

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

WEDNESDAY, 21 JUNE 2006
9.52 A.M.
TRIAL

TRIAL CHAMBER I

Before the Judges:	Bankole Thompson, Presiding Benjamin Mutanga Itoe Pierre Boutet
For Chambers:	Ms Candice Welsch Ms Divya Prasad
For the Registry:	Ms Maureen Edmonds
For the Prosecution:	Mr Peter Harrison Ms Wendy Van Tongeren Ms Shyamala Alagendra
For the Principal Defender:	No appearance
For the accused Issa Sesay:	Mr Wayne Jordash Mr Jared Kneitel
For the accused Morris Kallon:	Mr Shekou Touray Mr Melron Nicol-Wilson
For the accused Augustine Gbao:	Mr Andreas O'Shea

1 [RUF21JUN06A - MD]

2 Wednesday, 21 June 2006

3 [The accused present]

4 [Open session]

5 [Upon commencing at 9.52 a.m.]

6 WITNESS: GANASE JAGANATHAN [Continued]

7 CROSS-EXAMINED BY MR O'SHEA: [Continued]

8 PRESIDING JUDGE: Professor O'Shea, you can continue your
9 cross-examination this morning.

09:48:18 10 MR O'SHEA: I'm grateful, Your Honour.

11 Q. Good morning, Major Jaganathan.

12 A. Good morning, Your Honour.

13 Q. I trust you slept well?

14 A. Yes.

09:48:30 15 Q. Just to tie up on one aspect I dealt with yesterday, I
16 mentioned the fact that there was a concern on the part of the
17 RUF with regard to SLA disarmament. Would it be correct to say
18 that SLAs were, in fact, well armed in various parts of the
19 country?

09:49:03 20 A. Your Honour, the RUF was not only concerned about SLA
21 disarmament. They were, in fact, concerned about all warring
22 factions Your Honour. To answer your other question, whether the
23 SLA were well armed, they were just like the RUF, lightly armed.

24 Q. Well, I suggest that the SLAs were well armed, for example,
09:49:35 25 in Kabala; what do you have to say about that?

26 A. Well, they had similar weapons as the RUF, Your Honour.

27 Q. They were well armed in Bumbuna?

28 A. I'm not sure about that area.

29 Q. Mile 91?

1 A. That was out of my area of responsibility.

2 Q. Berry Junction.

3 JUDGE BOUTET: Well, I am concerned about this line of
4 questioning. I know you are in cross-examination, by I am just
09:50:05 5 trying to see the relevance of what you are dealing with. I need
6 to be convinced that we need to explore all of that.

7 MR O'SHEA: Well, I don't have much more on this, Your
8 Honour. I mean, I can go into an explanation.

9 JUDGE BOUTET: Well, that is fine. If you have no more,
09:50:26 10 we'll leave it there.

11 MR O'SHEA: Well, I have a couple more questions on that.
12 I can pursue an explanation, if necessary, but I do have a
13 purpose.

14 JUDGE BOUTET: The witness has told you he doesn't know
09:50:40 15 about outside of his own area of responsibility. So you could
16 name any other area, as such, he is unaware of it.

17 MR O'SHEA: Well he had some knowledge of Kabala, so I am
18 taking each in turn. There are only two more.

19 Q. Mr Witness, Berry Junction; do you know anything about
09:51:03 20 that?

21 A. Rock Berry Junction, Your Honour?

22 Q. Yes.

23 A. As I said, those were out of my area.

24 Q. And Masiaka was the last one?

09:51:13 25 A. Out of my area, Your Honour.

26 Q. Do you know, notwithstanding that these places were out of
27 your area, and since you are dealing with questions of
28 disarmament, would you able to confirm, then, none of those
29 places was there a disarmament process in progress for the SLA?

1 A. In fact, the disarmament process was throughout and, as I
2 mentioned earlier yesterday, it was one of the bases -- if they
3 come in, we just accept them, Your Honour.

4 PRESIDING JUDGE: Counsel, are you thinking of the
09:51:51 5 geographic spread of the process; is that what you are trying to
6 elicit from the witness, whether --

7 MR O'SHEA: I'm putting to the witness that there was an
8 inequality between --

9 PRESIDING JUDGE: In terms of geographical --

09:52:11 10 MR O'SHEA: In terms of the disarmament process applied to
11 the RUF and applied to the SLAs, and I'm suggesting places in
12 those specific locations they were well armed and there was no
13 attempt to disarm them.

14 PRESIDING JUDGE: All right. Proceed then.

09:52:25 15 MR O'SHEA:

16 Q. Now insofar as your knowledge with regard to the RUF and
17 disarmament is concerned, you did describe one of your functions
18 as dialogue, I think was the word you used. Would you be able to
19 confirm, from your knowledge of events at that time, insofar as
09:52:55 20 the RUF was concerned, the mandate with regard to disarmament
21 fell squarely within the hands of Foday Sankoh. In other words,
22 the disarmament was Foday Sankoh's baby?

23 A. As I said earlier yesterday, locations of various
24 disarmaments was decided by the UNAMSIL headquarters with the
09:53:28 25 representative of all warring factions. So, once they declared
26 that certain areas are to be disarmed, no official date is set
27 and we, on the ground, as military observers, we just effect
28 orders, Your Honour.

29 Q. Yes, but with respect, Major, that wasn't my question.

1 Your function involved the disarmament process?

2 A. Yes, Your Honour.

3 Q. Whatever your orders may have been and whatever procedures
4 you may have followed, you must have had some knowledge of the
09:54:00 5 modus operandi of the RUF in the disarmament process, did you
6 not, or do you claim you had no knowledge of that?

7 A. I had knowledge of that, Your Honour.

8 Q. So could you answer the specific question I'm putting to
9 you, please, which is: Are you able to confirm that disarmament
09:54:19 10 was Foday Sankoh's baby in terms of who made decisions about
11 disarmament within the RUF?

12 A. In our perspective, as I said earlier, we received orders
13 from UNAMSIL headquarters, so the decision is made at higher
14 levels and what decision they make does not involve us, Your
09:54:43 15 Honour.

16 JUDGE ITOE: I was going to interject this way because the
17 witness has said that they were only on the ground to receive
18 instructions, and that the instructions came from UNAMSIL to them
19 after consulting, after consulting and concerting with the
09:54:58 20 leaders of the factions who, of course, would include Foday
21 Sankoh who was in Freetown at the time.

22 MR O'SHEA: I fully understand that, Your Honour, but with
23 respect, the witness isn't answering my question. The witness
24 said he does have some knowledge of the modus operandi of the RUF
09:55:15 25 with respect to disarmament.

26 JUDGE BOUTET: But your question is not modus operandi.
27 You are asking if the disarmament for RUF is the creation of
28 Sankoh. He is telling you he doesn't know this.

29 MR O'SHEA: If he says to me he doesn't know, I will be

1 happy with that answer, but he hasn't said that.

2 PRESIDING JUDGE: Yes, but, clearly, probably you created
3 the hornets nest by using the word "confirm." Why not "are you
4 aware," which is a much more neutral and interrogatory type of
09:55:49 5 approach. Confirm means he had probably said it before, so
6 probably you created the ambiguity for him and this is why he is
7 unable to respond with the degree of candour that you want him to
8 respond.

9 MR O'SHEA: All right. Well, I will try that word.

09:56:06 10 Q. Major, are you aware that within the operation of the RUF
11 disarmament was within the mandate of Foday Sankoh?

12 A. Yes, Your Honour.

13 Q. Thank you. Now, let's come to the incident of 1st May. I
14 know it's not the first sequentially, but I would like to start
09:56:34 15 there, because I would like to make certain things clear. Now,
16 let me, first of all, make it abundantly clear that I do not
17 contest the fact that you were taken captive?

