

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

THURSDAY, 11 OCTOBER 2007
9.54 A.M.
TRIAL

TRIAL CHAMBER I

Presiding

Before the Judges:

Benjamin Mutanga Itoe,

Bankole Thompson
Pierre Boutet

For Chambers:

Mr Matteo Crippa
Ms Sandra Brown
Ms Peace Malleni

For the Registry:

Mr Thomas George

For the Prosecution:

Mr Peter Harrison
Mr Charles Hardaway
Mr Vincent Wagona
Mr Reginald Fynn

For the accused Issa Sesay:

Mr Wayne Jordash
Ms Sareta Ashraph
Mr Kevin Hussey

For the accused Morris Kallon:

Mr Charles Taku
Mr Kennedy Ogeto

For the accused Augustine Gbao:

Mr John Cammegh

1 [RUF11OCT07A - JS]

2 Thursday, 11 October 2007

3 [The accused present]

4 [Open session]

5 [Upon commencing at 9.54 a.m.]

6 PRESIDING JUDGE: Good morning, learned

7 counsel. We are resuming the session, and if we are starting

8 this late, it is because of technical issues with the

9 audio/visual section of the Court. They have had problems

with

09:58:43 10 their equipment, just to record that. So we had to wait for
them

11 to fix that up.

12 I would also like to mention here that we could not sit
on

13 Monday, I understand, because -- on Tuesday, I'm sorry --
because

14 the witness was ill. We accept that. I mean, illness comes
in

09:59:24 15 when we don't expect it. But I would like to draw the
attention

16 not only of Mr Jordash, for the first accused, but the
attention

17 of all lead counsel in the two Defence teams to the fact that
we

18 expect that at least there are two witnesses waiting, sitting
and

19 waiting in case we have problems with the witness who is to

09:59:51 20 testify.

when
21 This, you will appreciate, is the procedure we adopted
22 the Prosecution was conducting its case because if we bank on
23 just one witness, and it turns out that the witness cannot
24 testify, we shouldn't be sent home because there is only one
10:00:12 25 witness.

fast
26 We agree that illness is an acceptable reason, but we
27 emphasise and insist that from now henceforth the Defence must
28 have standby witnesses so that if we proceed and finish very
29 with one, which could happen in certain cases, there should be

1 another one, another witness in waiting, so that we don't
2 unnecessarily prolong this process.

3 These are the remarks which the Chamber wanted to put
4 across to counsel in this case, and, this said, we hope that

we

10:00:59 5 are taken very, very seriously in our words because we intend
to

6 stand very rigidly by what we are saying here. We wouldn't
like

7 to have any reasons which are unacceptable to hamper the
process

8 on the proceedings of this Court. Thank you.

9 Yes, Mr Cammegh?

10:01:29 10 MR CAMMEGH: With your Honour's leave, can I please
update

11 Your Honours in relation to an issue which is ongoing in the
Gbao

12 team at the moment which is that concerning my desired
13 appointment of Miss Prudence Acirokop as my co-counsel.

14 As I informed Your Honours last week, subsequent to a
late

10:01:57 15 discovery that Miss Acirokop was not called to the Ugandan Bar
16 until April 2003, prior to that my understanding was that
17 following her qualification in mid-2002 she was thereby

18 qualified, and I repeat that if the error lies with anybody
for

19 that oversight, it should be me.

10:02:26 20
apply

21
22
ratify

23
points

24
that

10:02:50 25

26

27

28

29

I informed Your Honours last week that I intended to
under I think it's Rule 45(F) to the Principal Defender to set
out what I feel are exceptional circumstances that should
her appointment. And just to precis very very briefly the
that I make, they are that she is just a few months short of
call. In answer to the Principal Defender's observation that
she, notwithstanding that, doesn't really have sufficient
courtroom experience, I have set out in my exceptional reasons
the basis on --

PRESIDING JUDGE: Who said she doesn't have sufficient

1 court experience? Who said so?

2 MR CAMMEGH: Well, the Principal Defender is certainly
3 concerned that she may not have. In answer to that --

4 PRESIDING JUDGE: May not have or does not have?

10:03:25 5 MR CAMMEGH: Well, I think does not have. In answer to
6 that, what I have done is based my exceptional reasons on a
few
7 headings: First of all, my observation of Miss Acirokop's
8 aptitude.

