

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

MONDAY, 4 JULY 2005  
10.00 A.M.  
STATUS CONFERENCE

TRIAL CHAMBER I

Before the Judges:	Bankole Thompson, Presiding
For Chambers:	Ms Candice Welsch Mr Matteo Crippa
For the Registry:	Mr Geoff Wallker
For the Prosecution:	Mr Peter Harrison Mr Alain Werner Ms Suzanne Mattler (intern) Mr Mark Wallbridge (Case Manager)
For the Principal Defender:	Ms Haddijatou Kah-Jalilow
For the accused Issa Sesay:	Mr Wayne Jordash Ms Ellen Rogers Ms Elizabeth Shackelford
For the accused Morris Kalon:	Mr Melton Nicol-Wilson Mr Charles Taku
For the accused Augustine Gbao:	Mr John Cammegh Mr Ben Holden

1 [HS040705A-SGH]  
2 Monday, 4 July 2005  
3 [Status Conference]  
4 [Open Session]  
5 [The accused Sesay and Kalion present]  
6 [The accused Gbao not present]  
7 [Upon commencing at 10.00 a.m.]

8 MR WALKER: This is Case no. SCSL-04-15-T. Prosecutor v  
9 Issa Hassan Sesay, Morris Kalion and Augustine Gbao, which is  
10:03:25 10 listed for a status conference.

11 PRESIDING JUDGE: Good morning, counsel. This proceeding  
12 is the status conference preceding the fifth trial session of the  
13 RUF case. It is being held in pursuance of Rule 65 bis of the  
14 Rules of Procedure and Evidence of this Court. According to 65  
10:03:59 15 bis, and I quote, "A status conference may be convened by the  
16 designated judge or by the Trial Chamber. The status conference  
17 shall: (i) organise exchanges between the parties so as to  
18 ensure expeditious trial proceedings; (ii) review the status of  
19 his case and allow the accused the opportunity to raise issues in  
10:04:24 20 relation thereto."

21 Guided by these objections of a status conference, I now  
22 proceed with representation. Who appears for the Prosecution?

23 MR HARRISON: My name is Harrison. H-A-R-R-I-S-O-N,  
24 initials P H and appearing with me is Mr Werner. First name  
10:04:47 25 Alain. And also appearing with the Prosecution is Ms Suzanne  
26 Mattler, an intern in the Prosecution's office.

27 PRESIDING JUDGE: Thank you. For the first accused.

28 MR JORDASH: For the first accused myself, Wayne Jordash,  
29 Elizabeth Shackelford and Ellen Rogers.

1 PRESIDING JUDGE: Thank you. For the second accused.

2 MR NICOL-WILSON: For the second accused Charles Taku and  
3 Mel iron Niccol -Wilson.

4 PRESIDING JUDGE: And the for the third Accused.

10:05:13 5 MR CAMMEGH: John Cammegh and Ben Holden.

6 PRESIDING JUDGE: Thank you. Any other appearances?

7 Right, let me now indicate the agenda items for this morning's  
8 session. The substantive agenda items for today's status  
9 conference as follows: One, matters or issues relating to the  
10 health of the accused or their detention. Two, trial logistics.

11 (A) trial schedule; (B) case presentation. Three, witness  
12 issues. (A) additional witnesses; (B) witnesses for the fifth  
13 trial session; (C) other witness issues; (D) expert witnesses.

14 The fourth item is outstanding motions pending in the Trial  
10:06:18 15 Chamber and the Appeals Chamber. And then we will round up the  
16 day by looking at any other matters.

17 Let us proceed with the first on my list; matters or issues  
18 relating to health of the accused persons or their detention. Do  
19 counsel for the Defence have any issues relating to the health of  
10:06:40 20 the accused persons or their detention? First health.