18 A. Yes, sir.

19 Q. I also do not contest the fact that you had a terrible
09:57:08 20 experience.

21 A. Yes, sir.

22 Q. Which was unpleasant and difficult to think back about.
23 With regard to 1st May, in particular, I also do not dispute that
24 Augustine Gbao was at the DDR Camp, or did come to the DDR Camp;
09:57:40 25 all right?

26 A. Yes, Your Honour.

27 Q. I also do not dispute that Salahuedin was assaulted.

28 A. Yes, Your Honour.

29 Q. All right. But I think there is, to some degree, a

1 confusion in the train of events, as you've described them, not
2 because I'm suggesting that you are lying, but just because it
3 was a very confusing day.

4 A. Yes, sir.

09:58:11 5 PRESIDING JUDGE: Perhaps to accelerate the process, you
6 might want to be specific, because it's very important that in
7 having laid the foundation for areas of agreement, that where you
8 come to areas of disagreement, specificity would be highly
9 desirable.

09:58:32 10 MR O'SHEA: Yes, I'm just helping the witness understand
11 what I'm --

12 PRESIDING JUDGE: Quite. I'm just trying to help you too
13 so we can save some time.

14 MR O'SHEA: It's important the witness knows where I'm
09:58:44 15 coming from.

16 PRESIDING JUDGE: Right.

17 MR O'SHEA:

18 Q. Now, could you begin by describing to us physically the DDR
19 Camp in terms of how it is laid out?

09:58:59 20 A. Yes. As far as when you say DDR Camp, disarmament,
21 demobilisation and reintegration, I would speak on whether you
22 would like to know on the disarmament or the demobilisation, Your
23 Honour?

24 PRESIDING JUDGE: Quite. Kindly let me interject again.
09:59:17 25 Perhaps you would assist the Court more, and also the witness,
26 if, again, in matters of this nature you go in for particularity,
27 rather than the general kind of picture. Because, really, that
28 is where, sometimes, we get bogged down so that a witness begins
29 to find that he or she meanders all over the place.

1 MR O'SHEA: Very well, Your Honour. I would like to begin
2 with a general question, with Your Honour's permission.

3 PRESIDING JUDGE: You are not precluded from doing that.

4 MR O'SHEA: I will rephrase it and begin with a general
09:59:59 5 question.

6 PRESIDING JUDGE: That's fine. All right.

7 MR O'SHEA:

8 Q. What concerns me, Major, is where this incident took place,
9 the incident where you were taken captive, the incident where
10:00:06 10 Salahuedin was assaulted, the incident where you described a man
11 you described as Kallon coming to the scene, and so forth. What
12 I'm trying to elicit from you is the physical layout of the
13 buildings in that particular area, so that we know what we are
14 dealing with.

10:00:27 15 A. Yes, sir.

16 Q. So would it be possible for you to, and I will
17 particularise once you've begun, but would it be possible for you
18 to describe the physical layout around the area of the incidents
19 that took place on 1st May?

10:00:43 20 A. Yes, Your Honour.

21 Q. Thank you.

22 A. As for the demobilisation camp, it was located at Makeni,
23 just short of Magburaka. As far as the physical layout of the
24 demobilisation camp, it was constructed with stilts and covered
10:01:05 25 with canvas as fencing. The layout of the rooms was for the
26 reception of the ex-combatants, who had now come from the
27 disarmament camp, where they will be received by the military
28 observers for the demobilising process. As I explained earlier
29 yesterday, there is a form we fill up. And subsequently --

1 JUDGE BOUTET: Major, if I may stop you here.

2 THE WITNESS: Yes.

3 JUDGE BOUTET: You are talking of the demobilisation camp,
4 which is step two in the process.

10:01:41 5 THE WITNESS: Yes.

6 JUDGE BOUTET: Step one is the disarmament phase.

7 THE WITNESS: Yes, Your Honour.

8 JUDGE BOUTET: Which is at a different location.

9 THE WITNESS: Yes.

10:01:53 10 JUDGE BOUTET: From there, they are taken up to the
11 demobilisation camp.

12 THE WITNESS: You're correct, Your Honour.

13 PRESIDING JUDGE: So now you are describing the layout of
14 the demobilisation camp?

15 THE WITNESS: Yes, Your Honour.

16 PRESIDING JUDGE: Is it what you are after, Mr O'Shea?

17 MR O'SHEA: Yes, Your Honour, because according to the
18 witness's evidence, on 17 April the men are disarmed and then
19 later they're demobilised.

10:02:04 20 JUDGE BOUTET: They are brought over to the camp.

21 MR O'SHEA: On 1st May.

22 PRESIDING JUDGE: That's fine.

23 MR O'SHEA:

24 Q. Is that correct?

10:02:09 25 A. It's not 17 April. 27th April.

26 Q. Thank you, yes. That's essentially the process?

27 A. Yes, sir.

28 Q. We are dealing with 1st May, so we are dealing with the
29 second stage of the process?

1 A. Yes, Your Honour.

2 Q. You've described there are sort of constructed canvas type
3 shelters.

4 A. Yes. It is an open area.

10:02:31 5 Q. Yes.

6 A. As I said, it is basically with stilts, and covered with
7 canvas, white canvas and, as they come into the demobilisation
8 camp, the first room will be the reception room for ex-combatants
9 where the military observers will then receive one at a time.

10:02:55 10 After collecting their disarmament copy of the form, then they
11 fill up the demobilisation form, and then they are repacked.

12 Once all this process is completed, then the next room is the
13 NCDDR people, as I mentioned earlier. They have their medical
14 screening team and then some documentation people and all of

10:03:17 15 that. So they will be on the second room and third room. So
16 once that is completed, then they have another waiting room where
17 they will be waiting after the process and if, let's say, the
18 ex-combatants now opted to stay at the demobilisation camp, well
19 that is an option for them, so they will be sheltered where there

10:03:44 20 is accommodation provided for them within the demobilisation
21 camp.

22 Q. If I could just stop you there. So far we have three
23 rooms, essentially, if we can call them that?

24 A. Three plus one - four.

10:03:56 25 Q. The reception centre the first one. Then the second one is
26 the --

27 A. They have the NCDDR people who occupy about two rooms, one
28 for medical screening and one for documentation.

29 Q. Yes.

1 A. Then eventually on the completion of the process, there is
2 another room for them, for the ex-combatants to be waiting there.

3 Q. Right. Does that mean this camp essentially involves three
4 or four of these structures, with perhaps some office space for
10:04:35 5 the UN observers?

6 A. Yes, Your Honour. Then, as I said, there are also shelters
7 provided if, say, the ex-combatants opt to stay at the
8 demobilisation camp, so they will be accommodated there. Then we
9 have got a cookhouse, where food is prepared for them and fed
10:04:53 10 and, at the same time, there are also playground facilities for
11 them to play games in the evenings.

12 Q. Right.

13 A. We also have a location within the demobilisation camp
14 where the platoon of security personnel, peacekeepers, are also
10:05:11 15 accommodated when responsible for the security of the camp, Your
16 Honour.

17 Q. Right. Now, all of these structures together, how large is
18 this camp?

19 A. I would say the size of a football field, Your Honour.

10:05:35 20 Q. At the entrance of the camp, is there a checkpoint before
21 you get to the camp?

22 A. Yes, there is a door, Your Honour.

23 Q. A door?

24 A. Yes. It's just, as I say, the stilts with canvas and all
10:05:45 25 that.

26 Q. That is the reception centre, is it?

27 A. No, demobilisation camp.

28 Q. Okay. So there is a specific structure for the entrance to
29 the camp?

1 A. Yes, Your Honour.

2 Q. And there is no checkpoint further forward from that?

3 A. No, Your Honour.

4 Q. Where were you within this complex when you first noticed
10:06:18 5 the RUF?

6 A. When I first noticed the RUF, I was at the main road, as I
7 mentioned yesterday. I met up with Colonel Gbao to talk to him.
8 Subsequently, I went and moved into the camp where there is an
9 open space in front of all the office and all that, where my
10:06:36 10 colleague had already parked the car and waiting next to it, Your
11 Honour.