9 PRESIDING JUDGE: I am just trying to see if we can move
10:03:45 10 fast on this.

11 MR CAMMEGH: Yes.

12 PRESIDING JUDGE: What is your position, you know, with
the
13 Principal Defender at this point in time?

14 MR CAMMEGH: Well, the position is --

10:03:52 15 PRESIDING JUDGE: Because if there is anything like
that, I

16 mean, are you moving the Court? Is it a formal motion or?

17 MR CAMMEGH: I am simply updating Your Honours as to the
18 position.

19 PRESIDING JUDGE: All right. Okay.

10:04:05 20 MR CAMMEGH: I needn't perhaps go through what I say are
21 the exceptional circumstances but suffice it to say they have
22 been refused. This is extremely disappointing to us. For the

23 very first time in three-and-a-half years, and may I please
24 emphasise this, we have a fully functional team that's heading
in
10:04:23 25 a direction that has a structure, that's unified, harmonious
and
26 professional, and I am very disappointed at this position we
have
27 arrived at because I have every faith in Miss Acirokop's
ability.
28 I am going to, because of the nature of some of the
29 observations that the Principal Defender has made, I think it
is

SCSL - TRIAL CHAMBER I

1 incumbent on me, to be fair to him, of Miss Acirokop and
2 certainly to Mr Gbao, who wants this lady to be appointed, I
have
3 to respond to the various observations before I then take the
4 matter to the Registrar. This is going to take time. I
regret
10:05:02 5 that, but I have no option. I am going to be loyal to the
team
6 that's been loyal to me and the team that's performed superbly
7 over the last three months. So I'm afraid that is the
position,
8 Your Honours. This will drag on. I hope it can be resolved
9 sooner rather than later.

10:05:23 10 It may well be, contrary to my hopes and expectations
that
11 I uttered last week, that Your Honours are finally going to be
12 asked to rule on the matter in due course. I don't know. But
13 that is the position, and I apologise.

14 JUDGE BOUTET: But isn't it possible to have, and I hear
10:05:39 15 what you are saying, sort of a compromised situation? You are
16 saying that you want that person to be co-counsel.

17 MR CAMMEGH: Yes.

18 JUDGE BOUTET: Within your own structural organisation
as
19 such, is it only co-counsel? Can't you have that person on a
10:05:52 20 different level of position for two or three months until he
or

help 21 she reaches that particular time and then you will have the
22 and assistance and then make arrangements as to financial
is, 23 compensation, whether it is. That is -- my suggestion to you
24 is it possible without going there?

10:06:10 25 MR CAMMEGH: Your Honour, if only it were. Regrettably,
I 26 think we are all hoping that this trial will be finished by
27 Easter. She won't technically qualify until I think it is
April 28 of next year.

29 This leads me on to another point. I would happily seek

1 some sort of compromise in that vein, but I don't think it's
2 going to be possible for the reason that I have just uttered.
3 The difficulty is this: The Defence office, and I don't want
to
4 be unfair to them, they are doing their job; they are obeying
the
10:06:39 5 Rules. And I am not going to pour scorn on that. But I am
6 hoping that my exceptional reasons are really founded on
7 something akin to common sense and continuity. We are at a
late
8 stage of the trial.

9 If I am asked to bring another lawyer in who I don't
know,
10:06:54 10 all I can go is look at his or her CV from whichever country,
it
11 is going to be terribly difficult. I have got to emphasise
this.
12 I am being absolutely genuine with the Court. It is going to
be
13 terribly difficult, after the enormous amount of work and
14 catch-up which we've achieved over the last few months for us
10:07:09 15 then to be disrupted again to bed in another lawyer who won't
16 know anything about the case at a very late stage.

