when I told Kallon. I said
12 Gibril had delivered a message at my house of what Daboh told

him

13 that the money was available, and we should go and collect the
14 money on Monday morning, which was on the 10th of March 2003.

15 So, on the 10th of March, in the morning, I drove to the

office

16 at the RUFPP office, where I met Morris Kallon, Jonathan

Kposowa.

17 I saw Samuel Bazzy Kanu and Edwin Bockarie. So we walked on

foot

18 from the office to the CID office, the headquarters; it's a

short

19 distance.

20 Q. Do you know what time you arrived?

21 A. Well, this was between 11 to 12.

22 Q. What did you find when you arrived?

23 A. Well, as we were approaching the CID headquarters, I
told

24 Kallon, I said, "Oh, who are these men, these policemen
around?

25 Who are these men, these policemen around with Land Rovers?"

26 Because we were not aware. So we walked and went up to the
27 office of the director. Me -- I and the people who have
called.

28 So when he got there and they told us that the director was
busy,

29 we should give him five minutes. So I stood there with the

1 deputy director, who was Mr Carew Kamara, because he was my
2 friend, he's a man I knew. So we were talking and he came,
his
3 back was turned to us, from the office to the corridor. So I
4 said, "Hey, Mr Carew, you are the deputy director for CID?
You
5 are the deputy director for CID and you have a handcuff in
your
6 back pocket." So he said, "Issa, we are on our way to a
place.
7 We want to arrest some people." So I left him. And they
8 summoned us to the director's office. It was a big room. The
9 office is big. We met some white men.

10 Q. Just pause there. Just before we go on, you've told us
11 that you made a comment about there being lots of CID and lots
of
12 Land Rovers. Are you able to estimate how many police
officers
13 were there as you walked into the station?

14 A. Well, the Land Rovers that were parked out were more
15 than --

16 THE INTERPRETER: Your Honours, I did not get the
number.

17 MR JORDASH:

18 Q. How many Land Rovers did you say?

19 A. I said there were more than 15 Land Rovers.

20 Q. And what about police officers round and about?

there
uniforms.
number
who
men.

21 A. Well, at that moment I was unable to check them but
22 were many. Some were in plain clothes and some were in
23 Q. Are you able to say whether there were more than the
24 of people in this courtroom or less?
25 A. There were more than the number, far off. The police
26 were there were more than 70. There were many. The whole
27 building was full of people.
28 Q. Now, let's go back to what you said about some white
29 A. Yes. I said when we got into the office there were some

went
chair
tell
because
handcuffed.

1 white men there and we saw Gibril Massaquoi. So we went, we
2 with the people who accompanied me. The director gave me a
3 and we -- and I sat down. So what I was expecting Daboh to
4 me, that the money was available, I saw police -- the police
5 arrested Massaquoi and they told him he was under arrest
6 of the war he fought in Sierra Leone, and so he was

Special

7 His hand put behind his back and handcuffed; that was Gibril
8 Massaquoi. From there they went to Kallon. He was arrested.
9 They placed a handcuff on him and they went to me because of
10 the -- and they said because of the war I fought and the
11 Court was arresting me.

12 Q. Right. Just pause there; who arrested you? Do you know
13 the name of the person or persons?

14 A. Well, the man who hit me, who told me that I was under
15 arrest, was Lamin. He was at CID; I had known him before.

But
room

16 the white men, they were in the room. At that time I did not
17 know them, but later on I came to know them. We were in the
18 where they ordered my arrest and where I was handcuffed.

19 Q. And who were they?

20 A. John Berry was in the room and Morissette too was in the
21 room.

22 Q. What did Mr Lamin say when he arrested you?

23 A. Mr Lamin said, he said, "Issa, you are under arrest by
the
24 Special Court for the war you fought in Sierra Leone." So he
25 held my hand forcefully and he handcuffed me on -- at the
back.

26 So I said, "Eh, is this the peace that I had been assured of,
27 that the authorities had been assuring me of? Is this the
28 peace?" So I could not hold myself; I cried. I burst into
29 tears.

1 Q. What happened then?

2 A. The next three minutes -- in fact, before that, while
they
3 were trying to handcuff me I tried to take out my car keys to
4 give to Edwin so Lamin knocked my hand and took the keys from
my
5 hand. From then I was crying, tears were flowing down my
eyes,
6 and they marched through -- marched me through the corridors
onto
7 the steps. So I, Kallon and Gibril Massaquoi leaned on the
8 steps. So a white man with the CID, they called -- they
called
9 Gibril Massaquoi. They came and called Gibril Massaquoi.
They
10 walked towards Carew Kamara's office.

11 THE INTERPRETER: Your Honours, can the witness go over
12 that?

13 MR JORDASH:

14 Q. Let's just go back. So somebody called Gibril
Massaquoi?

15 A. Yes.

16 Q. Who was that?

17 A. One police officer and Morissette, they were the ones
that
18 called Gibril but at that time I did not know Morissette. I
did

It
was
off

19 not know his name. That was the very first time I saw him.
20 was at the office and where I saw Gibril and the CID, when it
21 Carew Kamara's office. That was the place I saw -- they took
22 the handcuffs from Gibril 's hands and they entered Carew's
23 office.

24 Q. What happened to you and Mr Kallon?

25 A. I and Mr Carew were not --

26 Q. No, Kallon, Morris Kallon?

we

27 A. Then the police ordered us that we should go down. Then
28 came down the steps and we came to the reception where we met.

29 Q. Where you met?

1 A. Where we met one blue vehicle. They call it an
ambulance
2 but it wasn't an ambulance but it looked like an ambulance but
no
3 seat was in the vehicle. There was no place one could sit at
4 that time. There was a large crowd of civilians had gathered
and
5 were watching what was happening. During that time, I was
6 crying. I was ordered to enter this empty ambulance, so I
7 entered and sat on the floor.
8 Q. What happened then?
9 A. Then I heard the sound of sirens because at that time I
was
10 unable to say --
11 Q. Go on.
12 A. I heard the sounds of sirens blowing very seriously
13 because -- but at that time I was unable to see outside
because
14 that vehicle was high and I sat on the floor. Then, they
drove
15 off, until they open the door. What -- the place I saw myself
16 was at Jui. They took me out of the vehicle at Jui.
17 Q. Just pausing there: Did you know where you were going
when
18 you left CID?
19 A. I have told you that I did -- I was unable to see
outside.

we

20 I did not know where we were going. I only saw outside when

21 arrived at Jui. That was the time I saw the outside of the

22 vehicle.

23 Q. And what happened then?

the

24 A. Then Lamin came. He took me to the station in a -- in

25 building and he placed me in one cell and Kallon himself was

were

26 taken to another cell. I was in this cell. The handcuffs

27 still on me, on my back, and it wasn't even five minutes I saw

28 Saffa and John Berry.

29 Q. Sorry, let me just pause you there. Just one question:

1 Did you know what had happened to Gibril Massaquoi?

The

2 A. No. I only saw that they took the handcuffs from him.

3 only thing I knew that three of us were arrested and he was

4 released; that was what I knew.

5 Q. Now, you then see Mr Saffa and John Berry?

me

6 A. Yes. They opened the door of the cell and they said I
7 should come outside. Then I came outside myself. They took

seated

8 to a small room in the same building where John Berry was
9 on a chair.

10 Q. Take this slowly because it's very important.

11 A. Okay.

12 Q. John Berry was sitting on a chair; go on.

time

13 A. And Joseph Saffa was standing. So I stood in front of
14 them. But tears were running down my cheeks. That was the

big."

15 John Berry said, "Issa, do you know that you've fallen in a

Just

16 Q. Can you repeat the last sentence, what Mr Berry said?

17 before you answer it, try to remember as much as you can about

18 the words used?

are

19 A. John Berry said, he said, "Issa, do you know that you

of

20 in a very serious trouble in which you have to spend the rest

21 your life in prison?"

22 Q. Pause. Pause. And then what happened?

was

23 A. When he uttered these words, that was the time tears

24 continued to run down my cheek and I continued crying. That

25 the time Saffa said, "Issa, listen to what this man is telling

26 you. This is no time for crying. That you know the Court in

27 Sierra Leone can sentence you to -- can sentence somebody to

28 death. So if this man wants to talk to you, if this man is

telling

29 trying to talk to you, listen to him and accept what he's

out

1 you. This is because this is the only way you will be saved
2 of this situation."

3 Q. What language was Mr Saffa speaking?

told

4 A. It was in the Krio language when Mr -- through which
5 Mr Saffa spoke with me. That was the time John Berry said, he
6 said, "Issa, what your brother had told you and what I have

accept

7 you, if you listen, it is for your own good. If you don't

8 them, I'm sorry, that is your end." Then I said, "Well, what

9 would I do? I'm in your hands. I'm in your hands. Whatever

10 this journey take." Then John Berry said Saffa should take me

11 back to the cell. Then they took me back to the cell; I was

came

12 still crying. Then it wasn't up to five minutes again, they

13 back and opened the cell. They placed me in the same --

14 Q. Who came back? Who came to the cell?

15 A. It was Joseph Saffa who came and the police who was in

16 charge of the cell opened and they said I should come out, and

I

17 they walked with me up to the ambulance and I saw John Berry.

the

18 think it was a foreigner jeep. He and Joseph Saffa entered

in

19 same vehicle. Then Lamin and other three officers, they were

It 20 the ambulance with me. And the road, they took the Jui road.
it 21 was Hill Station. It was bad. So, while they were driving,
22 wasn't easy for me and, at Scan Drive, they brought me down.
23 When they brought me down, they took me to one room. It was
24 Saffa.
25 Q. Saffa took you to a room?
the 26 A. Yes, Lamin did not enter in that room. He remained in
27 vehicle.
28 Q. Was there anyone else in the room?
Three 29 A. Yes. I met Morissette in the room. He and Saffa.

1 of us were in the room.

2 Q. What happened?

3 A. Morissette told me, "Issa," he said, "What John had told

if

4 you that it is the only way out for you." He said, "Because

5 you do not accept what we have told you," he said, "I'm sorry,

you

6 that is your end." He said, "I want to make it very clear to

7 that this Court which is now in this country, the people this

8 Court will never set free." He said, "Foday Sankoh, Bockarie,

never

9 Johnny Paul," he said, "these people, if -- this Court will

10 let them go scot-free." He said, "What made them to decide to

11 talk to me," he said it was for my own benefit because he

12 wouldn't want to see me go to prison for the rest of my life.

me

13 Then I told him, I said, "Well," I said, "if you are telling

trouble,"

14 that this is the only way out that will free me of this

15 I said, "I've accepted what you've told me."

16 Q. What did you mean by you'd accepted what they told you?

17 A. Because they told me that, as I had been captured, I was

time,

18 going to spend the rest of my life in prison and, at this

it

19 during that time, I had no knowledge about the Special Court,

appeared 20 functioning, there was absolutely no idea. I have never
people 21 before any court of law in this country before. So, the
around 22 who have captured me, it wasn't even an hour, they turned
23 and telling me that that was the only way I could get myself
24 free. That was why I did what they ask of me.
did 25 Q. At this time, when you were speaking to Mr Morissette,
26 you have any idea who they were; what did you think?
27 A. Well, when they talked to me at Jui, I did not know the
28 section of the Special Court where they were. I did not know
29 their functions too. And Morissette himself, the first time,

me

they

they

to

That

hands.

the

Morissette

to

1 the -- this very time he talked with me, he did not explain to
2 his job. What he was explaining to me was that -- he said
3 were ready to help me if I was ready to help myself, because
4 accepted what they told me, that was the only way I could save
5 myself from the trouble. And that they have heard a lot of
6 things. That was why they decided to talk to me so as for me
7 make some comments.

8 Q. Right. What else, if anything, did Mr Morissette say?

9 A. Well, Mr Morissette, that day he was speaking to me, he
10 made some threats that I should accept what they told me.

11 was why I accepted and all what he said in that room, I was
12 handcuffed. It was only when I said, okay, I was in their

13 Whatever they said I was ready to speak with them. That was

14 time Morissette himself took off the handcuffs from my hands.

15 Then he went outside. He called one woman. He and the woman
16 entered the room and started putting questions to me.

17 had a paper and he watched that paper and he put the questions

18 me.

at
the
blowing
about
road
the
recall
told

19 Q. Are you able to estimate the time between your arrival
20 Jui, sorry, your arrival at Scan office, and the beginning of
21 interview?
22 A. Well, because when we left the CID there was sirens
23 in order to clear off the road but we arrived at Jui around
24 1.00 and from Jui we used the peninsula -- that is we used
25 to go to Hill Station. We spent about 30 minutes drive.
26 Q. Now, do you recall the question and answer session at
27 beginning of the interview which were the waivers; do you
28 that?
29 A. Yes, I can recall. Because when he spoke with me he

1 me, saying, said, "Speak with us. We'll read document to you.
2 Just answer yes." And at this time I did not understand what
was
3 a waiver. I don't know the meaning of a counsel. What I know
as
4 a counsel, like during the Abidjan peace talks, where there
was
5 no ambassador, you have a consul there. So I did not
understand.
6 While he was reading he said I should answer "yes." So while
he
7 was speaking about a counsel I was thinking that where, in the
8 absence of an ambassador, that was the person that should take
9 his place.

10 Q. Now, do you recall -- can I ask that Mr Sesay please be
11 given a copy of the 10 March interview file, please.

Actually,

12 that can wait, sorry. I do apologise. Mr Sesay --

13 A. Yes, sir.

14 Q. What happened after the first interview? What happened
15 after it had finished?

16 A. After that I and Lamin were boarded in a vehicle. We
went
17 to the beach where a helicopter picked us and I was taken to
18 Bonthe, and I was placed in a cell. Then, around 7.00, Lamin
19 came with a paper, some papers. He gave them to me. But the
20 place had no lights; it was dark. It was hot. At night, in

21 order for you to be able to sleep you have to soak a towel.
22 There were a lot of mosquitos. There were no mosquito nets.
23 Q. Sorry, go over the soaking the towel; what do you mean
by
24 that?
25 A. I said the very day, the 10th, when they took me to
Bonthe,
26 they placed me in a cell. Then, Lamin came with some
documents.
27 They opened the cell. They gave me the documents. But at
this
28 time the place was dark, and there was no light in the place.
29 There were no mosquito nets. The place was hot. At night
when

1 you want to sleep you have to soak a towel and spread it on
your
2 bed.
3 Q. What was the point of doing that?
4 A. The place was extremely hot. If you don't soak a towel
and
5 lie on it, you will not be able to sleep.
6 Q. Did you know what was in the documents that had been
given
7 you?
8 A. I was unable to read the document because the place was
9 dark. There was no light. There was no candle. You wouldn't
be
10 allowed to even use a lighter, so I was unable to see what --
the
11 place clearly.
12 Q. Now, do you recall this statement? I'll just read it to
13 you, from your 10 March 2003 interview. Your Honours, page
14 28349. You apparently have started crying and you say, "You
know
15 I said what got me so shattered when you ask me about my
children
16 because presently they don't even know my whereabouts, you
know,
17 that caused me to cry." Do you recall that statement?
18 A. Yes. When Morissette asked me about the number of
children

entire

19 I had, then I burst into tears. Then I told him that the
20 members of my family did not know my whereabouts, that was
21 made me to cry.

what

22 Q. When did you last see your family?

morning,

23 A. Well, I left members of my family at home in the
24 when I came to the CID to receive the money at the time I was
25 apprehended.

