

THE SPECIAL COURT FOR SIERRA LEONE

CASE NO.: SCSL-04-15-T
TRIAL CHAMBER I

THE PROSECUTOR
OF THE SPECIAL COURT
v.
ISSA HASSAN SESAY
MORRIS KALLON
AUGUSTINE GBAO

WEDNESDAY, 21 JULY 2004
9.38 A.M.
CONTINUED TRIAL

Before the Judges:

Mutanga Itoe, Presiding
Bankole Thompson
Pierre Boutet

For the Registry:

Ms. Maureen Edmonds
Mr. Geoff Walker

For the Prosecution:

Ms. Lesley Taylor
Mr. Abdul Tejan-Cole
Ms. Boi-Tia Stevens
Mr. Christopher Santora

For the Accused Issa Hassan Sesay:

Mr. Wayne Jordash

For the Accused Morris Kallon:

Mr. Raymond Brown
Mr. Melron Nicol-Wilson

For the Accused Augustine Gbao:

Mr. John Cammegh

Court Reporters:

Ms. Gifty C. Harding
Mr. Momodou Jallow
Ms. Roni Kerekes
Ms. Susan Humphries

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WITNESS

For the Prosecution:

WITNESS TF1-077

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1 Wednesday, 21 July 2004

2 [The accused Sesay and Kallon entered court]

3 [The accused Gbao not present]

4 [Witness entered court]

5 [Upon commencing at 9.38 a.m.]

6 MS. EDMONDS:

7 All persons having anything to do before this Special Court Trial Chamber draw near and give your
8 attendance

9 MR. PRESIDENT:

10 Yes, we are resuming the session. And we ended up with the examination-in-chief yesterday.

11

12 And, Mr. Jordash, would you like to proceed --

13 MR. JORDASH:

14 Thank you.

15 MR. PRESIDENT:

16 -- with your cross-examination, please.

17 [WITNESS TF1-077 continued]

18 Cross-examined by Mr. Jordash

19 MR. JORDASH:

20 Q. Now, I just want to take you back, if I can, Mr. Witness, to December of 1998. What were you doing
21 then? Where were you living?

22 A. At that time the intervention had moved us. We were very close to the Guinea boundary.

23 Q. And who were you at the Guinea boundary with?

24 A. We were all civilians and we were around the boundary. They told us that ECOMOG had arrived, so
25 we came and we were together with the ECOMOG soldiers.

26 Q. And were you with your family?

27 A. Yes, I was with my family.

28 Q. And who, who -- I don't want the names, just the numbers and their relationships with you -- to you.

29 A. My wife, my children, we were all there.

30 Q. How many children were with you?

31 A. I had six children at that time.

32 Q. Before going to the Guinea boundary, where had you been?

33 A. We were in Kono District.

34 Q. Where about?

35 A. We were in Tombodu. When we were moved, we went to the Guinea boundary.

36 Q. So when did you -- just so we are clear, when did you move to the Guinea boundary, which month of
37 1998?

- 1 A. It was -- when we were moved it was in the dry season when we moved to the ECOMOG soldiers.
- 2 Q. Do you know the month?
- 3 A. I don't remember the month.
- 4 Q. Do you remember an attack on Koidu town in February of 1998?
- 5 A. I don't remember the precise month, but that was the month when the whole of Kono was attacked
- 6 and we were moved on to Guinea.
- 7 Q. Now, at the time of that attack, where were you living?
- 8 A. We were in Kono. We were all settled in Kono.
- 9 Q. Where about?
- 10 A. We were in Tombodu. When all of Kono was attacked, some people went north.
- 11 Q. So just to be clear, so in December -- in 1998 before moving to the Guinea border you had been living
- 12 in Tombodu, is that right?
- 13 A. Yes, that's where we were settled.
- 14 Q. And having been -- did you move from Tombodu as a consequence of the attack by the rebels on -- in
- 15 Kono? Is that why you moved?
- 16 A. Yes.
- 17 Q. How long did you stay at the Guinea border?
- 18 A. We took a long time there. Around 1990 we were now in Bwedu and we were sitting there with the
- 19 ECOMOG soldiers.
- 20 Q. Around 1990, is that what you just said?
- 21 A. Yes.
- 22 Q. Well, I'm talking about 1998 at the moment. You moved to -- having been living in Tombodu, you
- 23 moved to the Guinea border at the time of an attack or after the attack on Koidu town by the rebels; is
- 24 that right?
- 25 MS. TAYLOR:
- 26 Your Honours, the witness has said not at the attack on Koidu town, but the attack on Kono. It wasn't
- 27 Koidu town specifically.
- 28 MR. JORDASH:
- 29 I beg your pardon.
- 30 MR. JORDASH:
- 31 Q. Some time in 1998 you moved to the Guinea border with your family, correct?
- 32 A. Yes, that was the time we all went to the Guinea border. That was the time for Operation no Living
- 33 Thing. We all went to the border.
- 34 Q. So that was at the early part of 1998, correct?
- 35 A. Yes.
- 36 Q. And you stayed there for how long?
- 37 A. We stayed there a little while. I don't know how long actually, but we stayed there a little while. When

- 1 we heard that ECOMOG had arrived, we moved on and came to settle with them.
- 2 Q. So do you think that was within a few weeks of moving to the Guinea border?
- 3 A. We took a long time. I mean, there was no vehicle route to that road, so we took a long time even
4 going to the place.
- 5 Q. Which place?
- 6 A. Where we were settled.
- 7 Q. Which place is that?
- 8 A. We were on the borders; we were not in Guinea, we were not in Sierra Leone, we were just around
9 the borders.
- 10 Q. And you arrived there, you say, at the early part of 1998, yes?
- 11 A. I have told you I really can't remember the month.
- 12 Q. Before the rainy season, was it?
- 13 A. I don't remember the month. I mean, we were all worried for our lives so I couldn't remember the
14 month exactly.
- 15 Q. Well, I'm not asking for the month, just whether it was the rainy season of 1998?
- 16 A. I think it was the early parts of the rainy season.
- 17 Q. And you stayed there, is this correct, until ECOMOG attacked and re-occupied Koidu town; is that
18 correct?
- 19 A. Yes. Yes, we returned now in the dry season. We found ECOMOG was in Kono.
- 20 Q. Which year is this?
- 21 A. 1990. We were with ECOMOG in the dry season.
- 22 Q. We are talking about 1998. Do you understand that?
- 23 A. I understand. I understand.
- 24 Q. You just mentioned 1990, could I ask why?
- 25 A. We came down in the dry season. In 1998 we were on the Guinea borders. I have just said that we
26 were on the Guinea borders, 1998.
- 27 Q. And you returned to Koidu town following the ECOMOG intervention, correct?
- 28 A. Yes, that is why we came back when Koidu was cleared.
- 29 Q. Now, was that in 1998?
- 30 A. The time they removed them? I don't understand.
- 31 Q. The time that you returned to Koidu town, was that in 1998?
- 32 A. They were already removed from Koidu that's when we returned, 1998.
- 33 Q. Thank you. And where were you living when you returned?
- 34 A. From Guinea? On the boundary -- from the Guinea boundary? When I came we were settled in
35 Koidu. When we came from Guinea boundary we were settled in Koidu.
- 36 Q. Where about?
- 37 A. In Koidu town itself.

1 Q. Where about?

2 A. We were towards Kwakuma. Between Kwakuma and Koidu town itself, that's where we were. Koidu
3 is a very big town.

4 Q. Do you know the street?

5 A. The street, I don't know the street.

6 JUDGE BOUTET:

7 You have to be aware we are getting close to information that may allow the identification of the
8 witness. I don't know the size of that street in Koidu, but I -- I'm just cautioning you so.

9 MR. JORDASH:

10 It is important, or will be in the next few minutes when it would establish where this witness was living,
11 not only for the following questions, but also for our investigations. So I would seek leave in these
12 circumstances to go into closed session so I can identify where this witness was living at the time
13 specifically.

14 [Trial Chamber confer]

15 MR. PRESIDENT:

16 Yes, you want to continue?

17 MR. JORDASH:

18 Well, I just seek to address Your Honours on Rule 79, dealing with closed sessions.

19 MR. PRESIDENT:

20 Yes.

21 MR. JORDASH:

22 Rule 79 states: "A, The Trial Chamber may order that the press and the public be excluded from all or
23 part of the proceedings for reasons of; (i) national security, or (ii) protecting the privacy of persons as
24 in the cases -- as in cases of sexual offences or cases involving minors, or (iii) protecting the
25 interest -- protecting the interest of justice from prejudicial publicity."
26

27 The order I seek falls within Rule 79(A)(ii) which is protecting the privacy of this person, but I would
28 also add to that, given the special measures in place, protecting the security of this person. I don't
29 seek for the whole of the evidence to be in closed session, simply the first, I think probably about ten
30 minutes, where I seek to establish the location where this person was living around 1999 -- 1998,
31 1999.