12 Q. So you were on the main road when you saw Colonel Gbao?

13 A. Yes, Your Honour.

14 Q. The main road is very close to the entrance to the camp, is
10:06:48 15 it?

16 A. You are right, Your Honour.

17 Q. Did you see Colonel Gbao arrive, or were you already on the
18 main road, or was he there when you came out of the camp? How
19 did it happen?

10:07:06 20 A. No, as I arrived from my team site from Makeni, through the
21 demobilising location, he was already there, Your Honour.

22 Q. He was already there. So you were driving towards the
23 camp?

24 A. Yes, Your Honour.

10:07:21 25 Q. Right. Where did you see him exactly? Where was he
26 standing?

27 A. He was on the left side of the road facing the
28 demobilisation camp, just adjacent to the demobilisation camp,
29 Your Honour.

1 Q. Was there any vehicle near him?

2 A. I did not notice any vehicles at that particular time, Your
3 Honour.

4 Q. Were there other individuals standing near him?

10:07:51 5 A. There were many armed RUF personnel standing around him,
6 Your Honour.

7 Q. So since you'd arrived and found him there, you would not
8 be able to say whether himself and the people standing around him
9 came together or came separately; would that be correct?

10:08:28 10 A. You are right, Your Honour.

11 Q. You also would not be able to say how long Colonel Gbao had
12 been standing there or where he'd been beforehand; would that be
13 correct?

14 A. Basing on what information I got from my military observer,
10:08:59 15 Major Phil Ashby, that was around 13:45, which I received the
16 call. So he was the one who told me that these people were
17 moving towards the demobilisation camp, Your Honour.

18 Q. That was at 13:45?

19 A. Around the time, Your Honour.

10:09:17 20 Q. That was by telephone or radio?

21 A. Walkie-talkie radio.

22 Q. What time did you arrive at the camp?

23 A. I would say I arrived around 14:20 hours or so, Your
24 Honour.

10:09:44 25 Q. So Colonel Gbao had perhaps been there for 35 minutes or
26 so?

27 A. Probably, Your Honour.

28 Q. Would it be right that Colonel Gbao was not carrying an arm
29 himself, when you saw him?

1 A. When I first met him at the demobilisation camp, he was not
2 armed, Your Honour.

3 Q. Right. Would it be correct to say that he did not fire any
4 shots?

10:10:18 5 A. I never saw him firing any shots, Your Honour.

6 Q. Would it also be correct to say that you personally did not
7 see him give any orders?

8 A. You are right, Your Honour.

9 Q. Now was Colonel Ngondi at the camp when you arrived, do you
10:11:13 10 know?

11 A. You are especially talking of 1st May, Your Honour?

12 Q. Yes.

13 A. No, Colonel Ngondi was not there, Your Honour.

14 Q. How do you know that?

10:11:23 15 A. Because, as I said earlier yesterday, I was the first to
16 arrive from the military observer team site with
17 Major Salahuedin. While I was talking to Colonel Augustine Gbao,
18 Major was travelling from the direction of Magburaka towards
19 Makeni. That is when we met and he told me to wait for his
10:11:47 20 commanding officer to arrive, but he never arrived, Your Honour.

21 Q. Right. You see, it's the position of Mr Gbao that when he
22 came to the DDR Camp, he asked specifically for Colonel Ngondi,
23 and those who were guarding the entrance or checkpoints to the
24 camp told him that he was there. That's what he says?

10:12:16 25 A. That's very incorrect, Your Honour.

26 JUDGE BOUTET: What is incorrect? Can you clarify that
27 because there is more than one question in your question.

28 MR O'SHEA:

29 Q. Would it be right that you are saying it is incorrect that

1 he was there, I take it?

2 A. Colonel Ngondi?

3 Q. Yes.

4 A. Yes, Your Honour.

10:12:51 5 Q. Are you also saying it's incorrect that Colonel Gbao was
6 told at the checkpoint that he was there?

7 A. No, I'm talking from the time I arrived.

8 Q. Yes.

9 A. Because Colonel Gbao was at the main road. I can speak for
10:12:59 10 myself. From the time I arrived he never --I never heard him
11 asking for Colonel Ngondi, Your Honour.

12 Q. Yes, quite. But since you arrived after him, you can't say
13 either way whether he did ask for Colonel Ngondi; correct?

14 A. That's why, as I said, Your Honour, I'm speaking from the
10:13:19 15 time I arrived. Before that I would not able to comment on that,
16 Your Honour.

17 Q. And you also cannot say what Colonel Gbao may or may not
18 have been told by those standing at the checkpoint?

19 A. Yes, Your Honour.

10:13:37 20 Q. You see, it's also his position that when he went inside
21 the DDR camp, he was then told, as you have explained, that
22 Colonel Ngondi was not there?

23 A. I never saw him inside the demobilisation Camp after I had
24 arrived, Your Honour.

10:13:59 25 Q. Yes. And again you cannot say whether he went inside
26 before you arrived?

27 A. You are right.

28 Q. But the information that he received on going inside,
29 according to his assertion, would appear to be consistent with

1 what you know?

2 A. Probably.

3 Q. And it's his position that he then went back to the

4 checkpoint and was again told that Ngondi was inside. But I

10:14:39 5 suppose you are not able to comment on that?

6 A. Yes, Your Honour.

7 Q. Now, in terms of the individuals who were there --

8 A. Yes, sir.

9 Q. -- from the RUF, which individuals did you recognise?

10:15:14 10 A. I only recognised Colonel Gbao, Your Honour.

11 Q. Yes. And you say that there were 30 or 40 individuals who

12 were present?

13 A. Yes, Your Honour.

14 Q. Although you didn't know the others, did you observe all

10:15:45 15 the individuals who were there, or would you say that there were

16 some individuals that you may not have noticed them being there

17 at all?

18 A. Probably true, Your Honour.

19 JUDGE ITOE: What sort of a question is that? Learned

10:16:00 20 counsel, what is that question? I am lost in that question.

21 MR O'SHEA: Forgive me, Your Honour. The witness answered

22 it, but forgive me.

23 JUDGE ITOE: I am lost in that question even if he

24 answered. I didn't understand your question at all.

10:16:17 25 MR O'SHEA: I will rephrase it.

26 PRESIDING JUDGE: Perhaps in rephrasing it you avoid a

27 disjunctive question. The first part could have been answered,

28 and then that would have indicated whether the second part could

29 be put.

1 MR O'SHEA: Yes.

2 PRESIDING JUDGE: A disjunctive question really can be
3 confusing for us.

4 MR O'SHEA: I apologise.

10:16:42 5 Q. Is it possible that among that group there may have been
6 one or two other individuals that had you seen them you could
7 have recognised but did not see them?

8 A. Probably, Your Honour, but I only knew a few of the
9 commanders there, very prominent commanders. But the
10:17:05 10 subordinates, there were so many of them, we did not know them by
11 names, Your Honour.

12 Q. Would it also be correct to say that it is not always easy
13 to tell who is a subordinate and who is a commander when one is
14 dealing with a rebel group?

10:17:20 15 A. In this particular case I was very sure because I know him
16 personally, Your Honour.

17 Q. Yes. But you can't say for sure whether there were other
18 commanders present in that group?

19 A. You are right.

10:17:43 20 Q. Do you, for example, know a man called Kailondo?

21 A. No. As I said yesterday, I do not know him, Your Honour.

22 JUDGE BOUTET: We have been through it yesterday with the
23 second accused. Are we to repeat that again? He was asked that
24 question about Kailondo and AS Kallon and he denied any knowledge
10:18:02 25 of these people.