26 Q. When were they expecting you home?

the

27 A. Well, they were expecting -- I told my wife that after

wife

28 receiving the money I would come back to the house. So my
29 was expecting that between 2.00 and 3.00 I would return to the

1 house.

2 Q. What happened in the morning on the 11th?

3 A. Well, in the morning of 11th, early in the morning, they
4 opened my cell. The then chief of detention, who was Geoff,

he

5 came. He had a pistol on his side. He opened the cell. And

one

6 security -- no, it was Geoff who ordered me, saying, "Move to

the

7 wall. Move to the wall." Then I walked from my bed to the

wall.

8 Then he said, "Put your hands up." Then I placed my hands up

at

9 the wall like this [indicated]. Then one Sierra Leonean

security

10 I considered my brother was present there. He came with a

11 truncheon on his hand and he stood behind me.

12 Q. You just did a gesture, can you just describe the

gesture?

13 A. Yes. If the judges could allow me to stand up?

14 PRESIDING JUDGE: Leave granted.

15 THE WITNESS: They opened the door of the cell. Then

Geoff

16 stood at the door with a pistol on his side. Then the

security

17 held a truncheon like this. He entered while I stood facing

the

18 wall. Then Geoff said, "Issa, pull off your shoes." Then the

the
to
he

19 security sent the shoe to me, then I put it on while my hands
20 were placed on the wall, and the security was standing with
21 truncheon, holding it like this [indicated]. They ordered me
22 pass my hands on my back. Then they handcuffed me. Once
23 security was before me with the truncheon, while I was moving,
24 was before me like that [indicated]. The other one was behind
25 me.

26 THE INTERPRETER: The interpreter is sorry. Can the
27 witness go a little behind again? Repeat the last part of his
28 testimony.

29 MR JORDASH:

1 Q. Repeat the last two sentences.

2 THE WITNESS: I said, Geoff, he stood at the door of my
3 cell and the pistol was before him like that [Indicated].

John

4 Antony stood at the corridor. He, too, had a pistol. Then

they

5 ordered me to come out. Now they already handcuffed me.

6 Q. Let me just, for the record, describe you standing up

with

7 one hand indicating the truncheon held around shoulder length,

8 shoulder height and the other hand held forward; is that

correct?

9 A. Yes.

10 Q. Go on.

11 A. So they brought me to their office. Then they tied up

my

12 face. They tied my face with a black cloth. I was unable see

13 the way I was going. Then they placed me in a vehicle. They

14 boarded me in the helicopter. So when the helicopter flew,

they

15 loose my face. I saw Lamin, I saw other securities. Then,

while

16 the helicopter was about to land, then they tied my face

again.

17 Until the room therein they had to loose my face and they

untied

18 my hands.

19 THE INTERPRETER: The interpreter is sorry. Can the

20 witness come again?

21 MR JORDASH:

22 Q. The last two sentences again, please.

23 A. I said, from the helicopter, they tied my face. They
24 placed me down and they board me in a vehicle, until the
25 container room, that was where they removed the cloth from my
26 face and loose my hands. Then when they removed the cloth

from

27 my face, I saw Morissette, sitting.

28 Q. Was anybody else in the room?

29 A. Then John Berry came. They greeted me. Then Morissette

1 started talking to me. He said, "Issa, we brought you back
this
2 morning." He said, "So we should continue what we've started
3 yesterday." He said, "Now we are discussing, the tape is not
on.
4 The video is not on." He said, "When the video and the tape
are
5 on," he said, "John will be reading a document to you." He
said,
6 "That is just a procedure. Don't mind them. Those documents
are
7 just procedures." So it wasn't too long when Dr Alan White
8 entered the room. But when he entered, I did not know him.
Then
9 Morissette said that was his boss. Then Alan White said,
"Issa,
10 how are you?" He said Morissette had explained to him all
what
11 had transpired yesterday. Then he said, "Issa, there is no
hope
12 left for you. This is the only way forward. You talk to us.
13 This is the only way out," you will free out of this. So he
14 said -- after he had said this, he said he will -- he would
go,
15 and the following morning he will talk to me again. Because
they
16 were discussing something that will have to come up, and that
the
17 following morning he will inform me about it. That was the
time

18 Dr Alan White went out of the room.

19 Q. What did he say? Could you just go over that, please,
20 about discussing something that had to come up? What were the
21 words he used?

22 A. He said -- he said Morissette had explained to him what
had
23 happened yesterday. He said, "Issa, this is the only way you
24 would be able to get out of this trouble in which you are."

He
25 said, "This is the safest side. Talk to us. So continue."

He
26 said, "We are trying to make some arrangements." He said,
27 "Tomorrow, when you are brought tomorrow again, I'll come here
28 again and speak with you." I said, "Okay, sir."

29 Q. So why did you talk to the Prosecution on that day?

1 A. Well, Mr Morissette, before the interview of the 10th,
he
2 had already told me that -- he had told me that -- that that
was
3 the only way out for me to get out of the trouble. At that
time,
4 I was frustrated. I was in dilemma and I had no hope left in
me,
5 based on what he told me. So -- so he said I should speak
with
6 him. That was why I speak with him, because he said that was
the
7 only way they could free me.

8 Q. What happened at the end of the interview?

9 A. Well, during the interview, Mr Morissette used to come.
He
10 will -- he will talk and talk to me and went back. During the
11 break, he would come. When the interview ended, they will tie
up
12 my face and handcuffed me and they will take me back to
Bonthe.

13 Q. Then just focus for a moment on the 11th. Do you have a
14 recollection of Mr Morissette coming during the day of the
11th,
15 after the interview process had started?

16 A. Interpreter, do explain it nicely, please.

17 Q. Let me try again. Do you have a recollection today of
18 Mr Morissette coming to see you at any stage on the 11th,
after

19 the interview had begun?

20 A. Yes. He used to come during the breaks.

21 Q. How often did he used to come during the breaks, during
the

22 process, from beginning at the interviews on the 10th, all the
23 way to 14 April; do you know?

24 A. Many a time. I wouldn't be able to tell the number.

25 Q. And what did he do during these breaks?

26 A. Well, during those breaks, he would pile pressure on me
27 that what they had been hearing -- it wasn't from the 11th,
but

28 from the 10th to the 14th. During those breaks he would come
and

29 say, "Issa, we are just trying to help you. But what we have

1 been hearing, if you don't confirm these things, how will we
be
2 able to help you?" He said, "So you have to confirm the
things
3 that we have heard. That's the only way we'd be able to help
4 you, so that you will be out of this problem."

5 Q. Do you remember him coming to see you on the 11th, the
6 second interview?

7 A. Morissette, yes. For him, that was his job. He was
just
8 interviewing me. But all the pressure I had was --

9 THE INTERPRETER: Your Honour, the witness is not clear.

10 MR JORDASH:

11 Q. Go over the last two sentences.

12 A. I said, it was Mr Morissette who spoke to me during
these
13 breaks and he piled pressure on me.

14 Q. Now let me take you to the end of the 11th. How did you
15 get back to Bonthe?

16 A. I was blindfolded, I was handcuffed. And they took me
back
17 to the helipad and they took me back to Bonthe.

18 Q. What time did you arrive at Bonthe; do you know?

19 A. Well, I cannot recall. But it was in the evening, late
in
20 the evening.

21 Q. Sorry, just so we're clear: Where did you go in Bonthe?

22 A. When we arrived and I was taken back, when we arrived,
we

23 got to the office and they removed the cloth from my face.
The

24 international staff was in -- was in the detention compound.

25 There was a pistol on his side. And from the office of the
26 detention staff, two security were there with a truncheon to
27 escort me to my cell.

28 Q. Was it the same cell or a different cell?

29 A. It was the same cell.

night

1 Q. Was there anything different about the cell than the
2 before?

3 A. The cell, it was just the same as before. No light, no
4 tent, no fan.

5 Q. What happened the next day?

because

6 A. Well, the other day, on the 12th, one security --
7 in our cell, there are small -- there are small holes on the
8 door. So a security stood by my cell door and he said, "Issa,
9 you are instructed to put on your clothes. You are going to
10 taken away." It was not even ten minutes and they opened the
11 cell and they ordered me to move to the wall. And they
12 handcuffed me, the same way it happened on the 11th. And I

be

was

13 escorted with their truncheon. Geoff had a pistol on his hand
14 and they escorted me to the office. And, in the office, I was
15 blindfolded again. I was blindfolded and brought to Freetown.

16 Q. So this is the 12th. Where are your family now?

17 A. My family? I was the only one aware they were at the
18 house, but they did not know where I was.

19 Q. What happened at the office?

removed

20 A. Well, at the office, when I was brought there, they

21 the cloth from my face and they unlocked the handcuff. And

22 Morissette, John Berry started to talk to me. Then Alan White
23 came again. When Alan White came, he sat down and he told me,
he
24 said, "Issa," he said, "I started to talk to you yesterday."
He
25 said, "Now we have accepted you as our witness." He said, "So
26 you have to speak, talk about things we do not know of. You
have
27 to confirm them to us so that you will beef up our case to use
28 you as a witness." So he told me to feel free, that I was a
29 witness, and that they were making the necessary arrangements
to

he

--

school

as

has

mind

not

no

me.

what

1 take my -- to collect my wife, my child. And Alan White said,
2 said they would take responsibility to provide housing for the
3 for my wife, feeding, medication, and they would be paying
4 fees for my child. So he told me to continue to talk to them.
5 And at the end of March, he said that I would be released from
6 the detention and they would give me a lawyer to work with me
7 their own witness. After he said this, he left. And then
8 Morissette said, he said, "Well, Issa," he said, "now my boss
9 spoken. We have accepted you as our witness." He said, "So
10 since we have given you, you have to give us in return so that
11 our case would be strong." He said -- he said I should not
12 the documents that are read to me. He said the documents are
13 important. He said they are just procedures. And since I had
14 knowledge about international cases, the same people captured
15 So if they said they were going to free me, I had to believe
16 I was told.
17 Q. Did you see Mr Morissette at all the rest of the day, at
18 any time?

19 A. Well, after they had spoken, Alan White left, Morissette
20 left, and the interview began. During the break, Morissette
came
21 back. When he came, he told me, he said, "Issa," he said,
"now
22 things are fine for you." He said, "Because whatever these
23 people tell the judges, it's final. They had a case against
you,
24 so if they told the judges" -- "if they told the judges they
have
25 no case against you, then that's the end of it."
26 Q. Anything else? Did he say anything else?
27 A. Yes. As time went on, Mr Morissette was coming in. As
he
28 said when he sat there --
29 THE INTERPRETER: Your Honours, can the witness go slow?

1 MR JORDASH:

2 Q. Just go back over that answer, please.

3 A. I said, Mr Morissette accepted that fact, that, during
4 those times, he was talking to me. The only thing he did not
5 accept was that he was threatening me and harassing me on

certain

6 occasions. There were certain occasions when we were fine
7 through the interview. Some of the questions he asked me,

when I

8 did not respond as to what they wanted, during the break, he
9 himself -- he -- he, Morissette, would come in and he would

say,

10 "Well, we want to do you a favour but if you don't want the
11 favour, we will not make you a witness." So, what -- what --

I

12 wanted them to free me. So I had nothing to do at that time.

13 Q. Just go -- sorry, go over the last two sentences again,
14 please.

15 A. I said, as the interview progressed, there were things

that

16 John Berry asked me. Since I did not respond as to what they
17 wanted to hear, during the break, Morissette would come and he

--

18 and he would tell me that they were only doing me a favour.

But

19 since I was not measuring up to their expectations, I should

not

if

20 blame them because they were not going to take me up as a
21 witness. He said that this was an opportunity given to me, so

they

22 I accept, then I would become their witness. If I said what
23 wanted to hear, then I would become their witness. So I told
24 half truth.

By

25 Q. At this point -- well, let me ask a different question.

with

26 the end of the interview on the 12th, what was the situation
27 your family?

that

28 A. Well, Morissette, before they captured me, he promised
29 since you've heard what Alan White has said, we are making

1 arrangements so that by the end of the week, we would -- they
2 would collect my wife and my child to be with them. They
would
3 find a place for them and they will take the responsibility
for
4 that. So they took me back the same way. I was blindfolded
and
5 handcuffed.

6 Q. What happened on 13 March 2003?

7 A. Well, on the 13th, the same way: I was brought from
8 Bonthe, I was blindfolded. In fact, on that day, I was
9 blindfolded. As I was coming down from the helicopter, I fell
10 down. I fell down on my right hip. I fell down on the steps.
11 The doctor can confirm that, that he had been giving me
treatment
12 for the pain I had been complaining on my ribs. When I fell
13 down, what -- their only concern was to put me in the vehicle
and
14 take me to Scan Drive.

15 Q. Could I ask you this question: What was your health
like,
16 in general, around this time? Do you recall?

17 A. Yes. I had a toothache and my -- a stomachache.

18 Q. How bad was or how mild was this toothache?

19 A. The toothache was troubling. It was troubling me. The
20 times when I'd get there I would tell them about it but they
will

tell

21 not listen. So when I went to Bonthe, on my return, I would

22 the doctor to give me some medicine because my stomach was

23 aching, my tooth was aching --

24 THE INTERPRETER: Sorry, Your Honours.

25 THE WITNESS: -- the doctors made arrangements and

26 extracted the two teeth. And the next morning --

27 MR JORDASH:

28 Q. Pause there: What date -- do you remember what date you

29 had your teeth extracted?

1 A. No, I can't recall now. I can't recall the date,

2 because --

3 Q. Was it in March or April?

4 A. I can't recall the exact time now. Because even the --

the

5 detention staff, the doctor, they were -- they were aware that

I

6 was not on my own in Bonthe, because --

7 THE INTERPRETER: Your Honours, can the witness take

that a

8 bit --

9 MR JORDASH:

10 Q. Stop. Stop. Sorry, Mr Sesay. Can you just repeat the

11 last sentence?

12 A. Well, I said the detention staff and the doctor, they

13 knew -- they were aware that I was not on my own in Bonthe,

14 because I was confused, I was not of myself.

15 Q. Let's just deal with that. When you say you were

confused,

16 just try to explain what you mean by that.