32 MR. PRESIDENT:

33 Are you through with your application?

34 MR. JORDASH:

35 I am, Your Honour.

36 MR. PRESIDENT:

37 Prosecution, please.

1 MS. TAYLOR:

2 Your Honours, obviously, if there is any issue of protecting the identity of a witness, then the
3 Prosecution would support any measure taken to do so.

4

5 My only concern is that while Your Honours have said repeatedly that the Defence have very wide
6 latitude to cross-examine the witnesses, the line of cross-examination commenced this morning by my
7 learned friend relates to a period of at least 12 months in advance of anything to which the witness
8 has testified during his examination-in-chief, and the relevance of that line of cross-examination has
9 not yet been made clear to the Chamber. And it would be my concern that the relevance of the line of
10 cross-examination be established before the principle of a public trial be compromised for a closed
11 session.

12 [Trial Chamber confer]

13 MR. PRESIDENT:

14 Learned counsel for the Prosecution, perhaps I should, before addressing you, ask for a short
15 response from learned counsel for the first Accused to that.

16

17 There is -- counsel is raising the issue of relevance. What is your response, and I would add short
18 response, to that?

19 MR. JORDASH:

20 I'm very reluctant to set out the relevance at this stage because the witness is listening.

21 JUDGE THOMPSON:

22 Right, thank you.

23 MR. JORDASH:

24 I don't wish to be difficult but --

25 JUDGE THOMPSON:

26 The Chamber will remind the Prosecution that the issue or the objection that you are raising is
27 premature, and we so rule because, again, we would like to reiterate that in matters of this nature the
28 Defence must be given a wide latitude, and there can be issues which may be not directly relevant,
29 but collaterally relevant, and we cannot speculate as to what the relevance of this particular line of
30 cross inquiry is until we hear perhaps what counsel intends to do in closed session. So the -- we'll
31 grant the application.

32 MS. TAYLOR:

33 If Your Honours please.

34 JUDGE THOMPSON:

35 Right.

36 MR. JORDASH:

37 Thank you.

1 JUDGE BOUTET:

2 Mr. Jordash, we have to ensure from the technical side of the house that I guess what they have to do
3 is close the sound for the next five, ten minutes, as you said, and then we'll come back in full public
4 session.

5 I don't think there is any other measure that needs to be done at this time. All we are trying to do is
6 allow you to question directly the witness on these matters, and we don't want that information to be in
7 a public domain now. That is -- am I right?

8 MR. JORDASH:

9 I'm in complete agreement.

10 JUDGE BOUTET:

11 So -- no, no, no, no, we need not to close the curtains. All we need to do is ensure that the public
12 --

13 MR. PRESIDENT:

14 Don't close the curtains. Ms. Edmonds --

15 JUDGE BOUTET:

16 Do not close the curtains. All we need to do is close the speakers on the public -- in the public gallery.
17 And for members of the public, we'll be in a close session for a short period of time, we have been
18 told, ten minutes and we'll come back in full public hearing after that.

19 [At this point in the proceedings a portion of the transcript, pages 7 to 10, was extracted and sealed
20 under a separate cover as the session was heard in camera]

21 [Pages 1 to 6 by Gifty C. Harding]

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1 MR. PRESIDENT:

2 Can the technicians please switch on the speakers for the gallery? Is it done? Okay.

3

4 Yes, you can proceed.

5 BY MR. JORDASH:

6 Q. Mr. Witness, it's probably just my own confusion, but you appear to be describing on the one hand
7 your capture by the rebels in 1998, and on the other hand, describing being captured by the rebels in
8 December of 1999. Were you captured once or twice?

9 A. I didn't say I was captured in 1998, I said we were driven. I didn't say they captured me in 1998, I said
10 we were driven in 1998.

11 Q. Driven where in 1998?

12 A. We were driven from Koidu town in 1998. That was the time of Operation no Living Thing, and we
13 went towards Guinea. When we heard from that point in Guinea where we were that the ECOMOG
14 had taken over Kono, we came back to Koidu in 1999. That's when I was captured. I didn't say I was
15 captured in 1998.

16 Q. So when you came back from Guinea -- when did you come back?

17 A. We came in the dry season. We were there throughout the dry season.

18 Q. 1998, is that correct?

19 A. You still insist on this date 19 -- I said we were captured in the dry season.

20 Q. Well, I'm trying to seek some sort of clarity from your evidence, Mr. Witness. You told us not too long
21 ago that in --

22 A. It's a long time ago. I didn't know the month or the time, but I said we returned in 1999 to Kono, that's
23 where we were settled.

24 Q. No, you said in December 1998, Kono -- or ECOMOG, I beg your pardon -- ECOMOG was pushed
25 from the town. That's what you said, Mr. Witness. Is that true?

26 A. Yes, 1999 December, that's when they were driven. That was the time we were arrested.

27 Q. Well, do you say now then it is not true that between December 19 -- or between 1998 and the early
28 part of 1999 ECOMOG were pushed from Koidu town? Is that your evidence or not?

29 A. It happened to me in my presence. What I know is what I'm saying.

30 Q. Would you answer the question, please, Mr. Witness. Is it true or not that you were behind ECOMOG
31 lines when they were pushed from Koidu town, December 1998 to January '99, between the
32 two years?

33 A. I was with ECOMOG when ECOMOG was pushed out.

34 Q. Is it true, Mr. Witness, what you said to us a moment ago, between late December 19 -- between late
35 '98, early 1999 ECOMOG were pushed from the town when you were living near the small stream;
36 your evidence, is it true?

37 A. It's true it happened to me. It happened to me. I was with ECOMOG when we were arrested when

1 ECOMOG was pushed out.

2 Q. So that's true. So when you were --

3 A. It is true I was arrested in December. I won't forget; it happened to me. I was arrested in December.

4 Q. Mr. Witness, you understand when I say between '98 and '99; you understand that, don't you?

5 A. What I know is that we arrived in the dry season. We were there until December when they arrested
6 us. We were with ECOMOG when they arrested us after they've been pushed out.

7 Q. So what -- where were you then between late '98 and late '99?

8 A. This man is pushing me back and forth. I said we arrived from the boundary between Guinea and
9 Sierra Leone. We returned in the dry season and we were by this little stream between Kwakuma and
10 Koidu town -- high season (sic).

11 Q. Well, just listen to the question, if you would. Where were you between late 1998 and late
12 December '99?

13 A. What I have explained is what I have said. I said we came in the dry season. Didn't I say that?

14 Q. Well, I'm not asking about you about the dry season, I'm asking you about --

15 JUDGE BOUTET:

16 But, Mr. Jordash, the witness has said --

17 MR. PRESIDENT:

18 But the man has said he cannot identify months. So this is it.

19 JUDGE THOMPSON:

20 Quite right. Counsel, this is why I said --

21 MR. PRESIDENT:

22 You see? When you are --

23 THE WITNESS:

24 I have said this over and over. I have said this over and over.

25 MR. PRESIDENT:

26 It's not your fault, some of you have not grown in villages, you know, but a villager, you know,
27 identifies the seasons. And if he is so insistent on December is because December is a festive, you
28 know, month. You see, for them months don't -- you can't take them through, you know, months and
29 expect them, you know, to really be very precise.

30 JUDGE THOMPSON:

31 And I would say that this is something we can take judicial notice of. I mean, clearly the witness --
32 that's why I said that we must be very careful --

33 MR. PRESIDENT:

34 And December is the dry season.

35 JUDGE THOMPSON:

36 Quite right.

37

1 MR. PRESIDENT:

2 It's the dry season.

3 JUDGE THOMPSON:

4 We must be very careful when we carry out this -- out this kind of exercise not to confuse the witness
5 because after all the Tribunal is interested in ascertaining the truth and the facts and if this witness
6 virtually has said that as far as he is concerned his memory is in the context of the dry season and the
7 rainy season, and you are putting it in a different context, what we end up with is confusion. And it
8 seems to me that as counsel who -- your professionalism would also allow you to be creative and to
9 see whether that could be accommodated for the purposes of a witness who thinks within the
10 timeframe of the dry and the rainy season, rather than late and early kind of thing.

11 MR. JORDASH:

12 Your Honours, I understand your point.

13 MR. JORDASH:

14 Q. Mr. Witness --

15 MR. PRESIDENT:

16 And, again, when you say -- when you put the question to him, "Where were you from
17 December 1998 to December 1999?" That's a long timeframe, you see, and it's difficult, you know,
18 for you to elicit anything useful, you know, from him. So try to break down things, you know, more
19 comprehensive, you know, for his understanding.

20 JUDGE THOMPSON:

21 I hope this is not taken as a limitation on the latitude that you have. I am prepared to give you as
22 much latitude as you want to.