26 MR O'SHEA: I didn't hear that. I thought the question was
27 in relation to Kallon. I didn't actually realise --

28 JUDGE ITOE: He denied the two. He said he didn't know
29 AS Kallon, nor did he know Kailondo.

1 MR O'SHEA: Very well, my mistake.

2 Q. Have you heard that Kailondo and Augustine Gbao look very
3 similar to each other?

4 A. No, Your Honour.

10:18:41 5 Q. Have you heard anything about Kailondo at all?

6 A. No, Your Honour.

7 Q. Now, how long after your initial contact with the group of
8 rebels that you saw, did the man you describe as Kallon arrive?

9 A. I would say probably about half an hour's time from the
10:19:19 10 very first time I arrived there until I met General Kallon, Your
11 Honour.

12 Q. And when you first saw Augustine Gbao, you say that he was
13 drunk?

14 A. Yes, Your Honour.

10:19:42 15 Q. How drunk was he, in your estimation?

16 A. I think he was pissed drunk because he was swaying away and
17 he could hardly stand firm, Your Honour.

18 Q. And you say had one almost empty bottle of liquor in the
19 left hand?

10:20:00 20 A. You are right, Your Honour.

21 Q. And bloodshot eyes?

22 A. Yes, Your Honour.

23 Q. And when Kallon arrived what was Kallon's condition? Was
24 Kallon also drunk?

10:20:22 25 A. He never appeared to me as drunk but he was very
26 aggressive, Your Honour.

27 Q. Did anyone else in your unit comment on the fact that he
28 was drunk

29 MS ALAGENDRA: Your Honour, if Defence could clarify as to

1 who was drunk.

2 MR O'SHEA: Yes.

3 JUDGE ITOE: Is it Kallon, is it Gbao?

4 MR O'SHEA: We are talking about Kallon.

10:20:47 5 THE WITNESS: No, Your Honour.

6 PRESIDING JUDGE: Is his answer that Kallon did not appear
7 drunk but was very aggressive?

8 MR O'SHEA: Yes, Your Honour.

9 PRESIDING JUDGE: Okay, thanks.

10:21:07 10 MR O'SHEA:

11 Q. Did he appear out of control to you?

12 MS ALAGENDRA: Your Honour, again I ask to specify who.

13 MR O'SHEA: We are talking about Kallon.

14 JUDGE BOUTET: But you have been talking of Gbao and
10:21:21 15 Kallon.

16 MR O'SHEA: [Overlapping speakers]

17 JUDGE BOUTET: [Overlapping speakers]

18 MR O'SHEA: We have been talking about Kallon for five
19 minutes.

10:21:22 20 JUDGE BOUTET: No, no, you had two question about Kallon;
21 not for five minutes.

22 MR O'SHEA: All right, not for five minutes. I think it's
23 clear.

24 PRESIDING JUDGE: Let's proceed.

10:21:42 25 MR O'SHEA:

26 Q. Do you remember the question?

27 A. Can you please repeat the question, Your Honour?

28 Q. Did the man you describe as Kallon appear out of control to
29 you?

1 A. Yes, Your Honour, he was very out of control.

2 Q. Did he look as if he was willing to listen to anybody?

3 A. For my opinion, I don't think he was prepared to listen to
4 anyone, Your Honour.

10:22:25 5 Q. From the moment --

6 JUDGE ITOE: I just want to question, unless you are doing
7 it with the consent of counsel for the second accused, I am
8 disturbed about the way their client is coming into the picture.

9 MR TOURAY: Yes.

10:22:42 10 JUDGE ITOE: Unless you are doing that with their consent.

11 MR TOURAY: If I may interject, My Lord. Our case is
12 Morris Kallon was not present at the scene. AS Kallon they are
13 talking about, so we don't know.

14 PRESIDING JUDGE: And counsel, talking to Professor O'Shea,
10:23:03 15 you are saying the man he described as Morris Kallon.

16 MR O'SHEA: Exactly, Your Honour.

17 PRESIDING JUDGE: That is the predator, isn't it?

18 MR O'SHEA: Just to assuage His Honour --

19 PRESIDING JUDGE: In other words, allay the fears of my
10:23:20 20 learned brother.

21 MR O'SHEA: Yes.

22 PRESIDING JUDGE: So we are talking about the man you
23 described as Morris Kallon.

24 JUDGE ITOE: And we understand your case to be that Morris
10:23:28 25 Kallon -- or, rather, that Gbao and Kailondo looked alike?

26 MR O'SHEA: No.

27 JUDGE ITOE: Is it your case?

28 MR O'SHEA: I need to clarify that. When we had a
29 discussion a moment ago about Kailondo --

1 JUDGE ITOE: Because one of the questions you posed earlier
2 on was whether from the witness's experience Kailondo did not
3 look like Gbao, your client. That was quite significant, because
4 I thought that you were putting your client out of the picture by
10:24:09 5 bringing in Kailondo.

6 MR O'SHEA: Quite. Not out of the picture of everything, I
7 might add. I think I made that clear to the witness at the
8 outset. But my case is that Augustine Gbao looks like a man
9 called Kailondo, not that Augustine Gbao looks like a man called
10:24:33 10 Kallon.

11 JUDGE ITOE: That I understand.

12 MR O'SHEA: Is there still some confusion in what I am
13 putting, Your Honour?

14 JUDGE ITOE: It's all right, you may proceed. I hope we
10:25:01 15 are somewhere around the end of the tunnel. I hope so.

16 MR O'SHEA: Your Honour, this is a very important area. I
17 am sorry if it disappoints Your Honour --

18 JUDGE ITOE: We just want to remind you because you must
19 finish these things. But proceed. [Indiscernible] please remind
10:25:18 20 us.

21 MR O'SHEA: May I also say that the Prosecution have had
22 significant opportunities to shorten this case and I do not think
23 it is fair that I should shoulder the burden of rushing through
24 this evidence which is very significant.

10:25:37 25 JUDGE ITOE: We have been very, very, very, very patient.

26 MR O'SHEA: Yes.

27 JUDGE ITOE: We have let in questions from you which we
28 should not have let in. I just wanted to let you know we are
29 very tolerant even so far as you are concerned.

1 MR O'SHEA: Well, Your Honour, I hope so, because I do feel
2 under pressure at the moment, and I feel it's pressure that
3 should be on the Prosecution, not on me.

4 JUDGE ITOE: Are you suggesting that we never brought any
10:26:10 5 pressure on the Prosecution when it was presenting its case?
6 That we gave them carte blanche to do whatever they wanted to do.

7 MR O'SHEA: No, but I'm suggesting that I have not been on
8 my feet so long that it merits my cross-examination being
9 squeezed.

10:26:25 10 JUDGE ITOE: Learned counsel, you may proceed, please.

11 MR O'SHEA: Thank you.

12 Q. When the man you described as Kallon arrived at the scene,
13 and he began to behave aggressively and uncontrollably, would you
14 describe the general atmosphere as one of confusion?

10:26:56 15 A. I would say that the situation was chaotic because they had
16 already started firing and, of course, a little confusing too,
17 Your Honours.

18 Q. And would it be correct to say that in this confusion, or
19 chaos, your eyes would not have been on Colonel Gbao all the
10:27:26 20 time?

21 A. Colonel Gbao was not inside the camp at that time, Your
22 Honour.

23 Q. Right. So you would not --

24 JUDGE BOUTET: Just one moment, Mr O'Shea, if I may. So
10:27:41 25 when you have this meeting, if I can describe it that way with
26 Kallon, Gbao is not there? It's taking place inside the camp;
27 that is what you are saying?

28 THE WITNESS: You are right, Your Honour.

29 JUDGE BOUTET: So Gbao, you had seen him at the gate?

1 THE WITNESS: Outside.

2 JUDGE BOUTET: At the door.

3 THE WITNESS: The main road -- no.

4 JUDGE BOUTET: And he remained there?

10:27:59 5 THE WITNESS: Along the main road, Your Honour.