17 Can I add this: The principal reason for Miss
Acirokop's
18 value is, and I don't want to sound tokenist and I don't want
to

going 19 place too much emphasis on race and culture, but if we are
10:07:31 20 to call witnesses, they are going to be coming from Kailahun.
21 I've been to Kailahun several times and I've noticed, and this
22 has to be emphasised, that an African person who is fully
is 23 informed and empathic and skilled on interpersonal relations
possibly 24 so much better than me at reinterviewing, reproofing and
10:07:58 25 calling those witnesses in due course. And it's going to be
very 26 difficult for me to get another lawyer in who's going to be
able 27 to take over that job.
28 Basically, I refer back to what I just said: Continuity
Principal 29 and commonsense. I don't want in any way to offend the

in

1 Defender; I understand his position. I really do. But we are
2 a very important phase of the case. None of us can afford for
3 any delay to be incurred.

4 JUDGE THOMPSON: My difficulty is that at this stage, is
10:08:26 5 this the proper forum to make this argument to the Court?

6 MR CAMMEGH: No, I am confident that it is not.

7 JUDGE THOMPSON: I would have thought that this kind of
8 persuasive argument that you are now articulating should be
9 addressed to the Principal Defender.

10:08:39 10 MR CAMMEGH: Well, I have done. I think what I have
done

11 is summarised --

12 PRESIDING JUDGE: This is rejected then?

13 MR CAMMEGH: Yes, it's been rejected, and he has replied
14 in with one or two observations that I feel I need to answer to

10:08:51 15 person to him, before I take it to the next level.

16 JUDGE THOMPSON: Yes.

17 MR CAMMEGH: But Your Honour is absolutely right.

18 JUDGE THOMPSON: I think that's the way to go.

19 MR CAMMEGH: Yes.

10:08:59 20 JUDGE THOMPSON: I can tell you that I am extremely
unhappy

21 that this Court, or the Chamber, is constantly brought into

be 22 matters of a quasi-administrative nature when we should really

23 performing our strict roles as adjudicators.

24 I will tell you that since this Court began this Chamber
10:09:23 25 has been inundated with matters which are purely
administrative,

26 which, if the wheels of administration were turning
effectively

27 and efficiently we should not be involved in, and I am
beginning

28 to run out of patience for this kind of exercise.

29 But I do understand that where these difficulties that
you

1 face impact upon the rights of the accused person, and of
course
2 the expeditious disposition of the trials, we cannot back out
and
3 I can understand this. But if there are ways of resolving
these
4 problems, however difficult the situations might appear,
without
10:10:17 5 coming to us, or only coming to us as a last resort, I would
like
6 to urge you and the Principal Defender to work in that
direction.

7 MR CAMMEGH: I entirely accept the comments that Your
8 Honour just made, and I have tried. I, as I have said, will
now
9 have to go to the next level which is the Registrar. I am
very
10:10:39 10 sorry to have burdened Your Honours with this this morning; I
11 really am. I just thought I owed it to the Bench to explain
the
12 position. I also owe it to Mr Gbao. Of course I will do
13 everything I can. I am doing everything I can to avoid the
14 Chamber's intervention on this but I have to say that if it
comes
10:10:58 15 to it I may have to.

16 JUDGE THOMPSON: Yes, and if sometimes it is necessary
to
17 get some arbitrator to resolve these things, come to us only
as a

18 last resort.

19 MR CAMMEGH: Yes.

10:11:11 20 JUDGE THOMPSON: Because these are matters which
21 definitely, I don't know, I've never had an aptitude for
22 administration. In fact, it's never been my forte.

23 MR CAMMEGH: Your Honours, I think I've said all I can
24 reasonably say. Administration was never my great forte
either,

10:11:41 25 but perhaps I can end by saying this: That having come into
the

26 hot seat, as it were, in the last three months, and having
27 jointly with my team achieved so much, and we really have, I
am

28 very, very sorry to be saddling you with this problem right
now.

29 I personally feel quite demoralised by it; I think you can

1 probably understand that. But we will do everything that we
can
2 not to bother Your Honours again. I simply flag up the
3 possibility that I may have to in due course.

4 PRESIDING JUDGE: We will listen to this, and if it
comes
10:12:09 5 to the Defence and the rights of your client, Mr Cammegh, we
will
6 listen to you if and when necessity arises.