17 A. Well, what I meant, on the 15th of March, I appeared

before

18 court. And at that time I -- I was not able to read the

19 indictment.

20 Q. We'll come to that in a minute. Let's just try to take

it

21 chronologically. On the 12th, how were you feeling?

I

22 A. Well, on the 12th, when Alan White had spoken to me that

March

23 was their witness. And he promised that before the end of

24 they would take me out of the detention and take me to a place

lawyer.

25 where I would be with my family and they would give me a

26 So, at that time, it was only what they told me that I knew

27 about.

28 Q. So how were you feeling about that?

29 A. Well, on the 12th, when Alan White spoke to me, I had

1 confidence. I had some confidence that what they had -- they
2 were telling me was true. So they -- they left me. That was
3 what I thought. And that was the promise they made to me on
the
4 12th.

5 Q. And you were interviewed on the 14th, as we've seen --
6 sorry, the 13th; is that right?

7 A. Yes. The 13th, when I fell down from the helicopter.

8 Q. Do you remember if you saw Mr Morissette that day?

9 A. Mr Morissette, I saw him.

10 Q. Do you remember what he said?

11 A. Well, when they brought me in the morning, Mr Morissette
12 told me -- in fact, that day he did not call my name. He
said,

13 "Oh, Mr Witness, good morning." That was how he greeted me.
So

14 he said, "Now you should feel free to continue. You've heard
15 enough from me. Now you've heard from my boss." He said, "So
16 there's no problem. By the end of the week" -- he said by the
17 end of the week he himself, Morissette, will go and take my --
my

18 wife. So he promised that on the 14th he would give me a
19 telephone to speak to my wife.

20 PRESIDING JUDGE: Can we stop there for the time being?

21 We'll now recess for lunch. We will resume at 2.30 p.m..

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

23 [RUF19JUN07D - MD]

24 [Upon resuming at 2.52 p.m.]

25 PRESIDING JUDGE: Mr Cammegh?

26 MR CAMMEGH: Can I thank Your Honours for the indulgence
27 this morning.

28 PRESIDING JUDGE: Very well.

29 MR CAMMEGH: Thank you.

SCSL - TRIAL CHAMBER I

1 PRESIDING JUDGE: Right. Mr Jordash, you will continue
2 with your witness.

3 MR JORDASH: Thank you.

4 JUDGE ITOE: And, please, ask him to be speaking slowly.

5 MR JORDASH:

6 Q. I think -- did you hear the advice, Mr Sesay?

7 A. Yes, sir.

March

8 Q. Do you recall seeing anyone else from the Court on 12

9 2003?

10 A. No, I cannot recall that I saw any other person.

you

11 Q. Same question on 13 March; apart from the people you've

12 told us about who came from the Office of the Prosecutor, do

13 recall seeing anyone else from the Court?

14 A. No.

15 Q. Now, 14 March; talk us through the 14th. What happened

16 when you got up in the morning, at Bonthe?

cell.

17 A. Well, when I got up in the morning, Geoff went to my

to

18 Then he instructed me in the same way. He said I was to move

was

19 the wall. Then I was handcuffed. Then Geoff told me that I

20 to follow him to go to the office. Then I was blindfolded. I

21 was put in a vehicle. I was taken to the helipad and I was

22 brought to Freetown.

23 Q. Where did you go?

24 A. I was taken to the same room, in that container room, at
25 Scan Drive.

26 Q. Who was there when you arrived?

27 A. Well, Morissette was there and John Berry himself was
28 there.

29 Q. And what happened when you arrived?

SCSL - TRIAL CHAMBER I

in

1 A. Well, when I arrived, Morissette told me that -- he said
2 the afternoon he had to give me a phone so as to talk to my
3 He said the next day they were going to take my wife so as to
4 and stay with them, with the children.

wife.

go

5 Q. Was anything else said before the interview started?

now.

6 A. Well, Morissette just told me that I was their witness
7 He said that is why we are doing all those things.

what

8 Q. Just so that we are clear: What had been said about
9 they were going to do with your wife?

Morissette

10 A. Well, I was not the one that asked them. It was
11 who told me that, on the 12th, when they said that I was their
12 witness. Morissette said they had to arrange so that the
13 could be brought so that they would take the responsibilities
14 the woman and the children until I was released and I would
15 them finally.

woman

of

join

16 Q. And was anything said about what taking responsibility
17 meant?

a

18 A. Well, they said that they were going to provide her with

fees

19 place. They were going to rent a place. They would be giving
20 her money for food and provisions, and they would provide
21 medication for her and the child, and they would pay school
22 for the child.

23 Q. And what did you think about that?

me,

24 A. Well, I thought that, according to what Morissette told
25 they were doing that because I was their witness. That is why
26 they were doing all those things for me.

27 Q. Now, did you speak to your wife that day?

was

28 A. Yes, I spoke to my wife through one of my friends, who
29 at Shell Company. He was called Unissa. I used Unissa's

phone.

1 I used his number and I called Unissa. And I told Unissa to
go
2 to the house so that he could meet my wife so that I could
talk
3 to her. And Unissa went to the house with the phone and I
talked
4 to Elsie.

5 Q. Had you spoken to Elsie before this, after your arrest?

6 JUDGE ITOE: You talked to -- what phone were you using
7 yourself?

8 THE WITNESS: It was Morissette's phone that he gave me.
9 Then I showed him the number and he dialled the number and he
10 gave me the phone. Then I told Unissa so he could take the
phone
11 to Elsie in the house so that I could talk to Elsie, who was
my
12 wife.

13 MR JORDASH:

14 Q. Do you remember the conversation?

15 A. Well, that was the first time that I talked to Elsie
since
16 the time that I was arrested. And the conversation, it was
what
17 Morissette told me. The information that was given to me by
18 Morissette was the one that I wanted to convey to her.

Because

19 Morissette told me that I should inform the woman, saying that

not

20 they would go to the house, to go and take her, and that they
21 were going to be responsible for her, so that the woman would
22 be afraid, and that I was to explain first to the woman.

23 Q. After the phone call, did anything happen?

the

24 A. Well, after the phone call, I think that day, that was

that

25 end of the interview. Then I was returned in the same way,

26 I was blindfolded.

27 MR JORDASH: Before we move on from this, can I ask that

28 Mr Sesay be given a copy of the 14 March 2003 interview.

assist.

29 PRESIDING JUDGE: Madam Courtroom Officer, please

1 MR JORDASH:

2 Q. Could I ask you, please, to turn to page 28839.

3 JUDGE ITOE: Page 28 --

4 MR JORDASH: 839. Page 28839.

5 Q. Are you there?

6 A. Yes.

7 Q. We've looked at this before, when the Prosecution were
8 presenting their evidence. Look at the bottom of the page
there.

9 You're read Rule 42 and the right there. And you say, "Yeah,
10 but, according to you, I'm a suspect of, you know." I don't
11 know, do you recall saying that?

12 PRESIDING JUDGE: Is that an exhibit?

13 MR JORDASH: It is. I couldn't find the exhibit number.

14 PRESIDING JUDGE: Well, that's okay. We are just
checking.

15 MR JORDASH: I'll find it, Your Honour.

16 PRESIDING JUDGE: That's okay. That's fine. Can you
help,

17 Mr Harrison?

18 MR HARRISON: U.

19 PRESIDING JUDGE: Exhibit U. Thanks.

20 MR JORDASH:

21 Q. Do you recall saying, "Yeah, but, according to you, I'm
a

22 suspect of, you know?

me

23 A. Yes. What I was trying to say, John Berry did not allow

24 to end, so he cut me off.

25 Q. Well, what were you going to say?

26 A. Because when he said that I was a suspect and that I had

27 been told that I was a witness, that was what I wanted to say

28 when he cut me off.

I'm

29 Q. Now, over to the next page, 28840, "So all these days

saying

1 saying yes, meaning yes, I'm not guilty." Do you recall

2 that?

3 A. Yes, I said so.

4 Q. What did you mean?

5 A. Well, this showed that I did not understand the waiver.

spoke

6 That was what it stood for. The waiver that he spoke, they

lawyer, I

7 about in court here, that I did not have any right to a

8 did not understand.

asked

9 THE INTERPRETER: Your Honours, would the witness be

10 to repeat the last bit of his testimony?

11 MR JORDASH:

12 Q. Go over the last two sentences, please.

being

13 A. I said, this proves that, during this time when I was

answer

14 interviewed, I did not know the meaning of waiver and this

waiving

15 shows that I did not understand what they referred to as

16 my right to a lawyer for --

17 Q. So what were you saying here? Can you explain it in a

18 different way?

admit

19 A. Yes. This meant that I did not say "yes." I did not

20 that I waived my right of having a lawyer.

Well,

21 Q. Did anything happen after your 14 March interview?

again,

22 before you answer the question, did you see Mr Morissette

23 or at any time, during the 14 March interview process?

24 A. Yes. I saw him for the whole of the day on the 14th.

25 Q. I think you need to repeat that answer. I'm not sure

26 that's what you said.

was

27 A. I said, I saw him on the 14th and all the days that I

28 being interviewed. Every day I would see Mr Morissette and he

29 would talk to me.

14th?

1 Q. Did you return to Bonthe after the interview on the

2 A. Yes. I was taken back to Bonthe in the same way.

3 Q. And what happened the next day?

to

4 A. Well, the next day, that morning, they said that I was

time

5 appear in court. That was the day that I appeared the first

6 in court.

7 Q. Who told you you had to appear in court on that day?

did

8 A. Well, the detention. They informed me initially and it

9 not take long. Other lawyers went at the place Ibrahim Yilla.

told

10 They went into my cell, he, with some other people, and they

handcuffed.

11 me that I was going to court. And after that I was

12 I went to court. I was taken to court.

the

13 MR JORDASH: Your Honours, I'd like to, if I can, play

14 first five minutes or so of the first appearance. There is a

15 transcript of the hearing, as Your Honours are aware, and it

16 might be useful to have the transcript and I will apply to

17 exhibit the transcript at a later stage.

Prosecution

18 PRESIDING JUDGE: What's the disposition of the

19 to that application?

20 MR HARRISON: No objection.

21 PRESIDING JUDGE: Yes, granted.

22 JUDGE BOUTET: I presume it would be of assistance to
the

23 Court to observe? I mean, this is obviously not the
interview.

24 This is the appearance in court. I'm not sure if it is the
25 initial appearance.

26 MR JORDASH: Yes.

27 JUDGE BOUTET: I guess so.

28 MR JORDASH: It's the initial appearance and there's
29 something I noticed on the video yesterday, and I think that -

-

concerning

1 well, there is an explanation on the first appearance

it

2 Mr Sesay's indictment and whether he's read it or not, and how

But

3 appears in the transcript is not quite how Mr Sesay said it.

to

4 it's also, so Your Honours can see -- I know, obviously, the

5 Honourable Justice Itoe was there, but I'd like Your Honours

says,

6 see it, to see Mr Sesay's demeanour and look at it, what he

that

7 the explanation he gave about not reading his indictment, at

with

8 stage, an explanation which we rely upon to this day, and,

9 the knowledge that Your Honours have, having heard this voir

10 dire, to make whatever of it as Your Honours do, or will, or

11 might, or we hope you might.

trying

12 JUDGE BOUTET: But what's the connection? I'm just

13 to see. I mean, are you suggesting that the accused did not

14 understand what he was doing in court that day, too --

15 MR JORDASH: No.

pleaded?

16 JUDGE BOUTET: -- and therefore he should not have

Jordash.

17 I'm trying to follow what is the connection, if any, Mr

18 MR JORDASH: Certainly. The Prosecution have made much

--

by 19 well, it's our case that Mr Sesay had not read his indictment
20 the time he attends on the 15th --
21 JUDGE BOUTET: At the Court, at the initial appearance?
confirm, 22 MR JORDASH: Yes. As His Honour Judge Itoe will
23 his indictment had to be read to him in --
24 JUDGE ITOE: I will not descend on the arena in this
25 matter. It's very delicate. Please.
26 JUDGE BOUTET: But that's reading the indictment. I did
the 27 initial appearances. We did -- I did that. I mean, that was
28 standard procedure we followed. In any case, at least, I can
is 29 talk of mine, not Justice Itoe. But the fact that it was read

Though

1 of no importance per se, other than it was the procedure.

2 it might be more that --

3 MR JORDASH: Well, let me make it as clear as I can.

to

4 PRESIDING JUDGE: Yes. Try, because the onus is on you

5 prove the relevance to the trial within a trial and I'm sure

6 that's what we're trying to get.

was

7 MR JORDASH: On the basis of the evidence so far, the
8 evidence says Mr Sesay was not given his indictment until the
9 first interview. The Prosecution evidence doesn't suggest he

interview.

10 and we say it was given by Litho Lamin after the first

11 So we will rely upon that: That Mr Sesay was interviewed on

12 10 March without being given his indictment.

By

13 But there is another point and the other point is this:

his

14 15 March, Mr Sesay has still not had an opportunity to read

15 indictment. And the reasons for that are as follows: That,

16 during the day, Mr Sesay was being taken out for interview; at

17 night, it was dark and there were no lights in the cells.

18 Mr Sesay gives that explanation on 15 March 2003, before there

19 was any suggestion of wrongdoing at all about the interviews.

problem,

20 Before he had been alerted to the fact that there was a

21 before any lawyers had become involved. And we would say the
22 fact that Mr Sesay gives that explanation on 15 March,
23 unsolicited, is powerful corroborative evidence of the fact he
24 had not read his indictment during the first five interviews
by
claim
25 the Office of the Prosecutor. And none of the Prosecutors
26 to have read that indictment to him at any stage during that
27 period.

28 If Your Honours accept his explanation on 15 March that
his
29 first appearance was a genuine assertion, and there is no
reason,

then 1 we would submit, why it wouldn't be genuine at that stage,

2 Your Honours can properly conclude that he was interviewed for
3 the first four or five times without knowing what the charges
4 were against him.

video, 5 PRESIDING JUDGE: Try again. How will watching the
6 you say, of the initial appearance illuminate the voir dire
7 process, the focus of which is the alleged involuntariness of
the 8 alleged statements the Prosecution intend to tender? That's
my 9 own -- if you persuade me, even in an oblique sense, then I
will 10 yield.

11 MR JORDASH: Voluntariness is not simply about force.
charges, 12 Voluntariness is about being properly informed of your
whether 13 promptly, so that you can make an informed choice about
upon 14 to be interviewed. And there is case law which we will rely
15 from the ICTY, in fact, actually, from the ICTR, and domestic
you 16 case law, which says you can't consent to an interview unless
17 know what the charges are. And if he hadn't read the
indictment 18 and was saying so on 15 March, and that can't be gainsay by
the

19 Prosecution. We would say that that alone is sufficient to
20 exclude the first five interviews.

21 JUDGE BOUTET: So you're saying the obligation was on
22 whoever, not necessarily on the accused, to read the
indictment?