6 JUDGE BOUTET: Along the main road, that's right.

7 THE WITNESS: Yes, sir.

8 JUDGE BOUTET: But with Kallon it's taking place within the

9 compound?

10:28:09 10 THE WITNESS: Yes, Your Honour.

11 JUDGE BOUTET: Sorry, Mr O'Shea, I was just trying to

12 understand what is taking place here. Thanks.

13 MR O'SHEA: I perfectly understand, Your Honour.

14 Q. Now Colonel Gbao is the camp and are you, just to clarify,

10:28:30 15 are you inside the camp at this point?

16 A. Yes, Your Honour.

17 Q. And the man you described as Kallon is inside the camp?

18 A. Inside the camp, Your Honour.

19 Q. And then at some point, you are physically restrained; is

10:28:44 20 that inside the camp or outside the camp?

21 A. I was initially physically restrained inside the camp and

22 eventually dragged out to outside the camp to the main road,

23 where the car had already been parked, Your Honour.

24 Q. Yes. And then you were bundled into, or put into the car

10:29:06 25 that was standing there, which you've described as a pink

26 Mercedes?

27 A. Yes, Your Honour.

28 Q. And you said that Colonel Gbao was in the vicinity?

29 A. He was just next to the Mercedes Benz, Your Honour. Armed

1 this time around.

2 Q. Yes. How many people were handling you?

3 A. There were many who actually dragged me out of the camp but
4 as we approached the vehicle there only were three or four
10:29:33 5 pushing me into the vehicle, Your Honour.

6 Q. And how many people were standing around generally?

7 A. Near the car, not many. Just the driver and then I met
8 Colonel Gbao near the tail-end of the vehicle, and probably two
9 or three other combatants were around.

10:29:53 10 Q. So if I am to understand you correctly, as you are brought
11 out of the camp, there are many individuals handling you and the
12 number of individuals reduces as you approach the vehicle?

13 A. Yes, Your Honour.

14 Q. So there are more individuals towards the camp and less
10:30:09 15 towards the vehicle?

16 A. You are right, Your Honour.

17 Q. Yes. And while you were being man-handled and dragged,
18 presumably this was a very stressful experience for you?

19 A. It was, Your Honour.

10:30:28 20 Q. And a very frightening experience?

21 A. Yes, Your Honour.

22 Q. And you would not have been able to know the exact location
23 of the man called Kallon at every moment you were being dragged
24 from the door of the camp to the vehicle?

10:30:49 25 A. In fact, I did not see Kallon after I was dragged out of
26 the camp, Your Honour.

27 Q. Right. And until you got close to the vehicle you would
28 not know the exact location at all moments of Colonel Gbao?

29 A. That is incorrect, Your Honour, because I spoke to him just

1 before I was pushed into the rear seat, Your Honour.

2 Q. Yes, I understand that, but you can't --

3 PRESIDING JUDGE: Counsel, is this line of
4 cross-examination as to the issue or as to credit?

10:31:23 5 MR O'SHEA: It's to the issue, Your Honour.

6 PRESIDING JUDGE: All right.

7 MR O'SHEA: I'm not dealing with credit.

8 PRESIDING JUDGE: Not to credit. Right. Okay.

9 MR O'SHEA:

10:31:45 10 Q. Yes, I fully appreciate that at the moment you were being
11 bundled into the vehicle you saw Colonel Gbao, but there was a
12 period of time between you being man-handled inside the camp, and
13 your movement towards the vehicle, when you would not have
14 necessarily known at all moments exactly what Gbao was doing, who
10:32:11 15 he was talking to, or where he was standing?

16 A. I agree with you on that.

17 Q. Yes. Thank you. So you cannot say either way whether
18 Colonel Gbao said anything to the man called Kallon?

19 A. You are right.

10:32:44 20 Q. The reason I put these questions to you is because it's the
21 case of Colonel Gbao that he did attempt to intervene?

22 A. Okay.

23 Q. But he was powerless?

24 A. Yes, Your Honour.

10:32:59 25 Q. Do you accept that had he attempted to intervene in these
26 circumstances he may have been powerless?

27 A. I believe so, Your Honour, because of the hierarchy of the
28 RUF.

29 Q. Because of the hierarchy of the RUF and also --

1 PRESIDING JUDGE: What is he accepting; your theory?

2 MR O'SHEA: He is accepting my proposition that --

3 PRESIDING JUDGE: Yes, that?

4 MR O'SHEA: -- that if Colonel Gbao had attempted to
10:33:29 5 intervene, he may not have been able to.

6 JUDGE ITOE: Was Colonel Gbao, to begin with, minded to
7 intervene; can the witness tell us before we get to the stage of
8 if at all.

9 MR O'SHEA: The witness has answered that because the
10:33:46 10 witness has said --

11 PRESIDING JUDGE: Yes, that is why I posed the question
12 because it's, as --

13 MR O'SHEA: I put my case to the witness and I suggested to
14 the witness that he cannot say either way --

10:33:57 15 PRESIDING JUDGE: Yes.

16 MR O'SHEA: -- whether Gbao did intervene. And he has
17 accepted that.

18 PRESIDING JUDGE: And your case, of course, raises an area
19 of speculative thinking and also argumentative thinking, in a
10:34:12 20 sense which goes either way.

21 MR O'SHEA: Well, I've established that it can go either
22 way. Maybe other witnesses can take it further.

23 PRESIDING JUDGE: Probably. Yeah, quite. That is what I
24 wanted to know because, clearly, it was speculative and then my
10:34:29 25 learned Brother entered with a question whether there was, in
26 fact, an intervention.

27 MR O'SHEA: Yes.

28 PRESIDING JUDGE: And of course there was not and then --

29 MR O'SHEA: Well, I will reserve my comments on the legal

1 elements of the behaviour.

2 PRESIDING JUDGE: Yes, because if you pursue it further,
3 then you pursue the hypothesis even further along the speculative
4 ramp. It doesn't help the Court.

10:34:54 5 MR O'SHEA: I am merely trying to explain to Your Honour
6 that I am not speculating. What I'm doing is establishing
7 reasonable doubt in regard to elements of a crime.

8 PRESIDING JUDGE: Right. I follow your trend. Okay.

9 MR O'SHEA:

10:35:25 10 Q. Now, how long were you in the vehicle before it actually
11 moved?

12 A. I was probably in the vehicle for about two or
13 three minutes before the vehicle started moving, Your Honour.

14 Q. If we could come to 17th April?

10:36:08 15 A. Yes, Your Honour.

16 Q. You describe Colonel Gbao coming to the reception centre?

17 A. Yes, right, Your Honour.

18 Q. So, for the benefit of Your Honours, this would be perhaps
19 the pre-stage of disarmament, would that be right? You've
10:36:41 20 described two stages; one that took place on the --

21 JUDGE BOUTET: The first stage of disarmament; the second
22 stage is demobilisation.

23 MR O'SHEA: Well, the first stage took place on 27th April.
24 And the witness described an incident which took place on 17th
10:36:58 25 April.

26 THE WITNESS: It is not the DDR, Your Honour. In fact it
27 was officially launched on 17th April. We were ready for
28 disarmament, Your Honours.

29 JUDGE BOUTET: It's the programme that is launched on the

1 17th.

2 THE WITNESS: Yes, Your Honour.

3 JUDGE BOUTET: Not the physical activities at the camp per
4 se.

10:37:14 5 MR O'SHEA:

6 Q. It's the first stage for the programme and the first stage
7 of the disarmament of the ten men was on 27th April, for clarity.

8 A. Two for 27th and eight for 28th.

9 Q. Yes, quite.

10:37:32 10 Q. Now, you say that Colonel Gbao came to the reception
11 centre. Again, at this reception centre where exactly were you
12 located when you first saw Gbao?

13 A. I Was in a building less than ten metres away from the
14 tentages where the reception team was waiting, Your Honour.