23 MR. JORDASH:

24 I'm grateful.

25 MR. PRESIDENT:

26 Well, as much latitude, yes, but we must be expeditious. I mean, we must -- I have said it and I think
27 we have to remain within that timeframe. I'm prepared, we are prepared to give the Defence the
28 latitude to cross-examine, I mean, the latitude which is traditionally accepted, but we expect that the
29 Defence understands that it's a process, you know, that has to contribute to the expeditious trials, you
30 know, that we are holding. We want to make the trials as expeditious as possible. So we count on
31 the understanding of learned counsel in this regard -- and when I say this I'm saying it on both sides,
32 either in examination-in-chief, cross-examination or in re-examination. We really have to be
33 expeditious in our approach so that we get done with this business. Please, go ahead, Mr. Jordash.

34 MR. JORDASH:

35 Q. Where were you, Mr. Witness, during the dry season of 1999, where about were you?

36 A. Is he satisfied now? I said I was in Koidu Town.

37

1 MR. PRESIDENT:

2 Tell the witness -- Mr. Witness, please, you should answer the questions which are put to you by
3 counsel. You don't need to be aggressive. You don't need to be angry. Take it easy and answer the
4 questions which you can answer. If you do not know the answer, say you do not know, but please,
5 answer the questions which have been put to you by counsel. That is what we expect from you,
6 Mr. Witness. Do you understand?

7 MR. JORDASH:

8 As Your Honours please. Can I ask you, Mr. Witness --

9 THE WITNESS:

10 Yes.

11 BY MR. JORDASH:

12 Q. So where were you during the dry season of 1999?

13 A. I was in Koidu.

14 Q. Now, when the rainy season started in 1999, where were you?

15 A. I said we were in Koidu.

16 MR. PRESIDENT:

17 I would like to remind counsel, you know, when you say, "Where were you during the dry season of
18 1999", you see, there is a dry season at the beginning of 1999 and there is a dry season at the end of
19 1999 in -- within the African context and within the context of this country, you know. So try to be very
20 precise on the periods you are referring to.

21 [Pages 11 to 14 by Gifty C. Harding]

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- 1 [10.30 a.m.]
- 2 Q. Where were you, Mr. Witness, in the dry season from 1988 into 1999?
- 3 A. I was in Koidu.
- 4 Q. Were you living in the same place near the stream?
- 5 A. I was in the same dwelling.
- 6 Q. Where were you in 1999 when the rainy season started?
- 7 A. I was still in the same place, didn't I say that?
- 8 Q. And where were you when the dry season of 1999 towards the end of 1999 started?
- 9 A. I was there in Koidu. That's towards the end of 1999 when we were arrested and they took us to
- 10 Tombodu.
- 11 Q. So you were throughout the whole year living near the small stream that you talked about; is that
- 12 correct?
- 13 A. I was in the same place until we were arrested when they pushed ECOMOG out.
- 14 Q. And were you with your wife and six children before you were captured?
- 15 A. No. I was there but my children, all of them were not with me because the night of the attack the firing
- 16 went on for long and three of my children were killed. I didn't see my wife and I was crying when they
- 17 came and arrested and they said, "Come over here and sit here. There were about 50 of us who
- 18 were arrested at that time.
- 19 Q. Well, am going to come to that in a minute but before the attack, were you in your shelter with your
- 20 wife and six children?
- 21 A. Yes. We were all staying together but when the gunshot came, we all were scattered and we went in
- 22 different directions. Three of them went and hid in the same place.
- 23 Q. Where was that?
- 24 A. It was at night.
- 25 Q. Who did you hide with?
- 26 A. I was alone. I went behind a house and hid on the ground in the bush.
- 27 Q. So it's your evidence that when you were attacked, you ran leaving all your children and your wife to
- 28 try to escape themselves?
- 29 A. We were in the same house. We got scattered because of the gunshots. Everybody went separate
- 30 ways, so I went alone in the place where I went to hide.
- 31 Q. How old were your children at the time?
- 32 A. One of them was big enough. He was going to form four. The next one was there, eight years old
- 33 and there was another one that was seven years old. He held his little ones and they went and hid in
- 34 the same place. So in the morning cartridges held them, and they were all dead. It was daybreak
- 35 and I saw it.
- 36 Q. What happened to your other three children, the ones who were not killed?
- 37 A. They went together with my wife and I didn't see that. In fact, up to this moment I have not seen

1 those three children and my wife, but I hear that they are towards Guinea.

2 Q. Have you looked for them?

3 MS. TAYLOR:

4 Your Honour, I object to this. I do wonder what the relevance is --

5 MR. PRESIDENT:

6 Yes, what's the relevance of this question, Mr. Jordash?

7 MR. JORDASH:

8 The relevance is that --

9 MR. PRESIDENT:

10 The relevance of this question to your case? Can you, please, explain to us?

11 MR. JORDASH:

12 The Defence will say and we say that the RUF were in control of Kono from December 1998. We do
13 not accept that there was an attack on this witness in 1999 because the town in which he claimed to
14 be living in was, in fact, RUF controlled from December 1998 through to disarmament. We do not
15 accept that this attack happened in December 1999, we do not even accept necessarily the details of
16 that attack.

17 MR. PRESIDENT:

18 Yes, granted. We are not on those grounds. This witness has said that since that attack -- they were
19 sleeping, there were gunshots, everybody ran to save his life and hid somewhere. In the morning he
20 found three of his children dead, and up to date he has not seen the wife and the other three children
21 and that he hears they are in Guinea. Your question was, "Did you look for them?" How relevant is
22 that question to these proceedings? I think that question is irrelevant. Please, move to some other
23 questioning.

24 MR. JORDASH:

25 But, Your Honour, yesterday this witness said he has gone to Guinea to look for his family and that
26 was, he says, after he was released from the mining venture.

27 MR. PRESIDENT:

28 Mr. Jordash, please, continue with your cross-examination, but not on that question, please. It does
29 not appear to us relevant at this point. You can continue with your cross-examination, please.

30 MR. JORDASH:

31 Certainly.

32 Q. Do you know a place in Koidu Town call Small Lebanon?

33 A. It is towards Kokwema.

34 Q. Can I ask you, Mr. Witness, about your statement to the Prosecution? Do you know what a
35 statement is?

36 A. The explanation you give to people is your statement.

37 Q. Do you remember giving an explanation to the Prosecutor in 2002, two years ago?

- 1 A. I still remember.
- 2 Q. Why did you give a statement to the Prosecution? What was your motive?
- 3 A. Because the things they did to me hurt me so badly that I had to come and explain everything to
4 them.
- 5 Q. Everything, is that right?
- 6 A. What they did to me?
- 7 Q. What they did to you and your family; is that what you are keen to do?
- 8 A. That is why I have decided to come and explain here.
- 9 Q. Could you explain, given that was your motive, why it is you did not mention in either of your two
10 statements that you had lost three children?
- 11 A. It is the first thing I said. I said where we were, we were attacked at night. I explained that.
- 12 Q. Was the statement read back to you when you gave your statement?
- 13 A. The time I gave the statement the first thing I explained was that my three children were killed. It
14 happened to me, I won't forget even if it is ten years. It is history to me.
- 15 Q. But why didn't you, when the statement was read back to you, say to the investigator, "You've missed
16 out the death of my children"?
- 17 A. Except if the mistake was on the part of the person who took down the notes, but what happened to
18 me I explained exactly.
- 19 Q. So your evidence is that you told the Prosecution about the death of your children, but they didn't put
20 it in your statement; is that what you are saying?
- 21 A. I can't say that. If it is a mistake, then it is their own part, but I can say that I explained from the
22 beginning to the end. I explained the death of my children.
- 23 Q. After giving your statement to the Prosecution, you saw them again. In fact, you've seen them three
24 times at least this year; haven't you?
- 25 A. Well, I saw people, yes.
- 26 Q. And on those occasions, you went through your statement; didn't you?
- 27 A. I explained to them what happened to me every day. Anytime we see, I explain exactly to them what
28 happened to me.
- 29 Q. Did you go through your statement to the Prosecution when you met?
- 30 A. When I explained it to them in Kono, they explained it back to me exactly.
- 31 Q. And did you at any stage during those times say to the Prosecution: "You've missed out one of the
32 most important pieces of evidence I have given you"?
- 33 A. I told them that, I explained to them that my children were killed and I can't forget that. I explained to
34 them from the beginning to the end.
- 35 Q. But how many times do you think you've explained that to the Prosecution?
- 36 A. Quite a few times. Any time they meet me I explained to them the same things.
- 37 Q. And the fact that it's not in your two statements shows that they've not just put it there; is that what