23 MR JORDASH: Well, we --

24 JUDGE BOUTET: You acknowledge he was given that on the
25 night of the 10th --

26 MR JORDASH: Yes.

27 JUDGE BOUTET: -- by Lamin.

28 MR JORDASH: Well, the first --

29 JUDGE BOUTET: It was in the baggage?

1 MR JORDASH: Your Honour, yes, it was. On the 10th, it
was
2 purely the fault of the Prosecution. On 11th, 12th, 13th and
3 14th, it is a fault of circumstance, combined with the fault
of
4 the Prosecution. Why do I say that? It was the Prosecution
5 removing him from his cell.

6 JUDGE BOUTET: But I thought by reading the transcript
it
7 would be enough, but if you think it is of -- I mean, I don't
8 think five minutes will change much.

9 MR JORDASH: Can I take you to page --

10 PRESIDING JUDGE: Quite frankly, I'm on the borderline,
but
11 as long as it's not a shot in the dark. Let's go on. Let's
12 watch it.

13 MR JORDASH: In a sense, it is a shot in the dark.

14 PRESIDING JUDGE: Is it?

15 MR JORDASH: Let me say why. Because, on page 7, the
16 accused Mr Sesay says --

17 JUDGE BOUTET: Of the transcript?

18 MR JORDASH: Of the transcript. Judge Itoe says:

19 "If he has seen the charges, then he should know whether
he

20 needs a lawyer or not, or have the charges been -- has
he

21 read the charges."

22 And the translation is:

23 "I have not been able to do so because where we are, we

24 don't have any light and there's no time for me to do
so."

25 I didn't get the opportunity to check with Mr Sesay
whether

26 my understanding of Krio was right. What I think he said was:

27 "I'm not there during the day and there's no light at night."

28 Now, there's not much difference, but there is a difference.

29 Because he's saying, well, look, I haven't been in my cell
during

1 the day. At night when I go home -- and that is, we would
2 submit, such a powerfully true statement that Your Honours
will
3 require evidence from the Prosecution to be able to rebut such
4 a --

5 PRESIDING JUDGE: Well, if the video can really show us
the
6 light, I'm prepared to go along with you.

7 MR JORDASH: Well, Your Honours might also find some
8 indication from Mr Sesay's appearance, I don't know.

9 JUDGE ITOE: Don't you think it is clear enough from the
--
10 on the transcript? Because, if he says that he hadn't seen,
he
11 hadn't read through the indictment, and so on and so forth,
and
12 then he said -- he follows on by saying that he doesn't have -
-
13 there was no lighting there. This is further complemented by
the
14 evidence which is abundant, you know, that every day he was
15 brought to Freetown and taken back in the night.

16 MR JORDASH: Well, there might be something else.

17 JUDGE ITOE: There might be something else.

18 MR JORDASH: [Overlapping speakers]. Your Honour, there
19 might be. There might be somebody who Mr Sesay is looking at

in

20 the public gallery.

mystery? 21 PRESIDING JUDGE: So, in other words, we are on a

22 JUDGE ITOE: I will yield.

23 PRESIDING JUDGE: We are on a mystery mission.

transcript 24 JUDGE BOUTET: But isn't it -- I don't have the

days 25 in front of me, but I thought in that sequence of events and

26 there's a weekend; no?

27 MR JORDASH: I'm not sure what the --

is 28 JUDGE BOUTET: [Overlapping speakers] 15, I understand,

29 Saturday. So Saturday he is taken for interviews?

go

1 MR JORDASH: No, not on this Saturday because he has to
2 to his first appearance on the Saturday. But he'd been --

3 JUDGE BOUTET: The first appearance is on a Saturday?

4 MR JORDASH: On a Saturday.

5 JUDGE BOUTET: So the 15th is a Saturday?

6 MR JORDASH: Yes.

7 JUDGE BOUTET: Okay.

Let's

8 PRESIDING JUDGE: Well, the application is granted.

9 go on this mission.

10 MR JORDASH: Thank you.

11 [Video played]

Whether

12 MR JORDASH: Could I just ask Mr Sesay a question:

13 he could hear what he said in Krio in response to that?

repeat

14 THE INTERPRETER: Would learned attorney be asked to

15 what he said?

wants

16 PRESIDING JUDGE: Mr Jordash, the learned interpreter

17 you to repeat your question.

18 MR JORDASH:

19 Q. You were asked whether you'd read the charges. Did you
20 hear what you answered?

21 A. Yes.

at

22 Q. What did you answer?

23 A. Yes. I answered and if you watch at me, I was watching

24 the other side. I was watching at Dr Alan White.

25 Q. I will take you to that in a minute. Okay. Just let's

26 stick to this first. What did you say in response to whether

27 you'd read the charges?

28 A. I said I did not have time, because for the whole of the

29 day I was not in Bonthe. And, during the night, there was no

1 light in the room, in the cell, where I was. And, before I
2 answered, he saw me turn and I watch at the other side, and
there
3 Dr Alan White was. And when I continued to watch at him, he
left
4 the place and went behind the crowd.

5 Q. Okay. Well, let's just play for another couple of
minutes
6 and then that's it. Thank you.

7 [Video played]

8 MR JORDASH:

9 Q. Let's just deal with what you suggested you were looking
10 at. You were looking to the left there. What was going
through
11 your mind then?

12 A. Yes. Because just three days ago, the man who told me
13 that, Dr Alan White, who told me that I was their witness, and
I
14 had seen him there standing at the gallery, and I had appeared
in
15 court, and I was doubting -- I was in doubt, and that's why I
had
16 been watching at him, and when I continued to watch at him, he
17 moved from where he was standing and he went to another side
18 where I was not able to see him directly.

19 MR JORDASH: Could I ask, please, that this DVD become
an

20 exhibit? And also the transcript from the first appearance,
21 which I will refer to during the final submissions.

22 PRESIDING JUDGE: Very well. The video?

23 MR JORDASH: Yes, please.

24 PRESIDING JUDGE: Mr Harrison, any objection?

25 MR HARRISON: Could I just inquire if it's the video of
the
26 entire proceedings on that day?

27 PRESIDING JUDGE: Mr Jordash?

28 MR JORDASH: Yes, it is the whole video of that day. We
it
29 would submit that, as will become clear from the transcript,

1 took a long time, as His Honour Judge Itoe carefully enabled
2 Mr Sesay to understand his charges, that he could plead. We
3 would say that's strong evidence which ought to be taken into
4 account as to whether he ought to have been interviewed at all
5 before, or whether he could properly make an informed decision
6 to being interviewed without that understanding.

as

7 PRESIDING JUDGE: So it's the entire video that you want
8 exhibited?

of

9 MR JORDASH: Yes. The video doesn't, sadly, contain all
10 the first appearance.

11 PRESIDING JUDGE: Yes.

12 MR JORDASH: But I think that --

13 PRESIDING JUDGE: That portion of it.

bit

14 MR JORDASH: Well, there's that portion and there's a
15 more. But that, in conjunction with the transcripts, will

give

16 Your Honours --

17 PRESIDING JUDGE: Yes.

18 MR JORDASH: -- a proper feel as to Mr Sesay's
19 comprehension or otherwise.

20 PRESIDING JUDGE: Yes, Mr Harrison?

that,

21 MR HARRISON: We're a little bit cautious. We note

22 in the past, not entire documents were filed on the voir dire,
23 and we think that it should be the entire video that goes in.

24 PRESIDING JUDGE: Yes.

25 MR HARRISON: Because the Prosecution is actually going
to
26 be at least taking the Court to part of the transcript, if not
27 the video. So we're just saying it should be the whole video.
28 We have no objection to the video going in.

29 JUDGE BOUTET: Yes, but I thought that's what he said?

1 PRESIDING JUDGE: That's what he said: The whole video.

2 MR HARRISON: I thought he said it didn't include all.

3 PRESIDING JUDGE: Yes, the entire video.

4 MR JORDASH: We received it yesterday from whoever
5 organises these things.

6 PRESIDING JUDGE: Yes.

7 MR JORDASH: And when I watched it last night, it didn't
8 have, I think, the final ten minutes or more of the first
9 appearance.

10 PRESIDING JUDGE: Well, whatever it is there. But it's
got
11 what you want us to -- what you want to direct the Court's
12 attention to?

13 MR JORDASH: Yes. It gives the Court the point, we
would
14 say.

15 PRESIDING JUDGE: Very well.

16 MR JORDASH: But I'm happy if the Prosecution object on
17 that basis to have arranged the full first appearance. It's -
-

18 PRESIDING JUDGE: If I understand Mr Harrison's
position,
19 you have no objection now? You have no objection?

20 MR HARRISON: No. I was saying that the Prosecution
takes
21 the view that, generally speaking, it should be the entire

22 document --

23 PRESIDING JUDGE: The entire thing, yes.

24 MR HARRISON: -- that goes in. But if I can just ask
the
25 question: The Prosecution is interested around -- before we
get
26 to page 46, anyway. After 46, the Prosecution doesn't have
much
27 interest in it. If that part is part of the video, then
there's
28 no concern.
29 Alternatively, the Prosecution would take the position
that

that
go
any

1 this video could be entered and if the Prosecution thought
2 the transcript wasn't good enough on its own, it would try and
3 and find the complete video. So as not to delay proceedings
4 more than they have been delayed.

5 PRESIDING JUDGE: Very well. Mr Jordash, how do you
6 respond to that?

that
be

7 MR JORDASH: Well, the video which we are wanting to
8 exhibit does contain up to and I think past page 47. So, to
9 extent, it contains what the Prosecution want. But I'm -- to
10 honest, I'm happy either way, to obtain a full video, or to
11 proceed with this, which has the end chopped off it.

12 JUDGE BOUTET: I think we should have the whole of it.

13 PRESIDING JUDGE: Yes.

to

14 JUDGE BOUTET: And then let us decide which part we want
15 use for our purposes.

16 MR JORDASH: Certainly.

17 JUDGE BOUTET: I think if there's no objection but it's
18 subject for you to procure the --

19 PRESIDING JUDGE: The whole video.

20 MR JORDASH: We'd hoped it did contain the full --

21 PRESIDING JUDGE: Right.

22 MR JORDASH: And I was surprised last night --

it

23 PRESIDING JUDGE: So when you have it, we will receive

24 in evidence.

25 MR JORDASH: Certainly. Can I exhibit the transcript at
26 this stage?

27 PRESIDING JUDGE: Yes. Any objection to the transcript
28 being an exhibit?

and

29 MR HARRISON: No. Can I just ask: Is it going up to

1 including page 57, which is Court Management number 113?

2 MR JORDASH: The copy I've got doesn't have the Court
3 Management number, but it does go up to page 57.

4 JUDGE BOUTET: Mr Jordash, you gave us a copy of that
5 already, but it was in the main trial, I presume.

6 MR JORDASH: Yes. I did have a copy arranged. But I
7 don't --

8 JUDGE BOUTET: It was part of your submission, I
presume,
9 at the time.

10 MR JORDASH: Yes.

11 JUDGE BOUTET: I know I've seen copies of it.

12 MR JORDASH: It wasn't exhibited.

13 JUDGE BOUTET: It was not exhibited.

14 MR JORDASH: No.

15 JUDGE BOUTET: Okay.

16 PRESIDING JUDGE: Right. You exhibit it now?

17 MR JORDASH: Yes, please.

18 PRESIDING JUDGE: There is no objection to it?

19 MR HARRISON: No.

20 PRESIDING JUDGE: We will receive it in evidence and
mark
21 it exhibit?

22 MS KAMUZORA: S16 [sic].

dire]

23 [Exhibit No. A16 was admitted on the voir

24 PRESIDING JUDGE: Thank you.

25 MR JORDASH:

26 Q. So, Mr Sesay, after the 15th, you were taken back to
27 Bonthe. In what frame of mind did you go back to Bonthe?

28 A. Well, at this stage I was confused.

29 Q. About what?

SCSL - TRIAL CHAMBER I

to

explained

1 A. Well, they went. Morissette and White, they had spoken
2 me before and what they told me, when they came, they did
3 something differently. And when as opposed to what I
4 in the Court.

5 Q. What do you mean? Try to explain it a different way.

that

mind,

told

So

6 A. Well, they told me, on the 12th, that I was going to be
7 their witness. And then, on the 15th, they took me to court,
8 where I went and appeared for the first time. And I appeared
9 before Judge Itoe. And he asked me some questions. And after
10 that he said the indictment was to be read to me. And after
11 I was taken back. So this was the confusion that was in my
12 that they had read the indictment to me and these people had
13 me that I was their witness and I had been talking to them.
14 they had -- they made me to be confused during that time.

15 Q. You were interviewed on 17 March again. Do you remember
16 that?

17 A. Yes, I can recall.

18 Q. And who was there when you arrived at the office?

19 A. Well, it was -- it was John Berry that came with me. He

--

bit

20 THE INTERPRETER: Your Honours, I did not get the last

21 of the witness's testimony. Would he be asked to repeat?

22 MR JORDASH:

23 Q. Just repeat that, please. John Berry did what?

but

24 A. I said, it was John Berry that took me in the morning,

the

25 he stopped at the helipad, because where I was blindfolded in

26 office, I did not see him in the detention. So I'd arrived in

27 Freetown by then.

28 Q. Let's just -- sorry, its not coming out. I don't know

29 whether it's you or the translation, but who came to Bonthe to

1 get you?

2 A. Well, I came to understand later that very morning --

when

3 I came in Freetown, they said it was John Berry who took me

from

4 Bonthe. But he did not go to detention because when I was

5 blindfolded in the office, I did not see him there. But from

the

6 helipad, I heard his voice, but I was not able to see him

until

7 the time that we reached in Freetown. He was the one that

untied

8 my face in the room, in the container, and he himself told me

9 that he was the one that took me from Bonthe helipad and

brought

10 me.

11 Q. Was there anyone else in the room when the blindfold was

12 taken off?

13 A. Yes. Morissette was there.

14 Q. And what happened?

15 A. Well, Morissette was there. When I came, he said,

"Issa,

16 how are you?" I said, "Well," I said, "thank God." I said,

"But

17 you people had made me to be confused. You had told me that I

18 was your witness and now, bearing the [indiscernible] on the

15th

19 I had appeared in court. So what is the position? What is my

with
20 position?" And they said, well, until they finished talking
21 me, that was the time they would be able to release me. And
22 since they were talking with me, they would not stop me from
would
23 appearing. But after they had spoken to me, he said that
24 be the time that I would be released from the detention.
25 Q. Did they tell you when that would be?
26 A. Yes. Morissette said the end of the month or early
April.
27 That was the time that I would be released from Bonthe.
28 Q. Were you interviewed then, on the 17th?
29 A. Yes. Based on this discussion that we had with
Morissette,

1 yes.