21 MR JORDASH: For Mr Sesay, no, thank you.

22 PRESIDING JUDGE: Learned counsel for the second accused.

23 MR TAKU: For Morris Kallon, nothing that I know of.

24 PRESIDING JUDGE: And learned counsel for the third  
10:06:55 25 accused.

26 MR CAMMEGH: So far as we are aware, nothing in relation to  
27 Augustine Gbao.

28 PRESIDING JUDGE: Thank you. Does the head of the  
29 detention facility, Mr Barry Wallace, have any matters in

1 relation to the health of the accused persons or their detention  
2 to bring to the attention of the Court?

3 MR WALLACE: Nothing, Your Honour.

4 PRESIDING JUDGE: Thank you. Let us proceed with trial  
10:07:25 5 logistics. (A) trial schedule. It should be noted that the  
6 fifth trial session of this case will commence tomorrow,  
7 5th July 2005, pursuant to the Trial Chamber's order of 20th May  
8 2004 detailing amendment to judicial calendar and scheduling  
9 order for status conference. The aforesaid fifth trial session  
10:07:58 10 will end on 5th August 2005.

11 Due to a major outstanding issue left over from the last  
12 trial session of the CDF case scheduled for a one day hearing out  
13 of session on Wednesday, 6th July 2005, the RUF fifth trial  
14 session will continue on Thursday, 7th July 2005 and not on  
10:08:35 15 Wednesday, 6th July 2005.

16 It should also be noted that the hours of court sitting  
17 remain unchanged: Monday, Tuesday, Thursday and Friday, we will  
18 sit from 9.30 a.m. until 6.00 p.m. with a lunch break from  
19 1.00 p.m. to 2.30 p.m. Wednesday sittings will be only from 9.30  
10:09:04 20 to 1.00 o'clock as is now customary.

21 As regard case presentation, I need to reiterate that  
22 despite noticeable improvement - and I say that with all feeling  
23 of satisfaction - it is the Chamber's view that some aspects of  
24 examinations-in-chief and cross-examinations continue to be  
10:09:36 25 unduly lengthy, repetitious and sometimes oblique not too  
26 relevant. Again all the Chamber can do is to appeal to counsel  
27 on both sides to co-operate with the Bench in giving efficacy to  
28 a joint commitment to ensure that all accused persons receive a  
29 fair and expeditious trial.

1                   Witness issues. Let us begin with (A) additional  
2                   witnesses. The records show that on 11th February 2005, the  
3                   Trial Chamber granted the Prosecution leave to add three  
4                   additional witnesses to its witness list. The witnesses on the  
10:10:27 5                   reference are TF1-366, TF1-367 and TF1-368. In its application  
6                   for leave, the Prosecution reserved the right to apply for the  
7                   said witnesses to be granted category C; that is insider  
8                   witnesses status and for them to be accorded the existing  
9                   protective measures. The Bench is advised that these witnesses  
10:11:02 10                   will not be testifying during the fifth trial session. Is this  
11                   correct? Will the Prosecution respond to the earlier comments  
12                   from the Bench and also the last question?

13                   MR HARRISON: It is correct. They will not be testifying  
14                   in this session.

10:11:23 15                   PRESIDING JUDGE: Thank you. Do counsel for the Defence  
16                   have any comments to make on this subject at this stage?

17                   MR JORDASH: No, thank you.

18                   PRESIDING JUDGE: Thanks. I also wish to mention that  
19                   pursuant to the Trial Chamber's consequential order to the  
10:11:40 20                   decision on further renewed witness list of 13th April 2005, the  
21                   Prosecution filed an up-dated core witness list on 5th May 2005  
22                   comprising 101 core witnesses. On 10th June 2005, the Trial  
23                   Chamber granted the Prosecution leave to add an additional  
24                   witness as an expert witness to that list, bringing the total up  
10:12:16 25                   to 102. Is the calculation correct that up to this point in time  
26                   33 out of 102 witnesses have testified? Is it also true that a  
27                   Prosecution investigator has been called to testify pursuant to a  
28                   request by the Defence? Will the Prosecution please respond to  
29                   these comments in question?