- 1 you are saying?
- 2 A. I explained it to them. I told them everything from the beginning to the end. What happened to me is
3 history to me. I can't forget it.
- 4 Q. How much money have you received from the Prosecution during your various meetings with them?
- 5 A. Nobody gave me any money. What hurts me most is what I came to explain myself.
- 6 Q. So you weren't given 30,000 Leones this year, Mr. Witness?
- 7 A. Nobody gave me anything. I volunteered myself to come and explain what hurts me the most. That is
8 why I am here.
- 9 Q. Now, before you gave evidence yesterday, did you speak to anybody from the Prosecution about
10 what you are going to say, I mean, directly before giving evidence?
- 11 A. I don't know anybody. Who do I speak to?
- 12 Q. Were you in the protection of this Court? That's right; isn't it? The Victims and Witness Unit are
13 looking after you; is that right?
- 14 A. Yes, I see people, I see people.
- 15 Q. And before you gave evidence yesterday, either in the morning or the day before, did you meet
16 somebody from the Prosecution?
- 17 A. When they brought me, they put me in that small house, nobody came close to me. I don't know
18 anyone.
- 19 Q. You didn't speak to anybody from the Prosecution team or an investigator? Did you speak to an
20 investigator before giving evidence? Do you know what an investigator is?
- 21 A. Yes, but I said I didn't speak to anybody. The people who took the statement from me are the only
22 people I spoke to. Besides them, I don't know anybody and I have not spoken to anybody.
- 23 Q. When you gave your statement to the Prosecution, you made no mention of the people who captured
24 you were in uniforms yesterday?
- 25 A. I said I don't know anybody here.
- 26 Q. Listen to the question, if you would, please? When you gave your statement, your two statements to
27 the Prosecution, you made no mention of any of the people who attacked you were in uniforms.
28 Yesterday, you mentioned it at least four times. Why did you mention it yesterday, but not in your
29 statement?
- 30 A. What happened to me was what I explained here in this Court yesterday. When I came to Freetown, I
31 don't know anybody here and I have not spoken to anybody.
- 32 Q. Why did you mention yesterday that the people who captured you were in uniforms yet, when you
33 made your two statements, you didn't mention that fact once? Why is that?
- 34 A. I said it here yesterday that those who arrested me were in uniform and they told us -- they told me
35 that they are the RUF and they are from the bush, we are no longer under the protection of
36 ECOMOG, but under their own protection. I said this here clearly yesterday.
- 37 Q. But you didn't say it in your statement to the Prosecution; did you?

1 A. I said that I explained that here yesterday, I explained it here yesterday.

2 MR. PRESIDENT:

3 Mr. Jordash, create a distinction in his mind between what he said yesterday and the statement you
4 are referring to.

5 MR. JORDASH:

6 Certainly, Your Honour.

7 Q. Yesterday you said in this Court, in this room that your attackers were wearing uniform, we agree on
8 that?

9 A. Yes.

10 Q. You have seen the Prosecution on, at least, four occasions before coming to court yesterday; haven't
11 you?

12 A. Who are the Prosecution? Are those the ones sitting in front me here or the ones I gave my
13 statement to?

14 Q. The ones you gave your statement to. You understand that now?

15 A. The ones I gave my statement to I explained to them that those who caught me were in uniform.

16 Q. So that was the second thing that the Prosecution missed from your statement. Is that correct?

17 A. But I explained this in front of the Court here yesterday that those who caught me were in uniform. I
18 said that yesterday.

19 Q. Before I move on, do you say that it's something you told the Prosecution before yesterday but they
20 just didn't put it in your statement?

21 A. I can't say that, but all I explained yesterday even today if you ask me to explain, I will explain exactly
22 the same thing.

23 Q. Did you tell the people who took the statement before yesterday that the men who attacked you were
24 in uniform, yes or no?

25 A. It is true it happened to me. I saw them during the daytime and I saw them clearly.

26 JUDGE THOMPSON:

27 This witness is on record as saying that, in fact, he used -- according to the translation: "What
28 happened to me is history, I cannot forget it." And he is on record as saying that he explained
29 everything to the investigators and, he's virtually repeated that two times according to my notes.

30 Again, let me remind you that the purpose of cross-examination is to elicit facts. Of course, your line
31 of cross-examination is that there is an inconsistency between his oral testimony here and what he
32 told the investigators. We are professional judges who certainly will require to be addressed on this --
33 on that when the time comes and, to pursue this line of cross-examination further and further on that
34 point would seem to me to be a futile exercise.

35 MR. JORDASH:

36 As your [overlapping microphones].

37

1 MR. PRESIDENT:

2 I think the point you are making is already clear. You've pointed out the inconsistency, that is what
3 you are up to; isn't it? So I think you can move to some other point.

4 MR. JORDASH:

5 Yes, I will do.

6 MR. PRESIDENT:

7 You've pointed out two inconsistencies: One, the witness did not mention the death of his three
8 children; that was the first. The second is that in his written statement, he did not say that those who
9 attacked were in uniform, but in his oral testimony, he did say so. So the records have noted that and
10 I think when the time comes, you will be perfectly in order to address the Court on these
11 inconsistencies.

12 MR. JORDASH:

13 Your Honours, I accept what you say, of course, but I think it's only fair to allow the witness to
14 comment on that inconsistency because he may have an explanation.

15 MR. PRESIDENT:

16 The witness has not -- like my learned friend pointed out --

17 JUDGE THOMPSON:

18 Not to the point of being argumentative, certainly not. Not to the point of being argumentative. In
19 other words, the witness has said he told those who investigated this crime everything.

20 JUDGE BOUTET:

21 And I would suggest that it is becoming very close to harassment of the witness as well. I mean,
22 there are so many times you can repeat the same question in a different format as such. We have
23 heard the answer times and times and times so --

24 MR. JORDASH:

25 Well, certainly it wasn't my intention. I apologise if it came across that way.

26 JUDGE THOMPSON:

27 Proceed, learned counsel.

28 MR. JORDASH:

29 Q. Now I want to ask you, Mr. Witness, about your time mining. Now following your capture, you were
30 taken to Tombodu; is that correct?

31 A. Yes, it is true.

32 Q. And you were forced to work, you say, every day; is that correct?

33 A. Yes, we were under gunpoint.

34 Q. And this you would say started from the 16th of December 1999 after you've been captured. Is that
35 correct?

36 A. Well, when they brought us to Tombodu, we took one month there before we started mining, and they
37 said we should start mining at the bridge in Tombodu.

- 1 Q. So where were you during the month before you started mining?
- 2 A. I said we were captured and we were with them at Tombodu. We had brought all the luggage they
3 gave us to bring to Tombodu and we were in there. One month later we started mining.
- 4 Q. These were luggage from where exactly?
- 5 A. These were looted property; clothes, radios and other personal effects were looted and they bundled
6 them into clothes and placed them on our heads and asked us to go with them.
- 7 Q. Looted from where exactly?
- 8 A. Who else can they take it from? They took them from the civilians' houses.
- 9 Q. When you say houses, where were these houses?
- 10 A. These were the huts in which the people lived. I mean, they were mud huts, so anywhere human
11 beings live, we call them houses; don't we? They were all covered. The things were taken from
12 those houses.
- 13 Q. Now, you said you stayed in Tombodu before mining; yes?
- 14 A. I said when we were arrested we were brought to Tombodu with the luggage on our heads. We were
15 brought to Tombodu.
- 16 Q. Where were you placed?
- 17 A. They placed us in an open space, very wide open space.
- 18 Q. How many people were there who had been captured?
- 19 A. When we were captured, we were brought, there were about 50 us, but subsequently more people
20 were captured and brought.
- 21 Q. And were you kept in shelters or in the open?
- 22 A. We also had huts there.
- 23 Q. So you had huts and you stayed there for how long?
- 24 A. We stayed there for a while before we started the mining.
- 25 Q. When you say a while, are you talking of days or months or --
- 26 MR. PRESIDENT:
- 27 But this witness has said one month or so. That is the answer we have on the record.
- 28 MR JORDASH:
- 29 Q. So you stayed there for a month, Mr. Witness?
- 30 A. I have explained that, I have explained that. I said when we were arrested and brought from Koidu,
31 we stayed in Tombodu for one month. It was in the second month when we were asked to start
32 mining.
- 33 Q. What were you doing during that month?
- 34 A. Us? We were only with them, we were there just sitting around with them.
- 35 Q. So during the day you would be sitting outside, this is correct, with the others who had been
36 captured?
- 37 A. The 50 of us who were captured and brought were there with them in Tombodu. We sat there with