10:38:12 15 MR O'SHEA: Your Honour, my client would like to relieve
16 himself.

17 PRESIDING JUDGE: He is excused, yes.

18 MR O'SHEA: However, I do think he should be here for this
19 evidence. That's my own proposition and Your Honours can rule
10:38:32 20 against me.

21 PRESIDING JUDGE: You're applying for a stand down?

22 MR O'SHEA: I would apply that we take an early --

23 PRESIDING JUDGE: A brief stand down?

24 MR O'SHEA: Yes.

10:38:42 25 PRESIDING JUDGE: All right, we will do that. Leave is
26 granted.

27 [Break taken at 10.38 a.m.]

28 [Upon resuming at 10.54 a.m.]

29 PRESIDING JUDGE: Professor O'Shea, please continue.

1 MR O'SHEA: Thank you, Your Honour.

2 Q. We were at the reception centre on 17th April 2000.

3 A. Yes, Your Honour.

4 Q. And you see one Augustine Gbao?

10:47:17 5 A. Yes, Your Honour.

6 Q. And you see a number of other armed RUF rebels?

7 A. Yes, Your Honour.

8 Q. Would it be correct to say that you did not see a gun in

9 Augustine Gbao's hands?

10:47:39 10 A. You are right, Your Honour.

11 Q. Did you find Augustine Gbao at the reception centre, or did

12 you see him arrive?

13 A. I saw him arrive and walking from the main road straight to

14 the tentages, Your Honour.

10:48:16 15 Q. And, again, you only recognised Augustine Gbao or did you

16 recognise others?

17 A. I only recognised Augustine Gbao, Your Honour.

18 Q. I have to put it to you that the assertion that Augustine

19 Gbao stated that he was going to burn down the place is

10:48:57 20 incorrect.

21 A. I would not agree to that, Your Honour.

22 Q. I would also like to put it to you that if you did hear

23 something of that nature, you may have mixed up Augustine Gbao

24 with another man, possibly Kailondo, who you say you don't know.

10:49:34 25 A. Definitely not, Your Honour.

26 Q. How many times would you say you had seen Augustine Gbao in

27 total?

28 A. I would say I had three personal contacts with him,

29 Your Honour.

1 Q. Now, would you not accept that if you've only seen a person
2 on three occasions, that if there was another person that looked
3 like him you might mix them up?

4 PRESIDING JUDGE: Speculative again, argumentative. But
10:50:17 5 let's let him answer.

6 THE WITNESS: Not in this specific case, Your Honour,
7 because I knew him very prominently, because I had personally
8 spoken to him at the RUF headquarters, Your Honour.

9 PRESIDING JUDGE: Your answer is that you would not have
10:50:42 10 made a mistake in this particular situation?

11 THE WITNESS: You are right, Your Honour.

12 MR O'SHEA:

13 Q. In any event, the camp was not burnt down that day?

14 A. You are right, Your Honour.

10:50:59 15 Q. What was the condition of Augustine Gbao that day? Was he
16 drunk or was he sober?

17 A. He never appeared drunk when he came in, but he was very,
18 very aggressive, Your Honour.

19 Q. Did he explain to you why he was aggressive, or did he
10:51:19 20 explain to you what his concerns were?

21 A. No, Your Honour. He just came in and threatened us to
22 close down and never to open this reception centre any more,
23 Your Honour.

24 Q. But it would be fair to say, would it not, that you, having
10:51:39 25 heard that statement from Augustine Gbao on 17th April, you would
26 have been very well aware on later dates - April 27th, April 28th
27 and 1st May --

28 A. Yes.

29 Q. -- that there were elements of the command of the RUF who

1 were particularly concerned or unhappy about the disarmament
2 process at that time?

3 A. Yes, you are correct, Your Honour.

4 Q. Now, you've described as one of your functions on entering
10:52:50 5 Sierra Leone as being one of dialogue; correct?

6 JUDGE ITOE: He has said yes to that question, Mr O'Shea,
7 earlier on today. Not quite 30 minutes ago he had said yes.

8 MR O'SHEA: My recollection is he didn't answer that
9 question. My recollection may be wrong, but that's what I
10:53:09 10 recall, that he didn't answer it. I put the question.

11 JUDGE ITOE: He has answered that question and it's on my
12 record. I remember that very well.

13 MR O'SHEA: Very well. Thank you, Your Honour.

14 Q. So, did you enter into dialogue with the RUF before the
10:53:30 15 erection of this reception centre?

16 A. Not in my case, in particular, because I had a team leader,
17 Colonel Wilczynski, very much earlier, Your Honour. I personally
18 did not have any dialogue with them.

19 Q. And what do you know about dialogue, if any, between your
10:53:51 20 team leader, or others within your unit, and the RUF leadership?

21 A. Not that I can remember, Your Honour.

22 Q. So you know nothing about dialogue with regard to the
23 erection of the reception centre. What about dialogue with the
24 RUF with regard to proceeding with the disarmament process?

10:54:31 25 A. As I said earlier, Your Honour, this decision was all made
26 at the highest level, and it flows down to team site level. So
27 disarmament and demobilisation camps were prepared and completed,
28 and the launching date for DDR in Makeni and three other
29 locations was set for 17th April. So it was done simultaneously

1 in these four locations, Your Honour.

2 Q. Do you have knowledge of General Opande's intervention in
3 2001 to stall disarmament in Kailahun because the RUF leadership
4 had not consented?

10:55:26 5 A. 2001, Your Honour?

6 Q. Yes. Do you have knowledge of that?

7 A. No, Your Honour. I already left in 2000.

8 Q. Now, you have described seeing Augustine Gbao on another
9 occasion when he arrived in a car with Kenyans?

10:56:01 10 A. At Teko barracks, Your Honour?

11 Q. Yes,

12 A. You are right, Your Honour.

13 Q. And was that on 1st May or was that later?

14 A. That's on 1st May, Your Honour.

10:56:14 15 Q. Do you know or were you aware of the fact that the RUF, and
16 in particular Colonel Gbao, had a very good relationship with
17 KENBATT?

18 A. I believe so, Your Honour.

19 JUDGE ITOE: Witness, when you say you believe so, what do
10:56:40 20 you mean? I am very intrigued by answers, you know, which carry
21 that "I believe so."

22 THE WITNESS: Because, Your Honour --

23 JUDGE ITOE: We want very, very categorical answers to
24 these questions. You believe. Where do you think you are
10:56:56 25 leaving the Court with such an answer?

26 THE WITNESS: Thank you, Your Honour. As I said, we are
27 different entity. The team site of military observers and the
28 peacekeepers are a different organisation, so, what we hear from
29 the Kenyan peacekeepers, that they talk to us, that is the

1 understanding that we have, that we have close relationship with
2 the RUF, so we don't have direct meetings or whatsoever where we
3 sit together, RUF, military observers and Kenyan peacekeepers for
4 me to verify it, Your Honour.

10:57:36 5 JUDGE ITOE: Well then, I think I would prefer, you know,
6 you saying that from what you heard from the KENBATT contingent.

7 THE WITNESS: Yes, Your Honour.

8 JUDGE ITOE: This was the case. This was what they told
9 you.

10:57:55 10 THE WITNESS: Yes, Your Honour.

11 JUDGE ITOE: I'd prefer that, rather than "I believe so,"
12 without any background explanation as to what brought you to
13 believing to having that belief.

14 THE WITNESS: Thank you, Your Honour.

10:58:00 15 MR O'SHEA:

16 Q. You see, it's Augustine Gbao's case that he never took --

17 JUDGE ITOE: Mr O'Shea, may we -- I would like to have that
18 he heard from the KENBATT that Augustine Gbao was co-operative
19 with --

10:58:20 20 THE WITNESS: No, generally, the RUF and KENBATT, not by
21 name, Your Honour.