2 Q. When you say "based on that discussion" --

3 A. We continued the interview. I said, based on what

4 Morissette told me, that until they finished talking to me,
that

5 was the time they would release me from Bonthe. He said they

6 would not release me because they had not finished talking to
me.

7 Until they finished, that would be the time when they would

8 release me.

9 Q. Just so we're clear: Why did you talk?

10 A. Interpreter, say it again.

11 THE INTERPRETER: Your Honours, would the witness be

12 instructed to repeat?

13 MR JORDASH:

14 Q. Let me ask the question again. Just so that we're
clear,

15 so there is no doubt: Why did you speak that day?

16 JUDGE BOUTET: The day now is the 17th, Mr Jordash?

17 MR JORDASH: Your Honour, yes.

18 THE WITNESS: Well, what Morissette told me and what his

19 boss had told me, that Alan White, I found out that they said
20 they were going to release me. That was why I spoke. And
they

21 told me that anything that they told the judges was going to
be

22 the final.

23 MR JORDASH:

24 Q. What did you take that to mean: Anything they told the
25 judges, that would be final?

26 A. Well, it was based on what Morissette told me.
Morissette

27 said they -- they had a case. They made the case against me
and

28 if they told the case -- the judges that there was no case
29 against me any more, then that would be the thing that the
judge

1 would go by.

2 Q. Were you interviewed on 18 March?

3 A. Yes.

4 Q. Before we move on to 18th, did anything else happen on
the
5 17th? Did you see any of the --

6 A. Yes. Before the interview, when Morissette had to talk
to
7 me, he also told me that -- he said -- he said, said I should
8 know that they had gone to collect my wife and my child on
9 Friday, and that they brought her and they were searching for
a
10 place for them.

11 Q. Did -- were you told where she was at that point?

12 A. No. He did not show me the exact location where they
were.
13 He only said that they had been collected from the house and
that
14 they were in their care.

15 Q. Did you speak to her on that day?

16 A. No. From that day it took some time. I was not allowed
to
17 talk to her.

18 Q. What do you mean you weren't allowed?

19 A. Well, after the 17th, the 18th I was brought. I asked
But
20 Morissette so that he could allow me to talk to the woman.

took

21 he said, no, I was to wait. He did not agree. So, I -- he

22 some time.

23 Q. Were you interviewed on 18 March?

24 A. Yes.

25 Q. Do you recall who you saw on that day, besides Mr Berry,
26 who we can see on the interview tape?

saw

27 A. John Berry, Morissette, I. And the only people that I

28 were John Berry, Morissette, Dr Alan White and the lady, one

29 lady. But the lady, there were certain times when Morissette

1 came in, he would ask the lady to go out and the lady would go
2 out.

3 Q. What did he say to you on that day?

4 A. On?

5 Q. On the 18th; do you remember?

6 A. Well, Morissette, what he had been telling me was a lot.

I

7 cannot recall specifically because each day he would talk to

me

8 three or four times.

9 Q. Were you left with any impression from the conversations
10 you had with him?

11 A. Yes.

12 Q. What was that?

13 A. Well, I had the impression that I was their witness, and
14 except when they finished talking to me, that would be the

time

15 that I would be released. And that was the impression that I

had

16 in my mind and that is what they had been telling me.

17 Q. You were then interviewed on 31 March; is that right?

18 Sorry.

19 A. Yes.

20 Q. My mistake.

21 A. No. Yes, the 24th.

22 Q. The 24th, you're right. Thanks for correcting me.

23 24 March; what happened when you arrived at Scan Drive?

24 A. Well, when I arrived, it was the same way. See, when
they

25 put that clothes on me. Then Morissette came. He had to tell
me

26 that -- say somebody was coming to talk to me later. He said,

27 but, the person would not be too long and that I should not

28 discuss anything with that individual that was coming and I
said,

29 "Okay, sir."

at 1 Q. We've got a very leaky ceiling here, I'm afraid, aimed

2 Mr Berkman. I'm not sure why.

3 PRESIDING JUDGE: Is it causing much damage there?

4 MR BERKMAN: It's okay.

5 PRESIDING JUDGE: You can endure it?

6 MR BERKMAN: I can endure it.

7 PRESIDING JUDGE: Right.

8 MR BERKMAN: I'm not sure about my computer.

9 MR JORDASH: Okay.

happened. 10 Q. So 24 March you arrive. And go on, tell us what

11 A. I said, 24 March, when I was brought in the morning,
12 Morissette had to tell me that somebody would come and see me.
13 Later, he said it was something pertaining to a lawyer,
14 pertaining to a lawyer. He said but the person would not stay
15 long and that I should not say anything to that person.

16 Q. Did he say where the person was coming from?

from. 17 A. No. He did not tell me where the person was coming

18 Q. Did anyone come?

But 19 A. Yes. One woman had to go there, who was Mrs Jallow.

Jallow 20 when she went, she met me and John Berry in the room. So

was

21 came with a piece of paper. She said I was to confirm if I

was

22 the one who wanted Mr Robertson [sic], the lawyer. And if it

23 I that said I did not want Okanya, the lawyer.

24 PRESIDING JUDGE: Did he say Robertson or Robinson?

25 MR JORDASH: I'll just --

26 PRESIDING JUDGE: Can we have that again? I thought I

27 heard Robertson.

28 MR JORDASH: Let me clarify that, Your Honour.

29 Q. What did you just say? What were the names you said?

a

1 A. He [sic] said if I was the one that wanted Robertson as
2 lawyer. So I should write, saying that I wanted Robertson as
3 lawyer. I wrote and signed it.

a

4 Q. Could you -- I think we need to go back a little. Could
5 you spell out the name Robertson, please?

6 A. It's R-O-B-E-R-S-O-N [sic].

it?

7 Q. Roberson. Okay. Who was Roberson, as you understood

take

8 A. Well, Morissette told me that this man, Roberson, was a
9 white man. Because and Morissette told me that I should not
10 any Sierra Leone lawyer. He said I should take a white as my
11 lawyer.

12 Q. When did he tell you that?

not

13 A. That was on the morning of the 14th. He said I should

lawyer

14 take any Sierra Leonean lawyer. He said I should take a

15 that was white, and the man's name was Roberson. The lady who
16 came so as to talk to me so that I myself would write that and
17 sign, saying that I wanted Mr Roberson, the white man.

18 Q. And what was the other name you mentioned?

he

19 A. One lawyer. When I was arrested, he said that I was --

20 was my lawyer. They called him Okanya. But I and Okanya were

up
21 not able to see each other from the time that I was arrested
22 to this time. So Morissette told me that that man who goes on
that 23 talking, Okanya, do you know him? I said that -- I told him
24 it was Foday Sankoh's lawyer. He said I was not to encourage
25 him. That is why, when Mrs Jallow came, I told her that I did
26 not want Okanya.
27 Q. Let's try and clarify this.
28 MR JORDASH: Could I ask, please, that Mr Sesay be given
29 Exhibit A4.

the

1 PRESIDING JUDGE: Courtroom Officer, could you locate
2 exhibit?

3 MR JORDASH:

to

4 Q. Whilst the learned Court Management is finding that, try
5 break down exactly what happened. At some stage you're in the
6 Scan office. What is said to you immediately, if anything,
7 immediately before Mrs Kah-Jallow arrives?

he,

8 A. This is what I'm saying. I said, when I arrived that
9 morning, on the 14th, in the morning, when they took the
10 blindfold off my face, they took the handcuffs off my hand,
11 the Morissette, told me that I should not choose any Sierra
12 Leonean lawyer. He said I should not choose any Sierra
13 lawyer.

Leonean

14 Q. Did he say why?

15 A. He said they were to give me a lawyer and that I should
16 take a white, a white man.

17 Q. Did he say why a white man in preference to a Sierra
18 Leonean?

talking,

19 A. Well, he did not tell me. And when that man was

He

20 he was so aggressive that, whatever he said, I would say yes.

any

Leonean

21 said, "Issa, you are not allowed." And, "You should not take

22 white man," and -- sorry, "You should not take any Sierra

23 lawyer." And he said even that Nigerian, Okanya, who goes on

24 talking, he said, "We would not want him for you. We want

25 Mr Roberson."

26 Q. Who was Okanya? Who was he to you, if anyone?

27 A. Well, Okanya was Foday Sankoh's lawyer.

28 Q. And what relationship with him did you have, if any?

29 A. Well, there was no relationship between us. I only knew

1 him.

2 Q. Now, when Mrs Kah-Jallow arrived, talk us through what
3 happened, slowly and carefully.

John

4 A. When Mrs Jallow came to the room, he [sic] met I and

5 Berry. We -- I -- John Berry stopped the -- we stopped the
6 interview. Mrs Jallow said, "How do you do?" And I told her
7 that I was fine. And she said that she came to talk to me

about

8 the lawyer. He said -- she said, "I heard that you said you
9 wanted Mr Roberson as lawyer." I said, "Yes." She said, "The
10 white man?" I said, "Yes," and I said I wanted him to be my
11 lawyer. And she said I was to write. She gave me the paper

and

12 I wrote. John Berry stood by the door. So when I had

written,

13 Mrs Jallow told John Berry so that John Berry could sign the
14 document as witness. John Berry was in the room. He stood by
15 the door. And this was not up to ten minutes and Mrs Jallow

went

16 back.

17 Q. And did you understand why Mr Berry signed the document?

what I

18 A. Well, I felt that he was part of Mrs Jallow. That's

19 thought, because I thought, actually, no, even Mrs Jallow's

20 function during that time.

say

21 Q. Let's be clear about this: What do you mean when you

a

22 you thought he was part of Mrs Kah-Jallow? Try to explain it

23 bit more.

by

24 A. Well, when I and Mrs Jallow were talking, the man stood

25 the door. And when I and Mrs Jallow had finished talking,

26 Mrs Jallow called him so that he could sign.

27 Q. After Mrs Kah-Jallow had gone, did anything happen that

28 day?

29 A. Yes. We continued the interview.

1 Q. Did you see Mr Morissette that day?

2 A. Yes. When Mrs Jallow had gone, Mr Morissette came back
and
3 he told me that there was no problem. And the way, what he
said
4 was -- I also accepted.

5 THE INTERPRETER: Your Honours, would the witness be
asked
6 to repeat the last segment of his testimony?

7 MR JORDASH:

8 Q. Repeat the last two sentences, please, Mr Sesay. While
you
9 are doing that, could I ask the Court Management to have ready
Repeat
10 the interview of 31 March, please, which is Exhibit A8.
11 the last two sentences, please.

12 A. I said, when Mrs Jallow had gone, later, Morissette
came.

13 And he spoke with me. He told me that it's nice that -- what
he
14 told me about Mr Morissette is what I told Mrs Kah-Jallow, so
15 that was fine.

16 Q. Sorry, could you repeat that for my purposes, please? I
17 think I missed something there.

18 A. I said, Morissette came back later and told me that the
way
19 I spoke with Mrs Kah-Jallow was fine, because what he told me
was

20 exactly what I told Mrs Kah-Jallow, that I don't want a Sierra
21 Leonean lawyer, I want a white lawyer.

at

22 Q. And -- thank you. Let me ask you this before you look
23 that transcript: Who did you think Mrs Kah-Jallow was at that
24 time, or what did you think she did?

25 A. What I thought he did that day? I don't understand.

26 Q. What did you think was the function carried out by
27 Mrs Kah-Jallow? What did you think she did at the Court?

28 A. Well, while I was in Bonthe, I thought Mrs Jallow's duty
29 was to arrange so that she can meet our family, so that our

she
me
1 families will know our whereabouts, to arrange visits, because
2 went to our -- to my family before my family started visiting
3 at Bonthe.

4 Q. What do you mean she went before your family?

we
5 A. No, there was a time at Bonthe, they met us. They said
6 should give our family addresses so that they can contact our
7 families, telling them that they have the right to visit us.
So
8 I thought that was her functions.

9 Q. Now turn, please, to 29362 of the 31 March interview?

10 A. This?

the
11 Q. Yes. Look at the top right-hand corner, 29362. Or at
12 bottom of the page, it says page 64. Right. Cast your mind
back
13 to 31 March and you see the bottom of the page there is a
break
14 there from 12.45 p.m. to 2.31 p.m. and you will have heard
what
15 other witnesses have said about this break. Can you recall
this
16 break?

17 A. Yes, I can recall this break.

18 Q. Could you describe what happened in the break?

Then
out

19 A. Yes. During this break time, Mr Morissette came in.

20 he left I and -- Mr Morissette came in. Then John Berry went

21 and left me and Morissette in the place. So I was with

22 Mr Morissette for over an hour.

23 THE INTERPRETER: Your Honours, correction, interpreter.

24 PRESIDING JUDGE: State it.

25 THE INTERPRETER: Up to an hour, not over an hour, as

26 testified by the witness.

27 PRESIDING JUDGE: Thank you.

28 MR JORDASH:

as

29 Q. So he was there for up to an hour with you. And give us

at
talking
they've

1 much detail about the nature of the conversation?
2 A. Well, he started by telling me, saying, "Issa, you know
3 that this is a big privilege that we have given to you. Look
4 the other detainees in Bonthe. We are not interested in
5 to any one of them. It's only you that we are interested in
6 because we have accepted you as our witness." He said, "Well,
7 the things that we are putting before you, if you don't accept
8 them, then how are we going to make you our witness?" So he
9 piled this pressure on me during this time, so much that
10 heard information, saying that they should accept them before
11 they accept me as a witness, or they drop me, so that I'll go
12 about my case. Then I thought within myself that I have had a
13 lot of discussion with them, and although the allegations that
14 they've put on me about JPK's wife --

15 THE INTERPRETER: Your Honours, can the witness be
16 instructed to go slowly for the interpretation?

17 MR JORDASH:

18 Q. Sorry, just go back past -- back to the last sentence,
19 please.

not

20 A. He said he had an information from JPK's wife, if I did
21 accept him, I did not agree with them, then they will drop me

me

22 out. I will not longer be their witness. And he want to tell

to

23 that if I don't cooperate with them, the case that I'm going

don't

24 face is above me. Now that they're trying to help me, if I

the

25 want to help myself, then he pity my situation. So that was

26 discussion we had for the time he was with me.

27 Q. Why did you speak after the break?

28 A. Well, because the way I saw Mr Morissette, he has piled

29 pressure on me, and I, myself, did not want to be dropped as a

what

1 witness, so I had to cooperate. I had to lie. I accepted

2 he said because that was what he had wanted.

next

3 Q. Now, moving on to the final two interviews, do you see
4 anyone from the Defence Office or from the Court before your

5 interview on 14 April 2003?