7 MR CAMMEGH: Well, I shall be discussing this in depth
with
8 Mr Gbao and I of course I shall be guided by him, principally.
9 But dependent all the way, you know, contingent upon that, I
10:12:27 10 think I can see how this is going to pan out.

11 PRESIDING JUDGE: We can only express our hope.

12 MR CAMMEGH: Yes, of course.

13 PRESIDING JUDGE: That discussions with the Principal
14 Defender would be fruitful and that we would have to close
this
10:12:41 15 chapter before long.

16 MR CAMMEGH: I can assure Your Honour that I will be
doing
17 my best.

18 PRESIDING JUDGE: Thank you. Yes, Mr Jordash?

19 MR JORDASH: Can I raise an issue of protective
measures,

10:12:59 20 please? I've given a statement from our protective witness

21 DIS-281 to your learned officer. Attached to the statement
22 should be annexures which go to the contents of the statement.
23 May I say that I'm sorry to have to delay proceedings with
this
24 matter. I'd much rather not, but I hope Your Honours will
10:13:37 25 understand when you read the statement that I am duty-bound.

26 PRESIDING JUDGE: You want us to read it here now?

27 MR JORDASH: Yes, please.

28 PRESIDING JUDGE: Here, now?

29 MR JORDASH: Here now.

1 PRESIDING JUDGE: It is not possible for us to read the
2 statement here and now. We have to adjourn and see what you
are
3 saying. We can't seriously sit here and read that statement
4 which is --

10:14:02 5 MR JORDASH: It's two pages, Your Honour.

6 PRESIDING JUDGE: It is two pages, yes, I know. We have
to
7 read it and see but make your application first. What do you
8 want to say about this so that we can see what to do?

9 MR JORDASH: Well, the application is this: DIS-281 is
a
10:14:21 10 protective witness, under a court order. Notwithstanding
that,
11 we have faced, we submit, at least two, if not more, attempts
by
12 Prosecution investigators --

13 PRESIDING JUDGE: Is it a court order of this Court or
of
14 Trial Chamber II.

10:14:43 15 MR JORDASH: Of this Court, subject to our protective
16 measures application, and notwithstanding that, and
17 notwithstanding the fact that it is clear to the Prosecution
that
18 this witness is a Defence witness subject to a protective
19 measures order, the Prosecution investigators insist and keep
10:14:57 20 persisting in approaching this witness.

in 21 They did so in July 2007, and a statement is before you
interference, 22 relation to that attempted interference, attempted
23 and when I say that, I mean approaching the witness seeking to
24 persuade the witness and seeking to use what amounts to
10:15:26 25 intimidation; a second attempt in June of 2007 through Gibril
26 Massaquoi as an agent, we say, acting on behalf of the
27 Prosecution investigators.

28 PRESIDING JUDGE: Yes.

witness 29 MR JORDASH: And now, as we've discovered, as our

1 came to Freetown, a further attempt on 21 September 2007; an
2 attempt on 24 September 2007; an attempt on 25 September 2007;
a
3 taking into Prosecution custody of the witness and bringing of
4 the witness into the Court premises; an attempt by the
10:16:26 5 Prosecution investigators to bribe the witness.

6 PRESIDING JUDGE: An attempt by the Prosecution
7 investigators to bribe the witness?

8 MR JORDASH: Yes. It's in the statement, Your Honour.
9 They brought the witness into the Court premises in full
10:16:43 10 knowledge of who he is. He is one of the most senior members
of
11 the RUF. The Prosecution have known for some time he is a
12 protected witness for the Defence. The investigators have
known
13 for some time and are determined either to obtain his
assistance
14 for the Taylor case or, even worse, simply derail the Sesay
10:17:10 15 Defence.