- 1 them every day for over one month. It was in the second month that we started mining.
- 2 Q. What were you all doing when you were sitting there, if anything?
- 3 A. We did nothing, we were just there.
- 4 Q. And who was stopping you leaving?
- 5 A. It was them, the RUF that were protecting us.
- 6 Q. Protecting you, is that what you said?
- 7 A. We were there and they were there with us looking after us. I mean, all the roads leading out of
- 8 Tombodu were attacked so there was nowhere to go. We were there with them, the RUF.
- 9 Q. And they were looking after you, giving you food. Is that correct?
- 10 A. There was no food at that time. I mean, they gave us banana, plantain and potatoes.
- 11 Q. So there was food then, plantain and potatoes?
- 12 A. There was a huge plantain farm. It was plantain that we eat. It was there a lot.
- 13 Q. And at night, you would go back into your shelters; is that correct?
- 14 A. They placed us under the huts. Whilst you were sitting there, you will see outside.
- 15 Q. Did you know some of the people who were captured with you?
- 16 A. Which ones, the ones that we were captured with?
- 17 Q. Yes?
- 18 A. You wouldn't ask anybody his name at that time. I mean, you have guns behind your head and you
- 19 are fearing for your life. You wouldn't even ask anybody's name.
- 20 Q. But you'd been living with these people, hadn't you, near the stream or some of the people near the
- 21 stream?
- 22 A. Initially, the 50 of us that were captured, we were brought to Tombodu, but whilst we were in
- 23 Tombodu, they kept bringing more people.
- 24 Q. And the 50 of you who were initially captured were captured from where you'd been living near the
- 25 stream; is that correct?
- 26 A. We were there around Koidu, surrounding Koidu in different places. Everybody lived in his own hut
- 27 with his family. We were all there.
- 28 Q. I'm not sure I understand your answer, but the 50 who were initially brought to Tombodu --
- 29 JUDGE THOMPSON:
- 30 Learned counsel, I am not sure I understand your question. Perhaps you might want to repeat the
- 31 question.
- 32 MR. JORDASH:
- 33 Q. When you were captured, you were captured with 50 other people; is that correct?
- 34 A. All of us who were captured including me summed up to 50. That is the truth. Whilst they place the
- 35 luggage on our heads, they counted us.
- 36 Q. Those 50 were captured from the houses which were around your house near the stream; is that
- 37 correct?

1 A. Everybody was on his own around there. I could remember their faces, but I never knew their names.

2 Q. So throughout the whole period of 1999 when you were living near the small stream, you never found
3 out the names of any of the people living around you. Is that your evidence?

4 A. You wouldn't ask anybody about his own business. Everybody minded his own business. In the
5 morning everybody got up and went out and did his own activities. So you wouldn't go asking peoples
6 name at that time.

7 MR. PRESIDENT:

8 Mr. witness, you said they captured 50 of you?

9 THE WITNESS:

10 Yes.

11 MR. PRESIDENT:

12 Do you know any of those people who were captured with you?

13 THE WITNESS:

14 Some of them spoke Kono. I remember their faces, I know some of them.

15 JUDGE THOMPSON:

16 Learned counsel, the record seem to indicate that he knew them by faces, but did not know them by
17 names. I am at a lost to understand why that is not enough of an answer. "I knew their faces, but I
18 do not, in fact, know their names." Why is this extraordinary that one should live in a particular area,
19 know people by their faces, but not know their names?

20 MR. JORDASH:

21 But this witness lived near these 50 captured people during 1999. He was then, if his evidence is
22 true, captured with them and forced to mine with them and yet knows none of their names. We would
23 say that's somewhat surprising.

24 MR. PRESIDENT:

25 You know --

26 JUDGE THOMPSON:

27 That's argumentative.

28 MR. PRESIDENT:

29 It is -- you see, we have this witness on record as saying that, you know, they were doing everything
30 on gunpoint. They were mining on gunpoint, they were closely supervised by their captors and
31 apparently everybody was to himself under the close supervision of their captors. Don't you think that
32 this environment made it difficult for them to even communicate and be friendly to themselves?

33 JUDGE THOMPSON:

34 My brother says it quite eloquently. This was not a normal situation. It was abnormal, not ordinary,
35 extraordinary. And here this witness is saying, "I knew them by their faces, but not their names."

36 MR JORDASH:

37 That is, of course, Your Honours, if the evidence is true. We say it's not true. Moreover, if we are to

1 investigate this and prove it to be untrue, we need to know the details of who and where and what
2 happened during this period. Only then can we investigate this.

3 JUDGE THOMPSON:

4 But from his perspective, he is not able to provide names because of the situation he has described.
5 He virtually said, "I know their faces, I remember their faces but not names."

6 MR. JORDASH:

7 If one -- we would submit a legitimate question for Your Honours when you found weight in -- whether
8 this account is true or not is whether this witness is able to provide details. It's not enough, we would
9 submit, to simply say: "I was captured. I was forced to mine."

10 JUDGE THOMPSON:

11 [Overlapping microphones] they have been necessary for evidence in rebuttal in case you are advised
12 otherwise?

13 MR. JORDASH:

14 I have been advised by my client this is not true and I'm testing this evidence to see if this witness is
15 able to provide more than the vague details of his account so far, and thus far, he cannot. And we
16 would submit that's relevant to Your Honours evaluation of this account.

17 JUDGE THOMPSON:

18 All right, I am sure as a matter of law --

19 MR. PRESIDENT:

20 We've taken note of that. It's a question of -- it will now turn around the submissions, you know, as to
21 the credibility of this witness and you will have all the time to address us on that issue.

22 MR. JORDASH:

23 Thank you.

24 MS. TAYLOR:

25 Your Honour, just before my learned friend resumes, my learned friend did say that the evidence of
26 this witness was that the 50 people captured in Koidu all came from the area around the small stream.
27 My note of the evidence is that that is not correct; the witness hasn't actually said that all 50 people
28 came from the area around the small stream. He said that the 50 people came from Koidu Town and
29 that is quite a distinction.

30 JUDGE THOMPSON:

31 I think you are right, from my own notes too.

32 MR. JORDASH:

33 I think that is right. I apologise for that misleading assertion, but the point I would respectfully submit
34 remains the same.

35 JUDGE THOMPSON:

36 It's a matter of law.

37

1 MR. JORDASH:

2 Q. Were you staying in your own separate shelter before you started mining when you had been taken to
3 Tombodu?

4 A. I was not in my own shelter; we were all in the same shelter. All the 50 of us were in the same
5 shelter.

6 Q. So you slept in the shelter all together; is that correct?

7 A. It was a big shelter. We were all in there and we all slept there. They would surround the shelter.

8 Q. Were they inside, the people surrounding the shelter, or outside the shelter?

9 A. They surrounded the shelter outside.

10 Q. So there was in the shelter just the people who had been captured; is that correct?

11 A. Only us who were in the shelter. They surrounded the shelter outside.

12 Q. And before I move on, last question on this. At no stage did you talk to any of your fellow captives
13 during that month you were in Tombodu when you were in the shelter?

14 A. At gun point? Nobody spoke to anybody. In fact, we were all wondering whether you were going to
15 be the next person to be killed. So we were very worried for our lives; we didn't even speak to each
16 other.

17 Q. Where you all taken together to the mining after the month?

18 A. Yes. We were all taken to the mining. It was an open space. We were all taken to the mining and we
19 were naked. We were surrounded again by people holding guns.

20 Q. And what time did you start work and what time did you finish?

21 A. We work on shifts. If you went there in the morning, you will be there 'til evening and others come in
22 the evening and they will be there 'til morning, and you were given one plantain in the morning and
23 you only drank a little bit of water all day.

24 Q. Do you know the time that you worked from and to in terms of the clock?

25 MR. PRESIDENT:

26 Mr. Jordash, the clock again, you know, this man has given his explanation. It was on record
27 yesterday. He did say that those who started working early in the morning ended up late in the
28 evening and others took the night shift and work 'til morning. That's how they were -- I mean, you
29 don't expect him to tell you, you know, that is from this time to -- we understand what it is. This is an
30 illiterate witness and you should try and accommodate them, you know, in their intellectual limitations.

31 MR. JORDASH:

32 But -- Your Honour, may not know, but in his statement this witness says --

33 JUDGE THOMPSON:

34 But counsel, make the distinction because from my recollection, the state of the record of the
35 evidence is exactly as the learned presiding judge has indicated. But if you are referring to his
36 statement to the investigator, why not make the distinction for him to understand.

37

1 MR. JORDASH:

2 I was going to.

3 JUDGE THOMPSON:

4 Okay.

5 MR. JORDASH:

6 Q. Are you able, Mr. Witness, to give a time of when you started and when you finished working, a time
7 by the clock? Please say it if you don't understand the question?

8 A. I said we didn't have watches. They had taken everything off. We were naked, completely naked
9 except for our underpants. We started working when the sun came up a little bit, when your skin gets
10 warm a little bit, and we worked until very late in the evening.

11 Q. When you gave your statement to the Prosecutor, your statement before coming to Court yesterday,
12 you said to the Prosecutor this: "We were divided into two shifts wherein one group could mine from
13 7.00 a.m. to 7.00 p.m. and the other from 7.00 p.m. to 7.00 a.m.?"

14 A. I explained yesterday that we worked in two shifts: One shift started in the morning and ended in the
15 evening, another shift started in the evening and ended in the morning. I said that yesterday.