1                   MR HARRISON: Yes, I think the numbers are accurate. If  
2 the Prosecution investigator is added, then it is a total of 34  
3 witnesses who have testified to date. The Prosecution takes no  
4 position and has no concern whether that investigator is deemed  
10:13:01 5 to be a Prosecution witness or a witness of the Court.

6                   PRESIDING JUDGE: Right, thank you.

7                   MR HARRISON: Or categorised from any other.

8                   PRESIDING JUDGE: Are there any responses from the Defence  
9 at this stage?

10:13:09 10        MR JORDASH: No, thank you.

11                  PRESIDING JUDGE: Let us now address the issue of witnesses  
12 for the fifth trial session. The Prosecution did file its  
13 proposed order of appearance of witnesses on 20th June 2005.  
14 According to that list, 17 Prosecution witnesses are scheduled to  
10:13:34 15 testify during this trial session. According to the records, the  
16 Prosecution indicated that the Defence was informed on  
17 31st May 2005 of this order of appearance in compliance with the  
18 42 day disclosure requirement. Will the Prosecution confirm  
19 this?

10:13:59 20        MR HARRISON: Yes, we confirm that. Is it helpful to the  
21 Court if I indicate now some changes.

22                  PRESIDING JUDGE: Yes, that is fine. Yes. Expound if you  
23 want to.

24                  MR HARRISON: I have indicated this to counsel for the  
10:14:13 25 first accused and the second accused already. Unfortunately  
26 counsel for the third accused and I were not able to have a brief  
27 conversation this morning. But what I wish to indicate at the  
28 outset is that the existing list has, as the first witness,  
29 TF1-306 and as the second witness TF1-122, the Prosecution witnesses

1 to advise the Court and Defence counsel that the Prosecution is  
2 not in a position at this moment to call either one of those  
3 witnesses tomorrow. And we would wish to call as the first  
4 witness tomorrow TF1-035, which is the third witness on the  
10:14:57 5 current list. And the Prosecution would also like to inform the  
6 Court and Defence counsel that on Thursday when we resume, the  
7 Prosecution would like to call as its next witness TF1-272. This  
8 is the witness that we in fact wished to call on the last  
9 session, but because of certain timing inconveniences were not  
10:15:25 10 able to do so. And this is a witness that comes to Sierra Leone  
11 from another jurisdiction and we are asking the Court and Defence  
12 counsel to indulge us by allowing the Prosecution to call TF1-272  
13 as a second witness, hopefully early on Thursday, if not the very  
14 beginning of Thursday.

10:15:45 15 PRESIDING JUDGE: Thank you. Learned counsel for the  
16 Defence. Mr Jordash, your response.

17 MR JORDASH: Perfectly acceptable.

18 PRESIDING JUDGE: Good. Mr -- I do apologise.

19 MR TAKU: Mr Taku.

10:15:58 20 PRESIDING JUDGE: Your response.

21 MR TAKU: No objection, Your Honour.

22 PRESIDING JUDGE: And Mr Cammegh.

23 MR CAMMEGH: No, no response.

24 PRESIDING JUDGE: Thank you. And the Bench does not see  
10:16:06 25 any difficulty with that.

26 So, on 28th June 2005, the Prosecution filed the transcript  
27 of the testimony of Witness TF1-22 [sic] at the AFRC trial on  
28 24th June 2005 as disclosure of additional information Pertaining  
29 to this witness. Are there any comments on this? Do you want to

1 elaborate on this or just confirm?

2 MR HARRISON: I confirm it and the Prosecution sees that as  
3 its obligation to disclose that as quickly as possible.

4 PRESIDING JUDGE: Thanks and any responses from the  
10:16:56 5 Defence? Any problems?

6 MR JORDASH: No, thank you.

7 PRESIDING JUDGE: No. Counsel?

8 MR TAKU: No.

9 PRESIDING JUDGE: Thank you. Other witness issues. Let me  
10:17:02 10 observe that the Prosecution has not yet indicated whether it  
11 intends to apply for closed session hearing for part or the  
12 entire testimony of any of the witnesses appearing during the  
13 fifth trial session. May I have a response from the Prosecution?