6 A. Yes.

7 Q. Who do you see?

I'm

8 A. Well, one man by the name of John Jones, and he went to
9 Bonthe. But when he went, we all gathered around, we, the
10 detainees. No, in fact, they used to bring us out in fours.

of

11 not too sure. But the day he went, he spoke to two or three

12 us together. I mean, we, the detainees. So he was trying to

13 tell us how we should understand about the Court and let us be

he

14 aware that we have a case at hand that is very serious. But

in

15 said we should know that the Special Court had never existed

16 any part of the world. He said Sierra Leone is the first

17 country. He said if we did not stand firm, they wanted to use

18 the Court as an experiment. So, having said that, I myself

would

19 became interested to talk to him. Then I told him that I

20 like to talk to him after he had finished talking to Ross. So

transpired 21 when he went to my cell, I explained to him all that
Alan 22 between the Prosecutor and myself, Morissette, John Berry,
23 White and myself. And I continued to explain to him about the
not 24 time they had promised to take me out of the cells but I did
witness?" 25 see them. He said -- he said, "You mean you are their
26 I said, "Yes, that was what they told me. That was what
transpired. 27 Morissette and Alan White told me." So that was what
28 Q. Were you interviewed on 14 April?
29 A. Yes. They came with me to town on 14 April.

1 Q. Who was there when you were there, at Scan office?

2 A. Well, John Berry and Morisette would come every morning
3 that I was brought. But when -- that morning he was not
there.

4 When he came, he greeted me. I was blindfolded.

5 Q. Who greeted you?

6 A. Morisette. Because normally when they bring you out in
7 the morning, they will come and say, "Good morning. How do
you

8 do today?" But that morning he just said, "Issa, morning."
Then

9 he went out of the room and later he came in and, when he
came,

10 he was vexed. He was vexed, saying that -- why I should tell

11 John Jones what transpired between I and them. He was angry.
He

12 hit the table. He was walking around the room.

13 Q. Can I just pause there. Try to tell us in the words you
14 remember him using, what he said.

15 A. I want my Honours to excuse me for the words. He said,
16 "Issa, this is not John Jones's fucking business. He had no
17 fucking business in your case." He said -- he was just crazy.

18 In fact, the case is not his business. He blasted John
Jones's

19 name. He said I had no right to tell John Jones what
transpired

20 between I and them.

21 Q. What was your reaction to that?

22 A. Well, the man who said he was going to free me, and now
23 he's angry, so I was a little confused. So I was panic
because
24 he was using words that, if that was what will continue, they
are
25 going to drop me as a witness. I was not supposed to tell
John
26 Jones what transpired between I and them.

27 Q. So --

28 A. So. He went out and came back. He came with a paper.
He
29 said I should read it and signed.

1 Q. Do you remember the questions?

2 A. Yes. The questions, he had already told me how to
answer
3 them. And some were -- I answered them.

4 Q. Could I have, please, Mr Sesay -- could learned Court
5 Management please pass Mr Sesay Exhibit E and, I think, G.
6 Please.

7 MR JORDASH: I have G right but -- sorry, it's my
8 note-taking. The specific rights entitlement for 14 April.
9 Could somebody assist in giving me the exhibit number? D --
E.
10 Yes, please. Exhibit E. Thank you very much.

11 Q. Please have a look at the specific rights document for
12 14 April. Could I just ask you about questions 7 and 8?

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

16 "A. Yes."

17 And then:

18 "8. Q. Do you want us to give notice to your duty
counsel
19 of all future interviews if you still want to
collaborate
20 with us?

21 A. No."

explain 22 Can you explain? If you can't, you can't. Can you
23 why you answered in the way you did: Yes to 7 and no to 8?
24 A. Well, this time I had started observing that they were
25 playing game on me and I also started playing round.
26 Q. In what way?
27 A. Well, the way he was angry because John Jones knew about
went 28 what transpired between us. He was angry and, in fact, he
29 out of the room.

to

1 Q. Okay. So let me just ask you this: Why did you agree
2 be interviewed that day?

was

3 A. Well, because Morissette said if I did not accept, he

said

4 sorry, they were not going to use me as a witness. And he

will

5 if I said I will go through the case, let me realise that I

be

6 be in detention between six, seven years. But if I continued

7 talking to them, that will be around weeks or a month. I will

detention.

8 released and, as I will be a witness, I will not be in

9 I will not be detained.

10 Q. So what did you say about six or seven years?

I

11 A. Yes. He said if I refused to be with them as a witness,

12 should realise that before I went through the case, it will be

13 between six to seven years in prison. But if I accept to work

in

14 with them as a witness, then I will spend only weeks or months

15 detention. Then I'll be released.

before

16 Q. What did you mean by it will be six or seven years

17 you go through the case? What does that mean?

18 A. That one, what he was trying to tell me, six to seven

That 19 years, that is the Court procedure, before final judgment.

20 was what he was trying to tell me.

21 Q. On that day, did he say anything about a lawyer or duty
22 counsel?

not 23 A. Well, it was the duty counsel that he said -- that was

that 24 my lawyer. He said the duty counsel was not my lawyer. So

25 was why I thought the duty counsel was my lawyer, that I will
26 have my confidence based on them. But he said they were not

my 27 lawyers.

April, 28 Q. Now, turning to the specific rights document for 15

when 29 Exhibit G, tell us what happened on 15 April? What happened

1 you arrived at Scan Drive?

2 JUDGE BOUTET: What's the date now, Mr Jordash?

3 MR JORDASH: 15 April, Your Honour, 2003.

4 THE WITNESS: Yeah. That day, when I was brought in the
5 morning, it was the same procedure. I was blindfolded. Then
6 Morissette came and greeted me. And he said he would come

back

7 later so that we can complete what we've started. So when the
8 interview started, he came back.

9 MR JORDASH:

10 Q. But what happened when he came back?

11 A. Well, he said I should answer to these two questions.

The

12 way I answered, I had to change. This he told me before he

left

13 and when he returned, he said the way I answered the

questions,

14 it indicated that I am not willing to cooperate to serve as a
15 witness.

16 Q. Sorry, what do you mean by --

17 A. And I said "okay."

18 Q. Okay. So why did you speak on that day?

19 A. Well, the way Morissette was speaking as if they had

wanted

20 to free me and, if I said no, it means I want to stay in

prison.

21 But if I don't want any case, and I was not going to stay in
22 jail.

23 Q. Now, after this interview, did you have any contact with
24 the Prosecution investigators?

25 A. Yes.

26 Q. When was that?

27 A. One time after this interview, they went to Bonthe.

That

28 morning, John Anthony told me to prepare to come to Freetown.

29 Then, later, I was handcuffed. But, this day, I was not

1 blindfolded. We came to the helipad. Then they brought me to
2 Freetown. Then they brought me to the container room.
3 Morisette told me that, "Today you are going to visit your
wife.
4 You and your wife are going to meet. That is why we brought
5 you." Not too long, they brought my wife and child, in the
same
6 container room. We were there up to 1.00 and they brought
lunch.
7 So we were there up to 2.00, 3.00. In fact, that day I was
not
8 handcuffed. They boarded the vehicle -- I and my wife. We
9 drove, we went to the helipad. So whilst I was on-boarding
the
10 helicopter, they took the woman where she was, and they took
me
11 back to Bonthe. So the other time, Morisette called through
the
12 detention phone in Bonthe and Morisette spoke to me. He
greeted
13 me. He said, "Issa, how are you feeling?" I said, "You, you
14 are," -- "you have been lying to me, all that you've said. I
15 have not seen anything." He said, "No, the day has come." He
16 said, "Dr Alan White would like to talk to you." Then Alan
White
17 told me -- he greeted me. He said, "Issa, now we are ready to
18 drop the indictment against you but we want you as a witness

fooling 19 against Charles Taylor." Then I said, "So you have been
20 me all along and you want to continue? Now I've got a lawyer.
21 I've got a Canadian lady and a Canadian man. They're in
22 Freetown. Mr Williams, and the woman's name, Alexandra. They
23 are in Freetown. Talk to them. Alan White, go and talk to
24 them." Then Alan White said he would not talk to them unless
I 25 accept. If I accept, then he will go ahead and talk to my
26 lawyers. Then I said, "All that you've been telling me, I
have 27 not seen anything, so I will not continue talking to you
unless 28 my lawyers are involved." Since then, they cut off
conversation. 29 They never spoke to me again until when I was brought in

1 detention here. My wife will come to visit me. That was the
2 time John Berry spoke to her at the gate. He told her to talk
3 with me so that I'll cooperate with them. Then the woman
said,

4 "No, that man has lawyers already. But since it's a message
that
5 you've given me, I will go and tell him."

6 Q. Let me just come back very quickly. Can you remember
when
7 it was that you got the Canadian lawyers?

8 A. I think it was around May.

9 Q. I just want to ask you now about some of your medical
10 notes.

11 MR JORDASH: Do Your Honours have copies that were
copied
12 and sent in a big bundle with the Canadian charter on two
13 Canadian cases? At the back of that are medical notes.

14 PRESIDING JUDGE: No, I don't recall. Our legal
officers
15 will advise us. Did we receive copies?

16 MR JORDASH: These are just excerpts from Mr Sesay's
17 medical notes. Obviously some of these details are personal.

18 PRESIDING JUDGE: Well, it's a question of what sort of
19 selective judgment you want to apply --

20 MR JORDASH: Yes.

you

21 PRESIDING JUDGE: -- in highlighting the features that

22 consider relevant for the purposes of the voir dire.

23 MR JORDASH: Certainly. What I will do is simply do my

24 best not to embarrass Mr Sesay.

25 PRESIDING JUDGE: Yes.

26 MR JORDASH: And just refer him, if I can, to specific

27 bits.

28 PRESIDING JUDGE: Because you have to make the ultimate

29 determination whether you want to exhibit the material.

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the

you

where

that?

of

1 MR JORDASH: Actually, I can see Mr Sesay doesn't have a
2 copy. Here is a copy. Thank you to Mr Cammegh. I'm hoping
3 start for everyone, the title "Pre-placement medical
4 examination." Yes.

5 Q. You can see -- can you see that, Mr Sesay? Let's take
6 straightaway to the -- can you see, halfway down the page,
7 it says, "Dental care is painful. Feels cold." Do you see
8 Sorry, it's the first page which says, "Pre-placement medical
9 examination." You see that? You have it?

10 A. Yes. Yes, yes.

11 Q. Date of detention, it says at the top 10 March, but date
12 examination, 11 March. It says there, halfway down the page,
13 "Dental care is very pain" -- something -- "painful. Feels
14 cold." Just quickly, what was the situation that you felt on
15 that day in terms of your teeth?

16 A. Yes. My tooth was aching. I was feeling pain and I was
17 also having cold.

18 Q. Further down the page, "General appearance: Depressed."
19 What were you feeling, concerning your mood? Do you see that?
20 The doctor or whoever wrote this said: "Depressed."

21 A. Yes. That was true.

22 Q. Okay. Just go over the page, please.

that

23 JUDGE BOUTET: It may not -- before you turn over, on

24 first page, it seems to indicate, on the first part, the --

25 before physical examination, "Are you being treated?"

26 MR JORDASH: Sorry, yes. Thank you.

to

27 JUDGE BOUTET: "For any condition now," it would appear

28 be "malaria," and something, "last month." "Do you consider

29 yourself to be in good health?" "No."

1 MR JORDASH: Yes.

2 JUDGE BOUTET: I'm not sure what comes after malaria,
3 what's there. I'm not sure if it's last month or --

4 PRESIDING JUDGE: It's abdominal pain.

5 JUDGE BOUTET: Yes.

6 MR JORDASH: Let me clarify that.

7 Q. Mr Sesay, you can see there: "Are you being treated for
8 any condition now?" "Malaria and abdominal pain last month."
9 What was the situation in terms of malaria and abdominal pain?

10 A. Yes, I had malaria and pain.

11 Q. When did you have malaria? This is in the -- this date
of
12 examination is 11 March. When did you have malaria?

13 A. I had malaria before I was arrested. I was under
malaria
14 treatment before my arrest.

15 Q. And how did you feel at the time of your arrest
concerning
16 malaria?

17 A. Yes, I was not well. I was not feeling good. I had
18 malaria.

19 Q. Abdominal pain; what was this concerning?

20 A. Yes. I usually experience abdominal pains. I had an
21 operation before, so I normally experience pain.

22 Q. Go over the page, please, if you would, to the second

Tears." 23 title, "Mental state. Appearance: Anxious. Depressed.

over 24 THE INTERPRETER: Your Honours, can counsel please go

25 the question?

26 PRESIDING JUDGE: Counsel, take the advice.

27 MR JORDASH:

28 Q. Mr Sesay, can you see there "Mental state?" It's the
29 fourth line down. Do you see the description of you is:

1 "Anxious. Depressed. Tears." How were you feeling then,
2 Mr Sesay?

3 A. I was depressed. It was visible.

4 Q. Now, over the page, please. Can you see there, 13 March
5 2003? And I won't read it out, but can you see it says,
6 "Interviewed. Drug notice," or something, "Not his." And

then

7 there's, "And frequent stools." Do you see that?

8 A. Yes.

9 Q. And then there's a reference to how many, "Yesterday,"

and

10 then reference to, "Specks of blood today." What was

happening

11 there, on 13 March?

12 A. Well, I had dysentery and frequent stools. I had
13 abdominal
14 pains.

14 Q. If you go down the page, 14 March 2003. There you have
15 got -- it says, "Dysentery." What were you feeling on 14

March?

16 A. I said, I had dysentery and my stomach was griping and I
17 was experiencing abdominal pains.

18 Q. And then down the page it's -- the date is cut off but

it

19 looks as though it's the date of possibly -- well, on 14

March,

the

20 you see the doctor; you said you had dysentery. Did you see

21 doctor the next day?

22 A. The other day, it was after court that I saw the doctor.

23 Q. So that's on the 15th?

24 A. Yeah.

Went

25 Q. "Persistent bloody diarrhoea, all night and morning.

26 for initial appearance in court. Wanting to give him his

27 medication. 1.45 p.m. returned angry." Do you recall how you

28 felt concerning your bloody diarrhoea? How were you feeling?

and

29 A. Well, I was not feeling good. I was feeling depressed

1 also pains.

2 Q. "Returned angry"; do you recall that? Do you recall
3 returning angry from your first appearance?

White

4 A. Yes. The first, because I was frustrated when Alan
5 and Morissette were telling me this and I was experiencing
6 something different, so I was frustrated.

7 MR JORDASH: I'm not going to refer Your Honours to
8 every --

wanted

9 PRESIDING JUDGE: Yes, I was just asking whether you
10 to go through the entire medical bulletin.

the

11 MR JORDASH: No, but I'll take -- I will refer to it in
12 submissions.

13 PRESIDING JUDGE: Yes.

14 MR JORDASH: But I want to take Mr Sesay to two more
15 entries, if I may.

and

16 Q. Go through the document, Mr Sesay, to the seventh page.
17 Top of the page there, 4th April, "Concern about his parents
18 the fact that he has not got a lawyer at present." What was
19 you said to the doctor?

it

20 A. I told the doctor that I don't have a lawyer who is

really

21 representing me on this matter, because at this time I was

22 confused. Yes.