16 Q. So what is written in your statement before yesterday is not accurate; is that correct?

17 MR. PRESIDENT:

18 You cannot -- you cannot say that.

19 MR. JORDASH:

20 Well, I'm simply asking the witness.

21 MR. PRESIDENT:

22 This witness has said, you know, when the sun starts shining, you know, they would go to the place
23 and then retire in the evening. We do not know -- this is what he keeps, you know, saying. Maybe
24 the investigator had his own concept of time. We don't have that evidence there, but if you look at it,
25 if he say -- even if it is 7.00 a.m., it is still the morning hours when it is already sunshine. 7.00 p.m. is
26 late in the evening and then the next shift, you know, takes up from there. Wouldn't that be an
27 ordinary and maybe a more understandable way of treating the time frame of 7.00 to 7.00?

28 JUDGE THOMPSON:

29 And to buttress what my brother is saying, what would be the contradiction there? Except if you want
30 to put to him what specific aspect of that statement to the [inaudible], you can consider to be an
31 inconsistency, because from my frame of reference, one is general, the other is specific, and in my
32 judicial frame of reference, if it is the entire purport of the two statements, one is on the level of
33 generality, the other is on a level of specificity. So in that context, philosophically speaking, I may not
34 perceive a contradiction unless you probe further.

35 MR. JORDASH:

36 Your Honours, that's what I was seeking to do.

37

1 MR. PRESIDENT:

2 Maybe you have something around the corner. Yes, you can go ahead, Mr. Jordash, we just wanted
3 to let you know that. You can go on.

4 MR. JORDASH:

5 Thank you, Your Honour.

6 Q. Did you tell the Prosecution, when giving your statement before yesterday that the shifts had been
7 from 7.00 a.m. to 7.00 p.m., 7.00 p.m. to 7.00 a.m.?

8 A. Yes, I said that yesterday. I said we worked by shifts. If one shift worked in the morning to the
9 evening, the other shift came in the evening to the morning. I have said that and I repeated it again.

10 Q. Now, you told us a moment ago that you had plantain and potato to eat during your time in Tombodu
11 before you were mining. Do you recall that?

12 A. I didn't say that. I said when we came from Koidu to Tombodu, the one month before we started
13 mining we eat plantains and potato. When we started mining, we ate one potato a person a day --
14 one plantain a person a day.

15 Q. And is that all you had to eat every day?

16 A. That was all we had. If you ate one plantain, that's all you had for the day because there were many
17 of us.

18 Q. And you survived simply on one plantain a day? I just want to be clear about this.

19 A. Yes, these are big, fat plantains.

20 Q. Now, I want to refer you again to your statement that you made to the Prosecution before yesterday
21 and you said this: "We were not paid for our work. We were not given food"?

22 A. I didn't say we were not given food to eat. I said we ate plantains, but we were not paid for the work
23 we were doing. What has happened no me is history and I wouldn't forget even if it is ten years from
24 now.

25 Q. So, is that something you told the investigator that you've been given plantain?

26 A. Yes.

27 Q. Your statement that I'm referring to also says this: "We could go in search of bananas and other fruits
28 to eat and even during this time --

29 MS. TAYLOR:

30 I'm sorry. I believe it is "would" not "could."

31 MR. JORDASH:

32 Well, mine says -- did I say would or could?

33 MS. TAYLOR:

34 You said "could". I'm looking the handwritten statement. It says "would."

35 MR. JORDASH:

36 Well, I don't get the title statement, I'm afraid. So it says "would," the original? Thank you.

37

1 BY MR. JORDASH:

2 Q. Let me start that again Mr. Witness. Your statement says: "We would go in search of bananas and
3 other fruits to eat, and even during this time there were gunmen behind us who would forced us back
4 to work." So did you tell the investigator that you would go in search of bananas and other fruits to
5 eat?

6 A. We didn't steal ourselves to go looking for food. We went to look for food with the people. I mean,
7 the bananas were very close to us. They were all over the place. So the guns were always over our
8 heads. So, I mean, there was no way we could steal ourselves to go out looking for food.

9 Q. So what your statement says, that you would go in search of bananas and fruits, isn't correct?

10 A. We didn't go looking for food. I mean, the bananas were all over the place, they were very close to
11 us. So we didn't move from where we were, the bananas were there and the guns were over us. So
12 we couldn't move to go anywhere.

13 Q. Now, you talked yesterday about being guarded by young boys. Do you remember talking about
14 that?

15 A. Yes, there were little boys looking after -- guarding us and these were boys aged 10, 12, 14. These
16 were small boys. They had adults, but there were small boys, about 20 in number. They were our
17 guards.

18 Q. Who was the youngest do you think?

19 A. These were children. I mean, when you look at them in the face, you will know that they were
20 children. It's easy to recognise a child. All of them were 10 years, 11 years -- all of them were under
21 15. So these were children. The adults were on the higher ground behind us, surrounding us and the
22 boys were very close to us, surrounding us with guns. So these are children, it's not difficult to tell.

23 Q. Who was the youngest who was there, from what you could see?

24 A. I can't tell how old they were, but I can estimate their ages. When you look at people in the face, you
25 can tell that they are children. I didn't give birth to them.

26 Q. But yesterday you said the youngest was six; do you recall that?

27 MR. PRESIDENT:

28 Mr. Jordash, how much more time do you think you have to wrap up your cross-examination, because
29 this witness is looking stressed?

30 [Pages 15 to 28 by Momodou Jallow]

31

32

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37

1 [11.32 a.m.]

2 MR. JORDASH:

3 I would think, at least, another 45 minutes.

4 MR. PRESIDENT:

5 Another?

6 MR. JORDASH:

7 Forty-five.

8 MR. PRESIDENT:

9 Four to five?

10 MR. JORDASH:

11 Forty-five

12 MR. PRESIDENT:

13 Forty-five. We'll have to take a break so as to allow the witness to relax a bit. We'll rise for ten
14 minutes. The Court rises.

15 [Recess taken at 11.34]

16 [On resuming at 11.53]

17 MR. PRESIDENT:

18 Yes, Mr. Jordash.

19 MR. JORDASH:

20 Thank you, Your Honour.

21 MR. PRESIDENT:

22 You talk for 45 minutes. I thought you could make it shorter, but go ahead.

23 MR. JORDASH:

24 I think I may be able to make it shorter.

25 MR. PRESIDENT:

26 All right.

27 MR. JORDASH:

28 Q. You spoke yesterday, Mr. Witness, about the time that a 130 carat diamond was found; is that
29 correct?

30 A. It was Major Tactical who told the other boys and us together that all the diamonds that had been got
31 so far put together amounted to 130 carats, not one single carat, it was all the diamonds together
32 mounted (sic) to 130 carats.

33 Q. And you spoke yesterday about Colonel Issa coming to pick up the diamonds. Were you referring to
34 those diamonds, the 130 carats?

35 MR. PRESIDENT:

36 You said Colonel who?

37

1 MR. JORDASH:

2 Issa.

3 MR. PRESIDENT:

4 Colonel Issa.

5 A. [No translation]

6 MR. JORDASH:

7 Q. Could I just pause you there for translation?

8 A. It was Major Tactical who came with diamond which was wrapped in white paper and give it to Issa for
9 the first time. That was the first time we all saw Issa and they pointed to him saying, "This is our boss.
10 He is Issa." That is the money -- the diamond they gave to him, the first diamonds that were gathered
11 and wrapped in a white piece of paper.

12 Q. And you said yesterday that Colonel Issa came once to pick up diamonds and the other times the
13 diamonds were taken to him; is that correct?

14 A. Yes, yes, it is true. The first time he came, they gave him diamonds. It was Major Tactical who
15 showed him to us. The first time they gave him diamonds, and subsequently the diamonds were
16 taken to him, where he was.

17 Q. Thank you. And when he came that once, he was in a red truck; isn't that correct?

18 A. He was not in a red vehicle; he was in a big truck. The first time he came he was in a big truck. That
19 was the first time we saw him.

20 Q. That was the time when the -- the only time when he picked up the diamonds; is that correct?

21 A. That was the time Officer Med gave him the diamonds, the first time we saw him.

22 Q. And you saw him again when he was again in a truck and he was pointed out to you; is that correct?

23 A. [No translation]

24 Q. I'll just pause you there, Mr. Witness, for translation.

25 A. No, it wasn't in the truck when I saw him the next time. It was in August when the work was about to
26 start, that was when I saw him. It wasn't in a truck this time.

27 Q. What was it in?

28 A. He was in a red jeep when my friend saw him. He pointed out, "Hey, there is Colonel Issa." He was
29 in a red jeep. We went out looking for our people. By the time we came back they had taken --
30 disarmed all of them. That's what happened, that's what I know.

31 Q. What was your friend's name who pointed him out?

32 A. He was a Kono man, he was one of the people I was with so when we were going he said, "That's
33 Colonel Issa, that's the one who used to go to us in the mining."