14 MR HARRISON: Yes, the intention is to apply for closed  
10:17:23 15 sessions. I can indicate now that the intention is to apply for  
16 the entirety of the evidence of TF1-036 to be in closed session;  
17 the entirety of the evidence of TF1-360. In addition, TF1-361 we  
18 anticipate that the entirety of that will be in closed session,  
19 but no decision has been made as to whether it is necessary for  
10:17:54 20 the entirety of that evidence to be in closed session or simply a  
21 portion of that.

22 And finally, the witness that I have already referred to,  
23 the one that the Prosecution hopes to call on Thursday, TF1-272,  
24 there is an existing order establishing witness protection  
10:18:14 25 measures and also closed session measures for that witness and we  
26 will be seeking to have that order applied in this Court.

27 PRESIDING JUDGE: Thank you. Any brief responses?

28 Mr Jordash.

29 MR JORDASH: No, thank you.

1 PRESIDING JUDGE: Learned counsel for the second accused.

2 MR TAKU: Just one minute, My Lord.

3 PRESIDING JUDGE: Yes.

4 MR TAKU: Nothing, My Lord.

5 PRESIDING JUDGE: No. Mr Cammegh?

6 MR CAMMEGH: Nothing from me.

7 PRESIDING JUDGE: It is also of interest to note that  
8 pursuant to the order for compliance of Prosecution with Rule 94  
9 bis, the Prosecution has disclosed the confidential expert  
10:19:07 10 reports of witnesses TF1-296 and TF1-301. The records show that  
11 all Defence counsel have indicated their intention to  
12 cross-examine these witnesses on the basis of their reports. Are  
13 there any comments on the parties?

14 MR HARRISON: There is nothing I can add to that.

10:19:33 15 PRESIDING JUDGE: Right. And learned counsel for the  
16 accused persons. There is on record some indication that you  
17 intend to cross-examine these witnesses on the basis of their  
18 report.

19 MR JORDASH: Yes, every expert witness will be  
10:19:45 20 cross-examined.

21 PRESIDING JUDGE: Right.

22 MR TAKU: We do have nothing to say, My Lord, but we want  
23 just to know or have an idea when the Prosecutor intends to call  
24 these expert witnesses so we can start preparing in time. If the  
10:20:00 25 Prosecutor has made up his mind when.

26 PRESIDING JUDGE: Are you in a position to say that yet?

27 MR HARRISON: I am sorry, I can't give you any clear  
28 guidance on that. But we will try to give you that information  
29 prior to the end of this session.

1           PRESIDING JUDGE: All right. Okay. Learned counsel for  
2 the third, Mr Cammegh?

3           MR CAMMEGH: I am quite certain we will wish to  
4 cross-examine every expert witness.

10:20:20 5           PRESIDING JUDGE: Good, yes.

6           MR CAMMEGH: Without exception.

7           PRESIDING JUDGE: Right. Thanks. Okay. Also of some  
8 relevance is that on 10th June 2004, the Chamber granted leave to  
9 the Prosecution to add an additional expert witness to its list  
10 by the name of Zainab Bangura, an expert on forced marriage. Let  
11 me make just a few brief comments on this thing. The first is  
12 that no application has come from the Prosecution about  
13 protective measures for this witness. And second, that the  
14 curriculum vitae and her expert report were filed on 10th June  
10:21:10 15 this year. The third is that counsel for all the accused persons  
16 have indicated their intention to cross-examine her on her  
17 report. Any further light to be shed on this matter,  
18 Mr Harrison?

19           MR HARRISON: I can't shed any light now. I will  
10:21:33 20 investigate this matter and try to report back to Defence  
21 counsel, if not tomorrow or Thursday.

22           PRESIDING JUDGE: Very well. Learned counsel, are you  
23 satisfied with that undertaking.

24           MR JORDASH: Yes.

10:21:39 25           MR TAKU: Yes, My Lord.