22 MR O'SHEA:

23 Q. Would it be fair to say that if that is in fact true that
24 KENBATT perhaps knew more about the RUF than other elements of

10:58:50 25 UNAMSIL?

26 A. I agree, Your Honour.

27 Q. And their views on likely reactions of the RUF were of
28 significance?

29 A. Yes, Your Honour.

1 Q. And can I put it to you that KENBATT had expressed a view
2 that the decision of the MILOBS to continue with disarmament at
3 that moment, on 1st May, was wrong?

4 A. Can you repeat the question, Your Honour.

10:59:28 5 Q. Can I put it to you that the commanding forces within
6 KENBATT had expressed the opinion that it was wrong to proceed
7 with disarmament on 1st May; demobilisation to be specific?

8 PRESIDING JUDGE: What are putting to him?

9 MR O'SHEA: I'm putting that, Your Honour.

10:59:49 10 PRESIDING JUDGE: Well, it's a thesis; what do you want him
11 to do with it?

12 MR O'SHEA: I want him to accept it or reject it.

13 PRESIDING JUDGE: Well, tell him, ask him that.

14 THE WITNESS: I disagree, Your Honour.

10:59:59 15 MR O'SHEA:

16 Q. When you say you disagree, are you saying that KENBATT
17 never expressed that view?

18 A. Yes, because on 30th April, prior to the demobilisation, I
19 had personally gone and spoken to Colonel Ngondi in his camp
11:00:19 20 saying that we are going to effect the demobilisation the
21 following morning, on 1st May, to which he said yes and, if any
22 problems would arise, his men were prepared to take on any
23 eventualities, Your Honour.

24 Q. Well, we mentioned the board of inquiry yesterday and can
11:00:40 25 I --

26 JUDGE ITOE: Mr Witness, you said you met who in the
27 KENBATT unit?

28 THE WITNESS: Lieutenant Colonel Ngondi.

29 JUDGE ITOE: Ngondi, yes. Thank you.

1 JUDGE BOUTET: But he, still with the board of inquiry, he
2 hasn't seen the result so he doesn't know. He was questioned and
3 that is all he knows about it?

4 MR O'SHEA: Is Your Honour referring to board of inquiry?

11:01:06 5 JUDGE BOUTET: Yes, yes. You've asked the question. Then
6 he said he knows there has been a board of inquiry but has not
7 seen the result and all he knows about it that he was questioned.
8 But whether this may have been said or not he is not aware.

9 MR O'SHEA: Yes. Well, can I put my case to him on this,
11:01:40 10 Your Honour?

11 PRESIDING JUDGE: Yes, why not? It's just the way you put
12 it.

13 MR O'SHEA:
14 Q. Can I put it to you that KENBATT 5 expressed concerns about
11:01:57 15 the disarmament process because, one, it was believed that the
16 RUF command was not aware that ten of their number had disarmed
17 to UNAMSIL and, two, that the RUF local --

18 JUDGE ITOE: Why don't you stop there and ask the witness.

19 PRESIDING JUDGE: Yes, put it separately.

11:02:18 20 JUDGE ITOE: Ask him separately, please.

21 MR O'SHEA: If Your Honour pleases.

22 PRESIDING JUDGE: I think it's better for all of us
23 because, otherwise, your theories get lost in the process, if we
24 don't have the kind of answers that go directly either to rebut
11:02:34 25 the theory or to accept it. It's to assist the Court.

26 MR O'SHEA: Very well, Your Honour.

27 PRESIDING JUDGE: I mean, there are various elements there
28 if you want to put, put them separately.

29 MR O'SHEA: Very well Your Honour.

1 JUDGE BOUTET: And you used the term KENBATT 5 and is
2 Colonel Ngondi the commanding officer of KENBATT? Is it what --
3 I don't know. You were questioning before about KENBATT and
4 Colonel Ngondi and now you are talking KENBATT 5. Are we talking
11:03:11 5 the same entity?

6 MR O'SHEA: Well, I spoke about Colonel Ngondi earlier in
7 my questions. It was the witness that raised Ngondi a moment ago
8 when I put to him that KENBATT has expressed those opinions. I
9 didn't specifically raise it.

11:03:24 10 JUDGE BOUTET: Yes, but now we are talking about KENBATT 5.
11 I don't have any recollection if there was one or five or ten
12 KENBATT in Sierra Leone. I mean, who is KENBATT 5? The one in
13 that area? I don't know.

14 MR O'SHEA: Well, I can clarify that, Your Honour.
11:03:41 15 Q. Mr Witness, perhaps for the benefit of the Bench, could you
16 explain what is meant by KENBATT 5?

17 JUDGE BOUTET: I know what it means but is KENBATT 5 the
18 group that was in Makeni at that time? And what is the
19 relationship between them and Ngondi, if any?

11:03:55 20 MR O'SHEA:

21 Q. Did you hear Your Honour's question?

22 A. Yes, Your Honour. Yes. KENBATT 5 was based in Makeni area
23 of operation. The commanding officer was Lieutenant Colonel
24 Ngondi, Your Honour.

11:04:15 25 Q. Thank you. I'm putting it to you that KENBATT 5 expressed
26 the opinion to the board of inquiry that its commanders had been
27 hesitant to proceed with the DDR programme for two reasons; the
28 first being it was believed that the RUF command was not aware
29 that ten of their number had disarmed to UNAMSIL. Would you like

1 to comment on that?

2 [RUF21JUN06B - CR]

3 A. Yes, Your Honour. In fact, as I said, I will bring you
4 back to 17th April where we launched the DDR. KENBATT 5

11:05:03 5 peacekeeping troops were fully involved in the disarmament and
6 demobilisation process, Your Honour.

7 Q. As you have already explained, you were military units who
8 operated on orders and it's correct, is it not, that KENBATT is
9 not responsible for deciding whether the demobilisation should

11:05:29 10 proceed or not?

11 A. You're right, Your Honour.

12 Q. The second reason, given by KENBATT, is that the RUF local
13 leaders' warnings to UNAMSIL not to commence with the DDR process
14 would look to be ignored. Can you comment on that?

11:05:53 15 A. I'm not aware of it, Your Honour.

16 Q. Very well. Now, can you describe this car that you
17 say Augustine Gbao was in with Kenyans?

18 A. Yes, it was a blue Nissan or Datsun car, Your Honour.

19 Q. Can I put it to you that if you saw a man holding Kenyans
11:06:40 20 captive, that it was not Augustine Gbao.

21 A. I can cannot understand that question, Your Honour. Can
22 you rephrase it?

23 Q. Did you see Augustine Gbao holding Kenyans captive?

24 A. No, I did not see him, Your Honour.

11:07:01 25 Q. Very well. I want to draw to a conclusion by putting
26 certain propositions to you --

27 A. Yes, Your Honour.

28 Q. -- about how this all arose and what motivated the RUF.

29 You can comment, if you wish.

1 A. Yes, Your Honour.

2 Q. First of all, I would like to put to you that at the time
3 of the demobilisation on 1st May, it was abundantly clear that
4 the leadership of the RUF was not on board.

11:08:02 5 A. I agree, Your Honour.

6 Q. It was also, I put it to you, clear that demobilisation
7 without the RUF leadership being fully on board and consenting
8 would amount to provocation to the RUF.

9 A. Possibly, Your Honour.

11:08:44 10 Q. I would also like to put it to you that it was blatant that
11 the ten RUF men who disarmed on 1st May or were demobilised on
12 1st May, did so without the knowledge of their leaders.

13 A. I agree, Your Honour.

14 Q. I'd also like to put it to you, notwithstanding what you've
11:09:12 15 said, that the disarmament process, or the demobilisation process
16 of those ten men was done in a secretive fashion.

17 A. I disagree, Your Honour. I suggest to you that this --

18 PRESIDING JUDGE: Sorry, counsel. Proceed.

19 MR O'SHEA:

11:09:48 20 Q. I suggest to you that this fact that this disarmament was
21 secret disarmament constituted one of the findings of the board
22 of inquiry.