34 Q. So what was this friend's name?

35 A. I have told you, I didn't ask his name. We didn't ask names. You were worried for your life and for
36 your people, but we were all working together.

37 Q. Now, I want to ask you again about your statement before yesterday, a statement you gave to the

- 1 Prosecution before yesterday. And your statement says this: "I witnessed Issa Sesay come to
2 Tombodu many times to pick up diamonds from Officer Med."
- 3 A. I said Officer Med gave him diamond once, but he himself came to Tombodu many, many times. He's
4 a young man, he is slightly tall but not very tall, and he has ball eyes. Even if it is ten years later and I
5 see him I will be able to identify him.
- 6 Q. Well, I'm asking about what your statement says, the statement you gave to the Prosecution before
7 yesterday. Did you tell the investigators that you had witnessed Issa Sesay come to Tombodu many
8 times to pick up diamonds from Officer Med? Did you tell them that?
- 9 A. I said they gave him diamonds in my presence once, all the other times he came to the mining and
10 went back.
- 11 Q. Your statement to the Prosecution before yesterday also says this: "Each time Issa Sesay came to
12 Tombodu he had many bodyguards who carried guns. He travelled in nice motor cars."
- 13 A. I didn't say he was in nice cars. I said each time he came to Tombodu he came in a big truck.
- 14 Q. Did you tell the investigator he came in a big truck?
- 15 A. Yes, he came in a big truck, because there were many of them. A lot of them were people who were
16 travelling with him and they had guns, so when they came, they would alight from the truck, but he
17 came in a big truck. I don't know the colour of the truck.
- 18 Q. Did you tell the investigator that he'd come in a truck or did you tell the investigator that he'd come in
19 nice motor cars?
- 20 A. I told them that at the time he came to the mining site he came in a big truck.
- 21 Q. Your statement to the Prosecution before yesterday also says this: "I was forced to mine for six
22 months." Is that correct?
- 23 A. Six month, yes, in the dry season.
- 24 Q. Your statement to the Prosecution before yesterday also says: "I was mining until disarmament." Is
25 that correct?
- 26 A. Hey?
- 27 Q. Your statement to the Prosecution before yesterday, the statement you gave to them says: "I was
28 with the mining until disarmament, after which the RUF left." Is that correct?
- 29 A. We were in the mining right up to the rainy season. August found -- met us mining.
- 30 Q. Were you mining until disarmament and after which the RUF left?
- 31 A. I wasn't there while the disarmament started. We had gone to the Guinea area looking for our people.
- 32 Q. I said, were you mining until disarmament, as your statement suggests?
- 33 A. No , we were -- I was not there any more. I mean, we were sitting now, waiting. This was late, 2002
34 when the disarmament people started to disarm.
- 35 Q. So if that statement isn't correct, how long before disarmament did you leave?
- 36 A. What time? I don't understand, please explain again.
- 37 Q. Well, if you didn't, as your statement to the Prosecution indicates, leave the mining at the time of

- 1 disarmament, how long before disarmament did you leave the mining?
- 2 A. We complete -- we stopped mining in August. While we were waiting, before the dry season came
3 then disarmament started.
- 4 Q. And at that time, as you told us, you were mining and mined only for six months, that's correct, isn't it?
- 5 A. We mined in the dry season for six months. We don't work in the rainy season.
- 6 Q. After leaving the mines you say you went to Guinea to find your family; is that correct?
- 7 A. Yes, when they released us that's when we went looking for our families and relatives.
- 8 Q. Did you find any of them?
- 9 A. I didn't -- I didn't see them and up to this moment I haven't seen them. They tell me they are in one
10 village in Guinea. They are no longer in the refugee camps, but I have not seen them.
- 11 Q. Just going back to one point. You said yesterday that when Colonel Issa came to Tombodu he had
12 bodyguards and they were all adults; is that correct?
- 13 A. Yes. He came with adults and they were protecting him. All of them had guns, it was only him, Issa,
14 that did not have guns.
- 15 Q. Now I'm almost finished and I just want to deal finally with a few points. Firstly, I would like you to
16 answer this, if you would: Is it not right that in the dry season of 2001 mining in Tombodu was on a
17 two-pile system? Do you understand what I mean when I say that?
- 18 MR. PRESIDENT:
- 19 I haven't gotten the question, myself. Can you -- can you, yes.
- 20 MR. JORDASH:
- 21 I certainly will, Your Honour.
- 22 MR. PRESIDENT:
- 23 Yes. Maybe thinking about it and rephrasing it in a way that you will communicate better with him.
- 24 MR. JORDASH:
- 25 Certainly.
- 26 Q. I'm suggesting to you, Mr. Witness, that if you were mining in the six months before disarmament, you
27 were mining half for you and half for the RUF. That's correct, isn't it?
- 28 A. No, it did not happen at that time. It did not happen at the time I was arrested. The time I was
29 arrested I did not work on the two-pile system.
- 30 Q. And Officer Med did not come to Tombodu until the dry season two or three months before
31 disarmament; is that correct?
- 32 A. Officer Med was there in the dry season. He stayed with us right through to the end of the mining. He
33 was there with all his little boys.
- 34 Q. Have you heard of the two-pile system, Mr. Witness?
- 35 A. When I came -- when I came from Guinea, I didn't work again. When I was working on mining, we did
36 not work under the two-pile system. When we came from Guinea, I didn't work again.
- 37 Q. Who told you about the two-pile system?

1 A. Nobody told me about the two-pile system. I don't know about two-pile system. I'm hearing from you
2 for the first time.

3 MR. PRESIDENT:

4 I want to have -- let's have the spelling of that word two piles for the record, please.

5 MR. JORDASH:

6 It is two and then pile.

7 MR. PRESIDENT:

8 Two-pile? System?

9 MR. JORDASH:

10 System. One pile for A and one pile for --

11 MR. PRESIDENT:

12 For B.

13 MR. JORDASH:

14 Exactly.

15 Q. During your time, Mr. Witness, in the year 2000 and 2001, did you see any United Nations' trucks
16 bringing supplies to the mines?

17 A. I didn't see any United Nations' vehicle. I told you I had gone to Guinea by that time.

18 Q. I'm suggesting this is before disarmament, Mr. Witness. Did you, before disarmament, see any?

19 A. I didn't see anybody. I mean, when they released us, I went up to Guinea and I took some time there
20 before I came back.

21 Q. Just so that you're clear about what I am saying to you, Mr. Witness, I would suggest to you that there
22 was no mining in Tombodu until the year 2001 and that 1999 and 2000 there was no mining in
23 Tombodu.

24 A. What I know is that there was mining there in the dry season.

25 Q. Did you ever see, during your time mining in 2001, the supplies of rice, medicine?

26 MS. TAYLOR:

27 Before --

28 A. In my own time I didn't see that. In my time we ate plantains.

29 MS. TAYLOR:

30 The witness has not accepted that he was mining in 2001.

31 MR. JORDASH:

32 I'll rephrase the question.

33 Q. During your time mining before disarmament, did you see rice, medicine and food brought by trucks to
34 the mine?

35 A. I say I wasn't there at that time. I went to Guinea looking for my people and I took some time there.

36 MR. JORDASH:

37 Could I just take brief instructions, Your Honours?

1 MR. PRESIDENT:

2 Yes, please.

3 [Defence counsel and Accused Sesay confer]

4 MR. JORDASH:

5 Thank you, very much, Your Honour. I have nothing further.

6 MR. PRESIDENT:

7 Thank you.

8 [Trial Chamber confer]

9 MR. PRESIDENT:

10 Mr. Brown.

11 MR. BROWN:

12 May I just have moment?

13 MR. PRESIDENT:

14 Right, okay.

15 MR. BROWN:

16 May I have a moment, please?

17 [Defence counsel and Accused Kallon confer]

18 MR. BROWN:

19 Your Honour, I have no questions of this witness.

20 JUDGE BOUTET:

21 What is that, Mr. Brown?

22 MR. PRESIDENT:

23 Pardon me?

24 MR. BROWN:

25 I have no questions of this witness.

26 JUDGE BOUTET:

27 Thank you.

28 MR. PRESIDENT:

29 All right. Thank you.

30 MR. CAMMEGH:

31 And nor do I.

32 MR. PRESIDENT:

33 Neither do you. Right. Any re-examination?

34 MR. TEJAN-COLE:

35 Yes, Your Honour, just a couple of questions.

36 MR. PRESIDENT:

37 Yes, go ahead.

Re-examined by Mr. Tejan-Cole:

MR. TEJAN-COLE:

Q. Mr. Witness, you mentioned under cross-examination that you heard about an operation called Operation No Living Thing. Do you remember mentioning that?