26           PRESIDING JUDGE: Right. Outstanding motions before the  
27 Chambers.

28           MR HARRISON: I am sorry to interrupt.

29           PRESIDING JUDGE: That is okay. Fine.

1                   MR HARRISON: Under the heading of witnesses, I thought  
2 there might be one further piece of information which the  
3 Prosecution ought to convey. That information is this; the  
4 Prosecution wishes to advise Defence counsel and the Court that  
10:22:08 5 the Prosecution does not expect to call in this session TF1-356  
6 or TF1-143. Neither of those witnesses will be called in this  
7 session.

8                   PRESIDING JUDGE: Thank you. Learned counsel will please  
9 make note of that.

10:22:41 10                 Pending before this Chamber are the following motions:  
11 Accused Gbao and Sesay, joint defence application for the  
12 exclusion of testimony of witness TF1-141. The motion was filed  
13 jointly on 17th May this year. A response was received from the  
14 Prosecution on 27th May 2005, and a reply was filed on  
10:23:12 15 1st June 2005. I am advised that the motion is under  
16 deliberation.

17                   The second motion pending before this Chamber, it is a  
18 joint defence motion requesting conformity of procedural practice  
19 for taking witness statements. The motion was filed jointly by  
10:23:38 20 the Defence for the first and third accused on 21st June 2005.  
21 And a response by the Prosecution was filed on 1st July 2005. A  
22 reply by the Defence, if any, is pending.

23                   In addition, on 29th June and 1st July, the Defence for the  
24 first accused filed defence submissions of statements of  
10:24:06 25 Prosecution witnesses called in July 2004 with inconsistent  
26 statements marked. Can we shed some light on that?

27                   MR JORDASH: Well, it is correct.

28                   PRESIDING JUDGE: It is correct.

29                   MR JORDASH: It is pursuant to Your Honours' order on the

1 CDF trial exhibits.

2 PRESIDING JUDGE: Right. Thanks. So there is no  
3 complication about that?

4 MR JORDASH: I don't think so.

10:24:35 5 PRESIDING JUDGE: At this stage.

6 MR JORDASH: Not yet.

7 MR CAMMEGH: Your Honour, can I raise a logistical matter  
8 in relation to that that strikes me as quite sensible?

9 PRESIDING JUDGE: Trial logistics or any other matter?

10:24:45 10 MR CAMMEGH: It --

11 PRESIDING JUDGE: It fits into the scheme of trial  
12 logistics?

13 MR CAMMEGH: Well, it does, yes.

14 PRESIDING JUDGE: Okay.

10:24:54 15 MR CAMMEGH: But it has direct bearing on Mr Jordash's  
16 submission of the inconsistencies. I know that the case manager  
17 for the Prosecution, Mr Wallbridge, has already been extremely  
18 helpful to us by serving a disk on which all the exhibits in this  
19 case have been placed. In relation to complying with the CDF's

10:25:22 20 trial's order that we should file inconsistencies, it would be  
21 very, very helpful - I don't know if it will be possible - but it  
22 would be very helpful if it were that the Prosecution could  
23 similarly serve a disk containing the statements of witnesses  
24 called thus far. The logistics of that being self-explanatory.

10:25:42 25 It is very difficult and expensive to take witness bundles back  
26 and forth from London to here.

27 PRESIDING JUDGE: Yes.

28 MR CAMMEGH: If we had it on disks - and I am only asking  
29 of course for witnesses who have been called in the trial not the

1 whole bundle by any means - but if we had a disk, it would make  
2 matters much more efficient or enable things to be much more  
3 efficiently handled - I wonder if that is something the OTP could  
4 put their minds to. I think it would be of great assistance to  
10:26:08 5 everybody.

6 PRESIDING JUDGE: Right. Thanks.

7 MR CAMMEGH: It is not urgent, but it is something I would  
8 ask them to consider.

9 PRESIDING JUDGE: Yes, it is something to ponder upon.

10:26:13 10 MR CAMMEGH: Yes.