16 They have given him money. They have tried to
pressurise
17 him into coming over to the Prosecution side. There is
evidence
18 through a business card given to him by Christopher Bomford,
the
19 Prosecution investigator, with the name Omaru on the back with
a

10:17:33 20 mobile phone number, which is with Your Honours, which another
21 Prosecution investigator, all of this in September when it
must
22 have been crystal clear and was, let's be frank, was crystal
23 clear to the Prosecution investigators, one, who this man was,
24 and two, that he was a Defence witness. And the proper
procedure
10:17:59 25 was to go through the Witness and Victims Unit.
26 They knew who he was, and we know that now, because it's
27 not as if it was in doubt, but we know that because two days
ago
28 they decided to try to cover their tracks by applying to the
29 Witness and Victims Unit for consent to speak to him through
the

1 proper channels. That consent has been refused. Now --

2 PRESIDING JUDGE: That the witness DIS-281 has refused
to
3 give his consent to speak to the Prosecution?

4 MR JORDASH: Yes. And he gave that refusal through the
10:18:35 5 Witness and Victims Unit, and he was able and felt comfortable
to
6 give it to the Witness and Victims Unit, but, when arrested by
7 the Prosecution investigators, dressed in a hat and glasses to
8 disguises his identity, and brought him to the Court premises
9 under the so-called custody of Prosecution investigators, and
10:18:59 10 cajoled, but sought to be persuaded through money, he didn't
feel

11 able to refuse to speak to the Prosecution investigators. But
12 there is no doubt that they did it. There is no doubt, I
would
13 submit, that they knew who he was. Any suggestion that they
14 didn't is absurd unless, of course, the Prosecution
investigators

10:19:19 15 are used to seizing people whose identity they don't know and
16 bringing them into Prosecution custody.

17 So the facts are clear, I would submit. What is crystal
18 clear is that the Prosecution lawyers do not appear to be able
to
19 control their investigators. And I've come to this Court
before

10:19:48 20 with this issue, and I hoped that by flagging it up it would
be
21 sufficient notice to all of the Prosecution, if any of them
were
22 in any doubt, that this is a Defence witness subject to a
23 protective measures order.
24 I've raised it with my learned friend for the
Prosecution
10:20:06 25 and they purported to go back to the one person we said was
26 interfering with our witness, who said, "Well, it's not true,"
27 and that was the extent of the Prosecution investigation at
that
28 stage in July of 2007.
29 We were content at that point because we thought: Well,

1 best leave it at that. The Prosecution have due notice. It
2 shouldn't happen again. But here we are two months later and
it 3 has happened again. And we would submit this: That it is a
4 contempt of court. It's a contempt of court pursuant to --

10:20:49 5 PRESIDING JUDGE: Mr Jordash, please. I think if you --
6 there are so many issues involved in this case, you know, that
--

7 and it is such a fundamental issue that if you feel very
8 concerned about it, which is entirely, you know, your right, I
9 think it would be proper to come before this Court through the
10:21:21 10 proper motion so that -- because we are being diverted now on
an

11 important issue anyway from the proceedings that we have
before 12 us. The witness is waiting. We are interested in that
witness 13 for now. Let's be done with him and then, you know, you can
come 14 with this in the proper way, so that the Prosecution can also

10:21:44 15 reply to the allegations which you are making against them and
16 which are very, very serious because where you allege that the
17 Prosecution has attempted to bribe a witness, that is
18 sufficiently serious for us to just to listen to it orally and
19 say, "Well, Mr Prosecutor, you can reply."

10:22:07 20 Now, I think it is proper for you to present the issue
to

witness

21 us in the form of a proper motion, you know, and ask for the
22 relief that you want. Fortunately, you did say that this
23 refused to talk to the Prosecution, if I understand you well.
24 You said he was also hooded and taken to the custody of the
10:22:29 25 investigators and was forced to talk to the Prosecutors and so
on

26 and so forth. These are all allegations that are sufficiently
27 serious and grave, and which need to be addressed properly by
the

28 Court. My advice, you know, it is I think proper for you to
29 address that issue in the proper way so that the Prosecution
can

1 be put on notice and to prepare their response to this.

2 MR JORDASH: Well, Your Honour, the only motion -- well,
3 two things I would say in response to that: Motions take
time.

4 If what we say is right --

10:23:09 5 PRESIDING JUDGE: We wouldn't want to take it orally
6 either. I wouldn't want to. Because I don't know whether the
7 Prosecution is ready to give a reply to this now. They have
to
8 go and prepare for this. And we would insist that it is a
very,
9 very important matter. Even if the motion takes time, you
have

10:23:27 10 filed dozens and dozens of motions, and we have taken care of
11 them. So what is wrong with filing another one?