A. Yes, I remember. The time they announced Operation No Living Thing was the time we went to the Guinea boundary.

Q. Who is this "they" that you're referring to that announced Operation No Living Thing?

MR. JORDASH:

Objection. Your Honours, as I understand -- I beg your pardon, could I elaborate on my objection?

MR. PRESIDENT:

Yes.

MR. JORDASH:

As I understand the purpose of re-examination, it is to clarify evidence which has been cross-examined upon. I did not cross-examine upon the issue of Operation No Living Thing. This is a whole new area which my learned friend is seeking to adduce in front of the Tribunal. In no way did I ask a question about Operation No Living Thing.

MR. PRESIDENT:

But was it ever mentioned? Was it ever mentioned in the course of his testimony under cross-examination?

MR. JORDASH:

It was mentioned.

MR. PRESIDENT:

It was mentioned.

MR. JORDASH:

It was mentioned, but it was not mentioned --

MR. PRESIDENT:

It was not at your instance, but it was mentioned as part of his evidence under cross-examination.

MR. JORDASH:

Yes, but in order to indicate a time of -- an event he was describing, not in order to explain what that operation was and that's what my learned friend is seeking to do now through this witness. And he's seeking to do it despite the fact it is not in the original witness statement and he is seeking to do it despite the fact that I did not ask a single question about Operation No Living Thing.

JUDGE BOUTET:

But isn't this an issue that came out at least twice in his cross-examination? At least it is my recollection that I have in the back of my mind that not only once but the witness twice referred to Operation No Living Thing.

37

1 MR. JORDASH:

2 As an indicator of an event he was describing, as an indicator of when that event took place, but not
3 as a subject matter.

4 JUDGE BOUTET:

5 That you pursued.

6 MR. JORDASH:

7 Exactly.

8 JUDGE BOUTET:

9 Agreed. All I'm saying is this is an issue that came out as part of an answer that the witness was
10 giving to you, although you were not questioning him on that, you were questioning him about another
11 matter but that came out as a result of, and you did not pursue that in this respect.

12 JUDGE THOMPSON:

13 But I want to know why should the rule be so circumscribed? If it did come out of cross-examination,
14 what rule would preclude the Prosecution from re-examining on it if it is on the record? Why is the
15 rule circumscribed? In other words, you seek to make a distinction between the purpose of the piece
16 of evidence being on the record and I want to know what rule of law limits re-examination only to
17 questions put by you the counsel, because my understanding of the broad scope of re-examination is
18 that once the issue has arisen out of cross-examination, then it's new and counsel for the Prosecution
19 or counsel for the Defence would be entitled to re-examine on that issue.

20 MR. JORDASH:

21 Well, the difficulty with that, Your Honour, is that we could never -- we may never leave this
22 courtroom, because if my learned friend adduces fresh evidence about Operation No Living Thing, the
23 Defence will be compelled to apply to Your Honours for an opportunity to rebut. My learned friend
24 then may seek re-examination and so on and so forth.

25 JUDGE THOMPSON:

26 Yes, but of course the Court has a discretion to control any process like that and limit it. But my
27 question is, if it came out of cross-examination, why should he not re-examine on it if it is to clarify
28 certain doubts, because that would be the purpose?

29 MR. JORDASH:

30 If my learned friend is seeking to establish and clarify with this witness the timing which he has given
31 during examination-in-chief and cross-examination I have no problem with that approach. If he is to
32 elicit fresh evidence about Operation No Living Thing itself --

33 JUDGE THOMPSON:

34 That would be trying to have a second bite at the cherry. I would propose what counsel is seeking to
35 do here is to clarify some lingering doubt on the Operation Living Thing concept.

36 MR. JORDASH:

37 If simply my learned friend is seeking to establish more firmly the timing which is run through this

1 witness's evidence, as I have said, I have no problem whatsoever with that. If he is to establish the
2 details of what this witness knows about Operation No Living Thing, the impact and so on and so
3 forth --

4 JUDGE THOMPSON:

5 It would be clearly impermissible.

6 MR. JORDASH:

7 I'm grateful.

8 MR. PRESIDENT:

9 I think the core -- the core issue is whether under the traditional practices of re-examination the party
10 or counsel re-examining can re-examine on all the evidence that was raised as a result of
11 cross-examination. This is a core issue. Are you trying to -- my learned friend -- my learned brother
12 even mentioned, you're trying to limit it only to certain issues, but the perception, as it is is that
13 counsel could re-examine on matters that have arisen under cross-examination even if it did not arise
14 under examination-in-chief.

15 JUDGE THOMPSON:

16 And to add to what my brother says for clarifications purposes, because the evidence [inaudible] for
17 clarification purposes.

18 MR. JORDASH:

19 Your Honour's mic isn't on.

20 JUDGE THOMPSON:

21 As my learned brother said, counsel is entitled to cross-examine on issues arising -- to re-examine on
22 issues arising under cross-examination for purpose of clarification.

23 MR. JORDASH:

24 And as I've said to Your Honour, I have no problem with that.

25 JUDGE THOMPSON:

26 But I'm sure that we're all agreed that if it is to elicit new evidence, that would be trying to bolster
27 examination-in-chief and clearly impermissible.

28 MR. JORDASH:

29 I completely agree with Your Honours.

30 MR. PRESIDENT:

31 I think we can move on, Mr. Jordash. The objection is not sustained, it is overruled.

32 Can counsel for the Prosecution please go -- move along.

33 MR. TEJAN-COLE:

34 I'm grateful Your Honours.

35 Q. In answer to my last question you said that they had declared Operation No Living Thing. Who is this
36 "they" that you're referring to?

37 A. It is our friends the civilians who told us that there was an Operation No Living Things came on and I

1 asked what is this Operation No Living Things and they responded, "Oh, well if they meet anything
2 that is alive, they will kill it." So I said, "Well, it is good for us to run away, so I am going to run away
3 and go somewhere else."

4 Q. Where were you exactly when you heard about Operation No Living Thing?

5 A. I was in the town in which I was born, my birth place.

6 Q. Do you recall the year?

7 A. That year it was 1998.

8 Q. Now, you also mentioned under cross-examination that Colonel Issa came to Tombodu once to pick
9 up diamonds but that you saw him on several other occasions in Tombodu; is that correct? You said
10 he came once if I can recall --

11 A. I cannot bear false witness against him. He was given diamonds in my presence only once, but he
12 went there often. He went there with his friends and his security and he returned quite a few times.

13 MR. TEJAN-COLE:

14 That is all for this witness.

15 [Pages 29 to 38 by Roni Kerekes]

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1 [12.33 a.m.]

2 MR. TEJAN-COLE:

3 That is all for this witness.

4 JUDGE THOMPSON:

5 I just wanted to say what more clarification do you need?

6 MR. TEJAN-COLE:

7 That is all for this witness, Your Honours, I will take the cue from the Bench.

8 MR. PRESIDENT:

9 As you very well know we are not sitting this afternoon, so the Court will adjourn to tomorrow at
10 9.30 a.m. to continue with the proceedings and I hope that we are understood by the Prosecution as
11 what -- continuing the proceedings, you know.

12 MS. TAYLOR:

13 Indeed, Your Honour. Might I just ask a question for clarification? Today and tomorrow we have sat
14 half an hour earlier than we have on other days and this week we have been sitting later than we have
15 earlier in the proceedings, and I just wanted an indication from Your Honours so that the Prosecution
16 can have enough witnesses available if there is to be some standardisation of the sitting hours.

17 MR. PRESIDENT:

18 We don't want to standardise, we will be moving as we are moving along and it is for you to take the
19 necessary precautions that you took yesterday and for us to get along.

20 MS. TAYLOR:

21 Then we shall simply do our best, Your Honour.

22 MR. PRESIDENT:

23 Right.

24

25 Well, the Court will rise and resume tomorrow at 9.00 o'clock.

26 MR. BROWN:

27 9.00 o'clock, Your Honour. Your Honour, you said 9 o'clock, you had said 9.30 earlier, you just said
28 9 o'clock.

29 [Cannot distinguish speaker]

30 MR PRESIDENT:

31 Okay, thank you.

32 [Whereupon the hearing adjourned at 12.35 p.m., to be
33 reconvened on Thursday, the 22nd day of July at 9.00 a.m.]

34 [Page 39 to 39 by Susan G. Humphries]

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CERTIFICATE

We, Gifty C. Harding, Momodou Jallow, Roni Kerekes, and Susan G. Humphries Official Court Reporters for the Special Court for Sierra Leone, do hereby certify that the foregoing proceedings in the above-entitled cause were taken at the time and place as stated; that it was taken in shorthand (*machine writer*) and thereafter transcribed by computer; that the foregoing pages contain a true and correct transcription of said proceedings to the best of our ability and understanding.

We further certify that we are not of counsel nor related to any of the parties to this cause and that we are in nowise interested in the result of said cause.

_____ Gifty C. Harding

_____ Momodou Jallow

_____ Roni Kerekes

_____ Susan G. Humphires