23 Q. And did you say anything about your parents?

24 JUDGE BOUTET: What is the date?

I

25 MR JORDASH: Sorry, 4 April. It's the seventh page in,

26 think, in the chart-like document. "Evaluation of objectives.

27 Daily record of nursing care." It looks like this.

I

28 Q. Sorry, what did you say about the parents, your parents?

29 missed that.

1 A. Yes. I said, I was frustrated at that time because the
2 people whom I first came in contact with, I never knew they
were
3 misleading me. I never knew they were misleading me and, at
the
4 same time I was talking to them, and, at the same time,
appearing
5 in court. That was the frustration I had.

6 Q. Then we can see, if we go to the next page, 4/4. Can
you
7 see the page 4 April 2003, at the bottom of the page,
"Extremely
8 depressed. Crying. Diazepam, 5mgs given. Reassured with
very
9 little effect." Do you recall feeling like that on 4 April?

10 A. Yes, yes.

11 Q. Now, finally, Mr Sesay, and then I've finished, I think,
go
12 to the next page. I want to read this out. 21 April. Are
you
13 there? It's this document, the next page. 21 April. Can you
14 see? Right. Perhaps the learned Court Management could give
15 Mr Sesay my copy and I'll find -- I hope Your Honours have the
16 page and are with me. Thank you. 21 April, "Some" --

17 JUDGE BOUTET: 21 April?

18 PRESIDING JUDGE: That's the last entry on that page?

19 MR JORDASH: It's the last entry on the page.

20 PRESIDING JUDGE: "Some outburst."

21 MR JORDASH: "Some outburst yesterday morning" --

22 PRESIDING JUDGE: Yes.

23 MR JORDASH: -- "with staff. [Indiscernible] abusive
24 languages from both sides. Reassured with some effect. Issa
25 needs to assess by a psychiatrist. He's very confused and

needs

26 to be looked after by appropriately trained personnel for the
27 benefit of both staff, himself and other inmates. He appears

to

28 have a lot of problems, both psychological and physical, and

he

29 needs to be looked after," I think that is. And then over the

1 page, the first few lines are difficult to read.

2 PRESIDING JUDGE: It refers to insomnia or something.

3 MR JORDASH: Yes. Insomnia, he does not sleep at night.

4 PRESIDING JUDGE: Yes.

5 doctor.

MR JORDASH: His tooth needs to be reviewed by the

6 done

Something "continue with some effect. Something needs to be

7 could

to prevent further deterioration" -- "discomfort" -- "which

8 extreme

lead to" something. And then the next entry I'm particularly

9 interested in. "Spoke to doctor re Issa's condition of

10 to

and inappropriate thoughts and confusion and as he said needs

11 be seen by a psychiatrist and a dentist. Doctor said to start

12 him on Chlopromazine."

13 Q. Do you remember seeing the doctor a week after your last

14 interview?

15 A. Yes.

16 Q. Do you remember how you felt a week after your last

17 interview?

18 A. Yes.

19 Q. Have you anything there that you disagree with?

20 A. I accept all. I accept all.

21 MR JORDASH: Finally, could I apply to exhibit these

22 selective notes, please?

23 PRESIDING JUDGE: Yes. Mr Harrison, what's your
response

24 to the application?

25 MR HARRISON: I think, in general, the position has to
be

26 that the Prosecution would not object to all the records being

27 exhibited but would object simply to certain selective
portions

28 being exhibited.

29 PRESIDING JUDGE: Yes.

intention

intend

course

of

medical

shortly

missing

are

1 MR HARRISON: In fact, sorry --

2 PRESIDING JUDGE: Just that we have a comprehensive

3 document here and -- what will be -- Mr Jordash, your

4 is to exhibit the entire document? I don't know how you

5 to -- I mean, if it's one composite document, and then of

6 there are the relevant parts which you've highlighted for the

7 purposes of the voir dire, so, would there be any prejudice to

8 your side if the entire document is exhibited for the purposes

9 a trial within a trial?

10 MR JORDASH: Could I explain? These are Mr Sesay's

11 notes for the relevant period during the interviews and

12 thereafter.

13 PRESIDING JUDGE: Yes, yes.

14 MR JORDASH: As far as I remember, there is nothing

15 from that period.

16 PRESIDING JUDGE: Yes.

17 MR JORDASH: And these are the medical records we say

18 relevant to the issue, and we would apply for all of these --

19 PRESIDING JUDGE: Yes.

20 MR JORDASH: -- records in this bundle to be exhibited.

21 PRESIDING JUDGE: Well, I speculate, actually, rightly
or
22 wrongly, that you may have some privacy concerns but you don't
23 seem to. We can receive the entire document into evidence.

24 MR JORDASH: Well, I would like it to be under seal for
25 privacy reasons for Mr Sesay but the whole document is
relevant
26 because at the back you will also see --

27 PRESIDING JUDGE: Right.

28 MR JORDASH: -- a number of medicines which Mr Sesay --

29 PRESIDING JUDGE: It's quite an exhaustive bulletin,
quite

entire

1 frankly. We -- Mr Harrison is now disposed to exhibit the
2 document.

3 MR HARRISON: Yes.

has

4 PRESIDING JUDGE: Well, then, your consistent approach
5 been that we exhibit documents in their entirety?

6 MR HARRISON: Yes. I can certainly see no reason why it
7 should not be under seal, if that's a concern.

mean,

8 PRESIDING JUDGE: I don't have any problem at all. I
9 privacy concerns must be respected, particularly in respect of
10 medical records.

heard

11 MR HARRISON: I just wanted to say that I thought I
12 Mr Jordash say he wasn't sure if this was all of the documents
13 and it's simply the Prosecution's concern that there ought to
14 be --

15 PRESIDING JUDGE: Is there a second edition of it?

relating

16 MR JORDASH: No, these are all the medical records
17 to this period.

18 PRESIDING JUDGE: Yes.

bit

19 MR JORDASH: But, when I took the notes out, I went a
20 further than the interviews because I wanted to make

submissions

21 on --

22 PRESIDING JUDGE: Yes.

23 MR JORDASH: -- his recovery after the interviews but
they

24 are all there from the 11th onwards.

25 PRESIDING JUDGE: That is fine. As far as we are
concerned

26 we will just receive the document in evidence.

27 MR JORDASH: Could I just quickly ask Mr Sesay about one
28 aspect?

29 PRESIDING JUDGE: Very well.

1 MR JORDASH:

2 Q. Mr Sesay, do you remember taking, if you look at the --
3 back to the back sheet -- you will see a list of medicines you
4 were taking on various days. You may not be able to assist

with

5 this but were you taking these medicines in April? Can you
6 at the back there there is Chlopromazine, Diazepam, Brufen,
7 Paracetamol; do you recall that?

see

8 PRESIDING JUDGE: They seem to span April to whatever

date.

9 MR JORDASH: Yes.

10 PRESIDING JUDGE: I think the document speaks for itself

11 and you can refer to them in your submissions, legal
12 submissions.

13 MR JORDASH: I will do that.

evidence

14 PRESIDING JUDGE: We will receive the document in

15 and mark it exhibit?

16 MS KAMUZORA: A17, Your Honour.

17 PRESIDING JUDGE: Yes.

dire]

18 [Exhibit No. A17 was admitted on the voir

19 PRESIDING JUDGE: Perhaps we should at this stage take a

20 break.

MR JORDASH: That is all I have for Mr Sesay.

be

21 PRESIDING JUDGE: I see. So, in other words, that will

22 the end of the examination-in-chief?

23 MR JORDASH: Yes.

24 PRESIDING JUDGE: Good. Well, let's take a break.

25 [Break taken at 4.42 p.m.]

26 [RUF19JUN07E - MD]

27 [Upon resuming at 5.18 p.m.]

28 PRESIDING JUDGE: The Prosecution will cross-examine the
29 witness.

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1 MR HARRISON: I'll just continue on with what has become
2 Exhibit A17. If the witness does not have that, could A17,
the
3 very last document, be given to him.

4 CROSS-EXAMINED BY MR HARRISON:

5 MR HARRISON:

6 Q. I think we can agree that some of it is hard to read and
7 some of that may just be photocopying of it but otherwise it's
8 probably difficult handwriting. But, if you turn to the
second
9 page, you will see under "Conclusions," which is about two-
thirds
10 of the way down the page, it indicates, presumably, that you
11 suffer from chronic abdominal pain; does that sound right?

12 A. Well, I do not have a chronic abdominal pains. I do not
13 have chronic abdominal pains but I had stomachaches. I had
14 stomachaches.

15 Q. Somehow, that mistakenly was written into the chart
then;
16 is that it?

17 A. Well, it was a doctor. So if I complained that my
stomach
18 was aching, and he checked me, and he wrote something else,
well,
19 I would not deny it but I had a stomachache.

20 Q. And then if you turn over to the next page and -- my
copy

if 21 is very hard to read, so I'll try to tell you what it says and
the 22 you wish to correct me, please do. But I think it says, at
23 very top "Issa Sesay" and then I think it might say "(6/5) ."
24 Are we looking at the same page?
25 A. What page?
it 26 Q. On the handout that, as Mr Jordash prepared it, I think,
27 would be the third page in.
13/3/03, 28 JUDGE BOUTET: But maybe you can refer him to the
29 Mr Harrison, that may be easier.

that?

1 MR HARRISON: I can't read that; where are you seeing

2 JUDGE BOUTET: Same page, same page you have. Just the
3 first entry at the top says 13/3/03.

4 MR HARRISON: Okay. I will accept that direction
5 [Indiscernible].

6 Q. Do you see 13/3/03 at the top?

7 A. Yes.

8 Q. And if you look next to it I think it says, "1650 hours
9 returned by helicopter." Do you see that?

10 A. Yes.

11 Q. On 13 March you would have gotten back to Bonthe at 10
12 minutes to 5 in the evening; do you agree?

13 A. Yes, that is what is in the record.

14 Q. And so that would have given you time to do some
reading,

15 if you'd wanted to?

16 A. Well, you see, when I came, I saw a doctor. My stomach
was

17 aching so how would I have been able to read because I had to
18 take treatment, and the cell itself, after 5.00, it became
dark.

19 Q. But from looking outside now, it's 28 minutes after 5.

20 That's fine. And it says here that there is a drug Carbolewe
21 found in your possession. You were interviewed and "the drug
was

22 not his." Was that some sort of concern about drugs or do you
23 know what that's about?

24 THE INTERPRETER: Your Honours, would the learned
attorney

25 be asked to repeat the question.

26 MR HARRISON: Yes, just pause.

27 Q. If you just continue on down the page?

28 JUDGE ITOE: On the same page?

29 MR HARRISON: Yes. It's actually the very next line,
just

1 below "1560 returned by helicopter." I think it says "drug."

2 JUDGE BOUTET: Interviewed, it says. Before drug,
3 interview, drug --

4 MR HARRISON: Yes. Above that you will see --

5 PRESIDING JUDGE: "Drug found in his possession
Carbolewe."

6 MR HARRISON: There is a name for a certain drug.

7 PRESIDING JUDGE: Yes.

8 MR HARRISON: That's what I was trying to provide the
9 interpreter with. I think it's drug Carbolewe found in his
10 possession. Then it says, "Interviewed. Drug not his." And
do

11 you know what that was about?

12 A. Well, this -- was not a tablet.

13 Q. I'm sorry, it was what?

14 A. I said, say, were -- are they not tablets that people
15 usually take.

16 Q. And in the course of the interview you simply just told
him
17 that the drugs were not yours; is that right?

18 A. I don't think I said that I was not the one that had
19 medicines.

20 Q. And if you continue down on the same page you will see
14/3

21 and there is some sort of writing, and I can't make it out but

22 there's 14/3 --

23 JUDGE BOUTET: I think it's 03.

24 MR HARRISON: All right. I will accept that advice.

25 Q. And it goes on, "Emergency call. Patient was out of
here

26 all day. Returned 5.05." Does that sound right, returning at
27 5.05?

28 A. 5.05, yes. See, it's on the record but see, during that
29 time I had pains. When I went there they would give me
treatment

1 and they would ask me to lie down.

2 Q. And again I'm suggesting to you that --

3 A. And I want -- you did not go to Bonthe, so you did not -

-

4 you would not be able to know the nature of the cell in which

I

5 was. The window was up and it was a small window and behind

it

6 was covered with the zinc so, after 5.00, for you to be able,

7 6.00, for you to be able to read, no, you would not be able

to,

8 because the place would become dark.

9 Q. Well, I will put it to you Mr Sesay, so that there is no

time

10 confusion, we are suggesting to you that there was plenty of

11 for you to read at Bonthe because, firstly, there was natural

the

12 sunlight at 5.00 and 6.00 and, secondly, there were lights in

13 cells?

14 A. Mr Harris [sic], that's not true. See, I would tell you

the

15 that, from 10 March, there was no light in Bonthe until when

on

16 members of parliament went and visited when Hinga Norman was

our

17 hunger strike, that was the time that they give us light in

18 cells.

19 Q. And if you can just turn over the page and --

20 A. And --

21 Q. And if --

22 A. -- and when you said that 6.00 in the morning they would
23 open and there was light and I would tell you that it was not
24 true.

back

25 Q. And I was asking you to turn over the page, so on the

26 of the one you were just looking at. On the very top of that
27 page there appears to be a date, 16/3/03; do you see that?

28 A. Yes.

29 Q. And it appears as if the complaints that you were having

and

in

would

attorney

on

were

This

might

1 then are relatively minor. Something about itchy something,

2 then it appears to be a bit difficult to read. At that point

3 time does that sound right? Around 16/3 there were no

4 significant complaints you were making?

5 A. Well, I used to complain that I was not well and they

6 give me treatment, so, mm-hmm.

7 Q. And it looks as if the significant complaint you were

8 making on 23/3 had to do with athlete's foot?

9 THE INTERPRETER: Your Honours, would the learned

10 be asked to repeat the question.

11 MR HARRISON:

12 Q. It looks as if the significant complaint you were making

13 23 March was athlete's foot?

14 A. This was the minor one but my stomach and teeth, those

15 not minor issues because I used to feel serious pains, see.

16 athlete's feet were not serious, they were minor.

17 Q. And down in the bottom of that page, I think the date

18 be 1/4/03; do you see that?

19 A. Yes.

20 Q. And I think the annotation is "Pain better but worse at
21 NYL" -- I am not sure what that might be?

22 PRESIDING JUDGE: Perhaps night.

23 MR HARRISON: Night.

24 Q. Does that sound right, the pain was better but worse at
25 night?

26 A. Yes, I felt pain. I complained about the pain.

27 Q. Then, if you go over to the back of the next page, at
the
28 very top, it should have the date 9/4/03; do you see that? Do
29 you see that date 9/4/03 on the top of the next page.