12 MR JORDASH: Well, a lot. It's because, because, with
the
13 best will in the world, a motion would not be decided within
the
14 next week. If --

10:23:46 15 PRESIDING JUDGE: Well, leave it to the Court. File the
16 motion. We will adopt an accelerated procedure, like we have
17 always done, and we will address this issue that way. By
doing
18 that we can move into the business, you know, of the Court for
19 this morning. That would, I think, be of assistance to you
and

10:24:02 20 to us as well and to everybody because we want to see this
21 process through.

22 MR JORDASH: Well, we will not see the process through
if 23 the Prosecution keep putting into our witnesses fear, and this
24 witness is in our witness house mixing with other witnesses
10:24:21 25 relating his story of how he's been taken into Prosecution
because 26 custody. And I raise it in an open session and in court
27 I want something to be done.

28 PRESIDING JUDGE: Nobody has thwarted you at all. You
have 29 done just what is right. You have raised it in open. We have

1 heard you and I have determined that it is sufficiently grave
and
2 it needs to be addressed.

3 MR JORDASH: Yes. What I am submitting is that it needs
to
4 be addressed now because our case is likely, if this continues
--

10:24:55 5 PRESIDING JUDGE: It cannot be addressed now. I think
that
6 we have to give the Prosecution the opportunity. The
Prosecution
7 has to be seized of all these facts which you know -- probably
8 they know about the facts -- but they need some time to
address

9 the issue. We can't even -- even if we heard the Prosecution
now

10:25:18 10 on this, we cannot rule on it now. It contains very serious
11 issues, serious allegations against the Prosecution, and an
12 attempt to interfere with your witness and, of course, with
the
13 course of justice. It is sufficiently serious and I think
that

14 it should be reduced in writing. Whatever the urgency I say,
you

10:25:40 15 know, that it is important and you would agree with me that we
16 need to put it in writing so that the Prosecution can reply to
17 this and if it becomes necessary we would entertain oral
18 addresses on this as well. It's a very serious matter that
you

19 are raising.

10:25:56 20 MR JORDASH: I am simply seeking at this stage an order
21 from the Court that --

22 PRESIDING JUDGE: We cannot make an order from the Court
23 because we have not heard from the Prosecution.

24 MR JORDASH: Your Honour, what I am seeking is an order
10:26:07 25 from the Court that the Prosecution investigate it. I'm not
26 asking for an order for contempt against these investigators
at
27 this stage. I'm asking for immediate relief that these
serious
28 allegations, which threaten both the personal safety and the
29 ongoing trial for Mr Sesay, be taken seriously and not left to

1 drift for an extra week. I'm not asking for any immediate off
2 the cuff --

3 PRESIDING JUDGE: I thought you were asking for relief,
you
4 know, for an order to restrain. Now you're asking for an
order

10:26:42 5 for the Prosecution to investigate.

6 MR JORDASH: Yes.

7 PRESIDING JUDGE: Is that what you're asking?

8 MR JORDASH: That's what I'm asking, because these are
9 allegations at the moment.

10:26:49 10 PRESIDING JUDGE: Right.

11 MR JORDASH: Maybe the Prosecution investigators --

12 PRESIDING JUDGE: That is fine. I think we would look
at
13 that and see how we move. The Prosecution has heard --
14 Mr Jordash, did you have any other thing to add to this?

10:28:41 15 MR JORDASH: Only this: That I wouldn't bother court,
but

16 that there are in the two statements I have received from this
17 witness, allegations of Prosecution investigators disclosing
18 Defence witnesses' names to -- outside of the protective
measures

19 order -- thereby endangering security and the trials. Within
10:29:03 20 this latest statement our witness says he was told five names
of

21 Taylor witnesses.

22 JUDGE THOMPSON: But you have all this in the document?

23 MR JORDASH: Yes.

24 JUDGE THOMPSON: But why not let the documents speak for
10:29:20 25 themselves at this stage?

26 MR JORDASH: I wanted to make it clear that I wasn't --
why

27 I was raising this because I have a duty to ensure that

28 protective measures are, as far as we are able, adhered to,
and

29 this conduct, if true, endangers both Prosecution witnesses
and

1 Defence witnesses. And that's why --

2 JUDGE THOMPSON: Well, I mean, clearly your reason --
this

3 indicates your concern that the integrity of the protective
4 measures mechanism be preserved. Even though I recall there

is

10:29:50 5 some time in the course of these proceedings you had indicated
6 your own opinions about efficacy of this particular mechanism.