11 PRESIDING JUDGE: Mr Harrison, your response?

12 MR HARRISON: Yes, we will look into that.

13 PRESIDING JUDGE: Your tentative response.

14 MR HARRISON: We will look into that and try to determine  
10:26:23 15 and give some advice to Defence counsel as soon as we can.

16 PRESIDING JUDGE: Right. Thanks. I am also advised that  
17 there are no matters in respect of this trial, no motions pending  
18 before the Appeals Chamber. The last item is any other matters.

19 Does the Prosecution have anything to say --

10:26:47 20 MR HARRISON: No, thank you.

21 PRESIDING JUDGE: -- for the purpose of this status  
22 conference? Anything further? Thanks. Learned counsel for the  
23 Defence, Mr Jordash?

24 MR JORDASH: No, thank you.

10:26:56 25 PRESIDING JUDGE: Learned counsel, Mr Taku?

26 MR TAKU: Yes, My Lord. We just wanted to find out if at  
27 this point in time the Prosecutor has made up its mind to drop  
28 any of the 103 witnesses? If he has made up his mind he can  
29 inform us.

1 PRESIDING JUDGE: Yes. Well, counsel, at some point in  
2 time you will communicate your response?

3 MR HARRISON: Yes, we will.

4 PRESIDING JUDGE: I don't want to put you under any  
10:27:23 5 pressure here on this point.

6 MR HARRISON: We will try to convey some information to you  
7 as soon as we can and it may be possible to convey that  
8 information prior to the end of this session. But as of this  
9 moment I am not able to tell you.

10:27:37 10 PRESIDING JUDGE: Right. Okay.

11 MR CAMMEGH: Just one thing from me, Your Honour. It is a  
12 little far off, but forward planning is always sensible. We  
13 would be very grateful if the Court could indicate as early as  
14 they can whether or not the RUF trial is likely to be sitting in  
10:27:55 15 January of next year. I understand that the CDF case may well be  
16 approaching completion. I am not quite sure what the position  
17 is. But certainly, as far as one's professional diary is  
18 concerned, the earlier we know whether we have to be here in  
19 January of next year the better it will be.

10:28:13 20 PRESIDING JUDGE: The Chamber is very sensitive to that and  
21 I understand that discussions are on-going to make sure that we  
22 come out with some indication as soon as possible.

23 MR CAMMEGH: We are most grateful for that.

24 PRESIDING JUDGE: Right. Yes, Counsel.

10:28:29 25 MR TAKU: Yes, Your Honour. We very respectfully suggest  
26 that in making a determination, Your Honours also take into  
27 consideration we will be here up to December, sometime in  
28 December.

29 PRESIDING JUDGE: Yes. Well, as I say, we will factor all

1 the possible parameters into this complicated exercise and  
2 certainly come out with the most agreeable and fair solution.  
3 Yes, quite.

4 MR JORDASH: On the same subject, may I be so bold as to  
10:29:00 5 ask Your Honours to consider consulting with counsel who come  
6 from overseas? If there are two choices I would certainly  
7 appreciate being able to put my views across as to which I would  
8 prefer.

9 PRESIDING JUDGE: You are not being presumptuous. We think  
10:29:20 10 it is absolutely necessary. I mean, we do not have any kind of  
11 rigid, ritualistic response to that. I mean, it is for the  
12 interest of all the parties, including ourselves, as the ones who  
13 virtually facilitate the judicial process. So we certainly  
14 will -- you can communicate to our Chamber legal advisors your  
10:29:51 15 own input and we certainly are very flexible on this.

16 MR JORDASH: Thank you.

17 PRESIDING JUDGE: Right. Anything else? Well, if there is  
18 nothing else, I am minded now to bring this status conference to  
19 a close and to say have a restful, if you can, rest of the day.

10:30:07 20 [Whereupon the Status Conference adjourned at  
21 10.27 a.m.]

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