1 A. Yes, I've seen it.

2 Q. I think the annotation beside that is, "Cheerful this
3 morning. No pains or toothache." Does that sound right for 9
4 April?

5 A. Well, my teeth had been aching because when they were
6 toothaches, except they extract it before you feel
comfortable.

7 Q. Then, if you look at the 11th, it appears as if the only
8 significant complaint recorded is one of insomnia; do you see
9 that?

10 A. When, on the 11th? Yes. See, I was distressed and I
had
11 pain. That was why I had not been sleeping.

12 Q. Do you see that the only recording there is one of
13 insomnia, as being the sole complaint?

14 A. You would say so, but I would not say so because I was
the
15 one that was feeling the pain, and I was the one that knew
where
16 I was and, where I was, it was difficult for me to sleep
during
17 the night because there were mosquitoes. Secondly, the place
was
18 hot and the pains that I had.

19 Q. And if you look at 12 April, it looks like the only
20 significant complaint is, "Fungal infection of toes of left

21 foot." Do you see that?

22 A. Yes, that is what is written there.

23 Q. And then, when you go to 22 April, it appears as if the
24 notation is that your general condition is good; you see that?

25 A. Well, this time around, see, how -- how would my general
26 condition be good in the way that you want to take it and for
the

27 whole of the day say I would be lot of -- I only had 15
minutes

28 to get out and see the sky and after that 15 minutes I would
be

29 locked in, except the next day 24 hours, I would only spend 15

1 minutes outside.

2 Q. And it looks as if on the very next day, 23 April '03,
it

3 says, "Patient very calm and collective, not aggressive."
Spoke

4 at length with him. Promised to have lunch." Is that an
5 accurate summation of your discussions that day?

6 A. What -- what do you mean? Because I do not understand
the

7 handwriting, when you say that I promised to have lunch.

8 Q. Yes. Do you see the annotation for 23 April '03?

9 A. 24 April?

10 Q. It's, I think again, maybe the Court has photocopies
that

11 are better than mine, but it looks as if, from the annotation
12 that I just read to you, "General condition is good." If you
13 look directly below that and a little bit to -- you might see
14 23/4/03?

15 A. Yes. 23/4/03.

16 Q. And the annotation that I read out to you and, of
course, I

17 may be reading this incorrectly because I agree it is quite
18 difficult to read, but it seems to say, "Patient very calm and
19 collective. Not aggressive. Spoke at length with him.

Promised
20 to have lunch." And the question I was asking of you: Is
that

21 an accurate statement of your conversation that day with the
22 medical staff?

23 A. Well, they brought breakfast in the morning and I told
them
24 that I did not have an appetite to eat. So I said that I was
not
25 feeling good. And they asked me, they said, "How about the
26 lunch?" And I said that perhaps up to the afternoon I would
be
27 able to manage.

28 Q. And if you go over to the next page, and this one is in
a
29 different format, you have to turn it so that it's sideways,
and

1 in the top left corner it should be the word "establishment."

2 A. What date?

is

3 Q. I'm going to be looking, I think it must be 5/4. There

rash

4 no year indicated here, so I think it might be a little bit

5 to try to pin you down that it was actually 2003 but, at any

6 rate, it's 5/4. Do you see that?

7 JUDGE BOUTET: I don't think he's looking at the right

8 page, Mr Harrison.

9 MR HARRISON:

10 Q. Yes. If you remember the page we were looking at, where

11 I'd asked you a couple of questions. Do you understand me?

12 A. Yes.

13 Q. And if you were to go to what should be --

the

14 PRESIDING JUDGE: Count six leaves, and then you go to

15 seventh leaves, not pages, you will see the ruled column, and

notation

16 turn it horizontally, you have lines there. There's a

17 up there "establishment." That's what you want.

18 MR HARRISON:

19 Q. Do you see that now?

20 A. Yes.

21 Q. And I think the first might be 4/4. The second one is a

want

22 bit harder for me to read but I think it's 5/4. And I just

23 to assure you that I'm not trying to pin you down on a year

for

24 because that might be a bit unfair to you, but the annotation

25 5/4 seems to say, "Seen this morning. Medication given as per

26 chart. Complain of sore groin and sore toes. GU given and

27 applied to be used for" -- it's an annotation that I can't

28 decipher.

29 JUDGE BOUTET: 4/7.

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1 PRESIDING JUDGE: Yes.

2 MR HARRISON:

he

3 Q. 4/7. Then, "To be reviewed. PRN." Then it says, "Said
4 slept well."

5 PRESIDING JUDGE: In the night.

6 MR HARRISON: In the night.

7 PRESIDING JUDGE: It's Latin, notte.

8 MR HARRISON: Notte.

accurate,

9 Q. "All care given with good effect." So, is that

given

10 that you were sleeping well at that time and all care was
11 with good effect?

well

12 A. Mr Harris during that time it was difficult to sleep

lie

13 because the place was hot. A lot of mosquitoes. It was
14 difficult except you soaked your towel before you put it and

conditions?

15 on it. How would you be able to sleep well, in those

it

16 Q. And the next annotation is 6/4, which it could just mean
17 the 6th day of April. Presumably it could mean June 4th but
18 seems to say "No further complaint of toothaches?"

19 PRESIDING JUDGE: We adopt the English version, not the
20 American version here.

21 MR HARRISON: Yes, I would but --

22 PRESIDING JUDGE: We just take judicial notice of that.

23 MR HARRISON: Do we?

24 PRESIDING JUDGE: Yes. So it's the English version.

25 MR HARRISON:

26 Q. All right. Going with the 6th day of April, it goes on
to

27 say, "No further complain of toothache. Meals taken very
well.

28 All care given as per chart." So is that an accurate note
from 6

29 April? No complaints of toothache and meals taken very well.

1 All care given as per chart?

2 A. Well, two teeth were aching and when they give you the
3 tablets so they would cool down until the time that they were
4 extracted, and that was the only medicine. The pain was on
5 off.

and

6 Q. And we will just skip down to 8/4. It says, "Seen by
7 dentist today. Two teeth extracted as per doctor's notes.

Spoke

8 to his family and told them he is getting very good care where
9 is. He said he has no complain of the care he is getting

he

here."

10 Is that accurate, that you spoke to your family and you

advised

11 them that you were getting good care and had no complaints?

12 A. I talked to who?

13 Q. What it seems to read, and again your copy may be better
14 than mine, so you may want to try to read it on your own, but

I

15 think it says, "Spoke to his family and told them he is

getting

16 very good care where he is." Is that accurate?

17 A. Well, I won't be able to confirm this because the doctor
18 had not been talking to my family. So how would he be able to
19 know that I told my family that I was living well?

appropriate

20 Q. I think the other interpretation that might be
21 for these words is that you spoke to your family and told them
22 that you were getting very good care where you were. Does
23 sound right?

that

was

24 A. That was why I told you that, okay, I said that the
25 condition in which I was, how would I tell my people that I
26 living well?

27 Q. Yes. Well, that's somewhat of a mystery given this note
28 that is on this medical chart, isn't it? And then if you --

attorney

29 THE INTERPRETER: Your Honours, would the learned

1 repeat what he's just said.

2 MR HARRISON:

3 Q. I said that his -- the comment is somewhat of a mystery,
4 given what is written on the medical chart?

time

5 A. Well, that's what I'm saying. Doctor was not, at the
6 that I was visited, except when I--

asked

7 THE INTERPRETER: Your Honours, would the witness be
8 to repeat what he said?

a

9 PRESIDING JUDGE: Mr Sesay, please repeat that part and
10 little more audibly for the interpreters.

when

11 THE WITNESS: My Lord, I cannot recall the exact date
12 my mother started visiting me in Bonthe, but when I had been
13 getting visits in Bonthe, when my mother get there, while she

was

14 talking to me there was no doctor. Doctor had not been going
15 there. So except doctor saw people going, the various heads
16 talking to us, and after that they would go back. So if he
17 commented on that saying that people went to me, and I talked

to

18 them nicely, that would be good. But to say that they had

been

19 taking good care of me, in the condition in which I was, so he

there. 20 would write that as a doctor because he had been working
hasn't 21 PRESIDING JUDGE: He hasn't complained on that. He
22 a problem with that, what the doctor wrote down.
been 23 THE WITNESS: Well, My Lord, he was a staff. He had
24 doing his work.
25 PRESIDING JUDGE: You can pursue that. Go ahead.
26 MR HARRISON: I can continue on if the Court wishes.
27 PRESIDING JUDGE: Well, the thing about it is, it's
finish 28 entirely -- we can let you continue and see how far we can
was 29 this, but also remember that I remember that when the witness

1 being examined on this he virtually said that he was -- there
was
2 nothing he had -- he quarrelled with in this particular
document,
3 but it's okay. The exercise is worthwhile anyway. Proceed.

4 MR JORDASH: My recollection is, sorry to interrupt --

5 PRESIDING JUDGE: Yes.

6 MR JORDASH: -- he said there was nothing he quarrelled
7 with in relation to the comment on 21 April concerning a
8 recommendation to see a psychiatrist. That was --

9 PRESIDING JUDGE: I think it was an umbrella question.
But
10 let's not make any --

11 MR JORDASH: It wasn't an umbrella question.

12 PRESIDING JUDGE: This document, when you were tendering
13 it, about to tender it, actually I think to the pages that you
14 referred, whether he had anything to add or to say or in
15 criticism of this, the entries that you referred to.

16 MR JORDASH: That's not the way I put the question, Your
17 Honour. That is definitely not the way I put the question.

18 PRESIDING JUDGE: Anyway, the records will reveal
because I
19 remember there was some question as to the authenticity or the
20 correctness of these entries, but let's not get involved in
that.

adjourn

21 Continue counsel. If you can finish this, then we will

22 after that.

23 MR HARRISON: Yes.

it's

24 Q. If you could -- if you were to flip over the page, and

left

25 a bit hard to read because a staple is there but in the top

26 corner it appears to have the date 28/03?

27 A. I have 4/4 here.

28 Q. And --

29 JUDGE ITOE: Look at the next page.

1 THE WITNESS: The page you refer to --

2 JUDGE ITOE: The next one.

3 MR HARRISON:

4 Q. And it might help you, it might be a little bit easier
if I

5 was to read to you that the first words at the top of the page
6 are "Diet and medication taken well." Do you have that page

at

7 hand?

8 A. Yes.

9 Q. So, if you were to go down about two-thirds of the way
down

10 the page, you should see a date which I think is 3/4/03? Did
you

11 find that annotation?

12 A. Yes.

13 Q. If you just go down to the next paragraph it says,
"P.m.,

14 hair cut done this p.m. Appears to be very happy with this.

15 Said toothache is much better than before. Medication
continued

16 as per chart." Is that an accurate note for 3 April?

17 A. Is this not 3 April? Yes, because the doctor himself
saw

18 my hairs, and I myself told him that I had wanted to have a
hair

19 cut and it was done. And, as I said, the toothache what they

tablets 20 gave me, the tablets, the pain will subside and when the
21 are finished then the pain would recur. Toothache, the only
22 medicine for that was extraction, and if you can see the 4th
23 itself.
24 Q. And if you could turn over to the back of that page?
25 A. Are you skipping 4/04?
just 26 Q. Yes, that's right. Onto the back of the page we were
27 looking at? And right at the mid-line of that page, it has a
mother 28 date 7/04. And I think the annotation is, "Visit by his
other 29 this morn and visit from the Immam. Out on exercise with

1 inmates." Is that an accurate note for 7/04?

2 A. I said I don't know the date but my mother visited me
when
3 I was in Bonthe.

4 Q. And if you were to turn over to the back of the next
page,
5 and at the very top of the page it says, "Continued to say he
6 will rather die but he is not going to eat." Do you see that?

7 A. Yes. It was because of what I had been going through,
8 Morissette and some of the -- these are some of the
frustrations.

9 Mm-hmm.

10 Q. And finally, if you just look at the bottom of that
page,
11 what it says at 23/4 is, "Patient very calm and collective.

Not
12 at all aggressive to me or Defence counsel, Mrs Jalloh. Spoke
at
13 length with him. Thinks he was let down by ECOWAS peacemaker
and
14 the President. However, promises to have lunch." Is that an
15 accurate note of events on 23 April?

16 A. I cannot recall every event of every day during this
time.

17 Q. At any rate, you will agree with me that that particular
18 note refers to ECOWAS and the President. There is certainly
19 nothing there about the Office of the Prosecutor or its

20 investigators; is that right?

21 A. Well, it was not the 20 -- again, repeat the question.

22 Q. I was looking at the note and I'm not sure if there's a
23 confusion about dates but I read it out as 23/4, the last
entry

24 on that page, or the last significant entry on that page. Are
25 you looking at it?

26 A. Yes, yes.

27 Q. And I was suggesting to you that your complaint there is
28 simply about ECOWAS peacemakers and the President. That is
who

29 you are complaining about. There is nothing about the OTP or
its

1 investigators; right?

2 A. Well, when Morissette said that I should not discuss
that
3 with anybody that was why I did not tell that to the doctor
4 because he said that I should not discuss that to any other
5 person because when I told John Berry, he came and he was
angry

6 with me on 14 April. That is why I did not discuss that with
7 anybody, because he said I was not to discuss it.

8 MR HARRISON: Thank you. That concludes the question on
9 that.

10 PRESIDING JUDGE: Mr Jordash, you will have the
opportunity
11 to exercise your right to re-examine the witness tomorrow
12 morning, and --

13 JUDGE BOUTET: He has not finished.

14 PRESIDING JUDGE: He has not finished? I thought you
15 just -- well, we --

16 JUDGE ITOE: I thought you had finished.

17 PRESIDING JUDGE: No. Then we will continue tomorrow
18 morning with the cross-examination. But before we adjourn
today,

19 this Bench wishes to notify both the Prosecution and Defence
that
20 there will be no July 2007 sittings of this Chamber in this
case.

the

21 The last day of the trial session will be the 29th day of June
22 2007. In effect, we have about seven more days of trial, and
23 trial will resume sometime in September 2007 on a date to be
24 specified in a published order sometime this week. With that
25 notification, we will adjourn the trial to 9.30 a.m. tomorrow.

p.m.,

26 [Whereupon the hearing adjourned at 5.55

of

27 to be reconvened on Wednesday, the 20th day

28 June 2007, at 9.30 a.m.]

29

EXHIBITS:

71

Exhibit No. A16

99

Exhibit No. A17

WITNESSES FOR THE VOIR DIRE:

24

WITNESS: ISSA HASSAN SESAY

24

EXAMINED BY MR JORDASH

100

CROSS-EXAMINED BY MR HARRISON