23 A. I'm not aware of that, Your Honour.

24 Q. I put it to you that the UN co-operated with the ten men in
11:10:14 25 their wish to retain secrecy.

26 A. I totally disagree with that, Your Honour.

27 Q. I put it to you further --

28 JUDGE ITOE: Slowly.

29 MR O'SHEA: Sorry, Your Honour.

1 JUDGE ITOE: Yes, after the element of secrecy which was
2 one of the findings of the commission that you put to the
3 witness, what was the next point you raised?

4 MR O'SHEA: I raised the point that the UN co-operated with
11:11:01 5 the --

6 PRESIDING JUDGE: Co-operated with the secret process.

7 MR O'SHEA: In the wish of the ten men to disarm secretly.

8 PRESIDING JUDGE: And he totally disagreed.

9 MR O'SHEA: He totally disagreed.

11:11:17 10 Q. I further put it to you that MILOBS, in fact, decided to
11 proceed in secrecy with those ten men.

12 A. I totally, again, disagree with you, Your Honour.

13 Q. Let me put a nuance to you and see if it changes anything.
14 You totally disagree with the secrecy because you say it was in
11:11:50 15 public?

16 A. Yes, Your Honour.

17 Q. So if I bear with you for one moment. If the process was
18 not in secret, do you agree that the RUF men disarmed in secret,
19 even if the process was not secret?

11:12:13 20 A. I thought this was mentioned earlier that these ten RUF
21 combatants who came for disarmament definitely came without the
22 approval of their local commanders. On that, I would agree,
23 Your Honour.

24 Q. Would you agree that they disarmed secretly, even if the
11:12:33 25 process was not meant to be secret?

26 A. Yes, Your Honour.

27 Q. I have to put it to you that it would have been absolutely
28 obvious to a person on the ground, such as a MILOB, had they been
29 properly appraised of the situation on the ground, that

1 proceeding with the demobilisation of these ten men and
2 proceeding with the disarmament, would seriously jeopardise the
3 trust and confidence between the RUF and UNAMSIL?

4 A. We never thought of that at that moment, Your Honour.

11:13:32 5 Q. Now that you know more, would you agree in hindsight?

6 A. I cannot comment on that, because we were not aware what
7 will happen and what will not happen. We just carried out the
8 disarmament and demobilisation on the ground, Your Honour.

9 Q. Well, can I put it to you that the reason why you are
11:14:06 10 reluctant to admit that obvious fact, the fact that it would
11 seriously jeopardise the trust and confidence between the RUF and
12 UNAMSIL, is because you, as a MILOB, necessarily shoulder some
13 responsibility for what happened on 1st May by proceeding with
14 the demobilisation, and you are embarrassed about that?

11:14:41 15 A. I disagree with that, Your Honour.

16 Q. I suggest to you that there was a difference of opinion
17 between KENBATT and the MILOBS on this issue.

18 A. I disagree with you, Your Honour.

19 Q. I suggest to you that MILOBS significantly contributed to
11:15:11 20 the course of events which took place on 1st May.

21 A. I entirely disagree, Your Honour.

22 Q. Notwithstanding all that disagreement, I suggest to you
23 that this was the perception of the RUF, in any event, and trust
24 and confidence did break down because of it.

11:15:41 25 A. I'm not sure of that, Your Honour.

26 MR O'SHEA: Just one moment, please, Your Honours.

27 PRESIDING JUDGE: Leave granted.

28 MR O'SHEA: That concludes my cross-examination of this
29 witness. Thank you.

1 THE WITNESS: Thank you, Your Honour.

2 PRESIDING JUDGE: Thank you, Professor O'Shea.

3 Prosecution, any re-examination?

4 MS ALAGENDRA: No, Your Honour, thank you.

11:16:41 5 PRESIDING JUDGE: Witness, that concludes your testimony,
6 and we thank you for coming.

7 THE WITNESS: Thank you, Your Honour.

8 PRESIDING JUDGE: We wish you the best.

9 THE WITNESS: Thank you, Your Honour.

11:16:50 10 JUDGE ITOE: Safe journey back home, Mr Witness.

11 THE WITNESS: Thank you, Your Honour.

12 PRESIDING JUDGE: Prosecution, what's the state of play? I
13 reckon we have another witness to proceed with today.

14 MS VAN TONGEREN: Yes, Your Honour, we do. That witness is
11:17:27 15 here and prepared to proceed. My colleague, Mr Harrison, will be
16 conducting the examination-in-chief. So it would be appropriate
17 to, with the leave of the Court, have a brief adjournment to make
18 that change.

19 PRESIDING JUDGE: Usually it's customary for us to take a
11:17:43 20 break at 11.30. Since it's getting close to that, we better do
21 that, and give you an opportunity to get the witness prepared and
22 ready for testimony.

23 MS VAN TONGEREN: Thank you, Your Honour.

24 PRESIDING JUDGE: We'll adjourn for the usual recess at
11:18:00 25 this point.

26 [Break taken at 11.24 a.m.]

27 [Upon resuming at 11.59 a.m.]

28 PRESIDING JUDGE: Can Court Management confirm we are in
29 open session?

1 MS EDMONDS: Yes, Your Honour, we are in open session.

2 PRESIDING JUDGE: Prosecution?

3 MR HARRISON: The next witness is TF1-367, which would be
4 the 74th Prosecution witness and the 75th witness called in the
11:54:31 5 trial. Pursuant to this Trial Chamber's order of 14th June 2006,
6 which included two other witnesses, the Court's order was that
7 the entirety of this witness' testimony be heard in closed
8 session.

9 PRESIDING JUDGE: Thank you. Members of the public, we
11:55:00 10 would ask that you retire since we are about to commence a closed
11 session hearing of the next witness. Ms Edmonds, can we have the
12 oath administered. In what language is the witness testifying?
13 Mende?

14 MR HARRISON: Yes, that's correct. It is a Mende speaker
11:55:33 15 and for the purposes of the oath, the witness is a Christian.

16 PRESIDING JUDGE: I take it the translation facilities are
17 ready, all in place?

18 MS EDMONDS: Yes, Your Honour, it's in place.

19 PRESIDING JUDGE: Let the witness be sworn as we go into
11:55:55 20 closed session.

21 THE INTERPRETER: Your Honours, I suspect that there is
22 some problem with the channeling.

23 PRESIDING JUDGE: What problem is there with the channel?

24 THE INTERPRETER: Because the witness is hearing the Krio
11:56:40 25 version instead of the Mende version of the interpretation. The
26 Mende mic is having some problems.

27 PRESIDING JUDGE: So the witness is not getting the Mende
28 version? Witness, are you hearing them in Mende?

29 THE WITNESS: Yes, I'm hearing now.

1 PRESIDING JUDGE: Let's proceed. Please administer the

2 oath.

3 WITNESS: TF1-367 [Sworn]

4 [The witness answered through interpreter]

11:57:55 5 PRESIDING JUDGE: Mr Harrison, your witness.

6 MR HARRISON: I'm not sure if Court Management is

7 indicating we are in closed session.

8 PRESIDING JUDGE: Are we in closed session now?

9 MS EDMONDS: Court is not yet in closed session,

11:58:52 10 Your Honour.

11 [At this point in the proceedings, a portion of the
12 transcript, pages 44 to 61, was extracted and sealed under
13 separate cover, as the session was heard in camera.]

14 [Whereupon the hearing adjourned at 1.05 p.m.,
13:01:27 15 to be reconvened on Thursday, the 22nd day
16 of June 2006, at 9.30 a.m.]

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WITNESSES FOR THE PROSECUTION:

WITNESS: GANASE JAGANATHAN	2
CROSS-EXAMINED BY MR O'SHEA	2
WITNESS: TF1-367	43
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