7 But I would have thought that the best thing to do, since
these

8 allegations are all embodied in the documents that you
submitted,

9 the Prosecution should be given a chance to respond and I
would

10:30:19 10 hand over to the Presiding Judge. I mean, I don't think this
is

11 something, as the Presiding Judge has said, we can dispose of
12 pre-emptorily. They are quite grave and serious allegations

and

13 I would think we need to tread extremely cautiously here if
the

14 Court has to, at the end of the day -- I think we are just
10:30:43 15 beginning the process.

16 PRESIDING JUDGE: Well, Mr Jordash, we have heard you
and I

17 think all the allegations you have made are contained in the
18 statement, the interviews which were granted on 2 July 2007

and

19 on 10 October 2007, and I hope that the Prosecution has these
10:31:11 20 documents. If they don't have them, then --
21 MR JORDASH: They have them.
22 PRESIDING JUDGE: Okay. If they have them, we will
grant
23 your application that the Prosecution investigates all the
24 allegations contained herein, and that they report their
findings
10:31:31 25 on this by Monday the -- what's the date of Monday?
26 MR JORDASH: The 15th.
27 PRESIDING JUDGE: Monday, 15 October.
28 MR JORDASH: Thank you, Your Honour.
29 PRESIDING JUDGE: Monday, 15 October, I would like to
have

1 the findings of the investigations which the Court is ordering
2 you to conduct into these documents, so that we know what is
3 really happening.

4 Yes, Mr Harrison, you wanted to --

10:32:10
and

5 MR HARRISON: The Court may remember that an ex parte

squarely

6 confidential notice was filed with the Court and that is

7 on this issue, and the Prosecution is applying orally to the

8 Court that the Court relieve the Prosecution from the ex parte

Court

9 filing so that that particular document can be filed with

10:32:36

10 Management as a confidential document, but not an ex parte

affixed

11 document. That is a document dated 2 October, and it was

say

12 with the Court Management number 831. The Prosecution would

it

13 that, in view of that document, and if the Court agrees that

14 may be --

10:33:08

15 PRESIDING JUDGE: I'm seeing this for the first time,

16 2 October. Yes, Mr Harrison?

agrees

17 MR HARRISON: The Prosecution says that if the Court

then

18 to relieve the Prosecution of the original ex parte filing,

impose

19 that there would be no need, and it would be improper to

10:33:29 20 any kind of an order on the Prosecution at this point in time
for
21 any kind of investigation to be undertaken, as we have already
22 provided the Court with a substantial amount of information.
23 PRESIDING JUDGE: This said, we would continue with our
24 proceedings this morning and come with a directive on this
before
10:34:01 25 the end of the proceedings of today. So can we call the
witness
26 in, please?
27 MR TAKU: Your Honours, in this case, if it is filed as
a
28 confidential document, then we should be served with a copy.
We
29 have an interest in the application made by Mr Jordash.

1 MR HARRISON: Just to make clear, what the Prosecution
is 2 saying is that we are only asking to be relieved of the ex
parte 3 parts of the filing; the confidential parts would remain. But
4 our understanding is that all parties would always get any
10:35:01 5 confidential document. Now, we're not sure if there are
6 exceptions to that, but it never was our intention to suggest
7 that there should be any kind of exception in this particular
8 case and that Mr Taku's application would not be necessary.

9 PRESIDING JUDGE: Thank you. Mr Taku, does that satisfy
10:35:18 10 you? It should, shouldn't it?

11 MR TAKU: Yes, Your Honours, our [indiscernible] will
have 12 to work that out with Mr Jordash when this witness comes to
13 testify but --

14 PRESIDING JUDGE: We are limiting -- he has said that
the 15 Prosecution is asking to be relieved of the ex parte
10:35:36 16 application and that you will be served with this motion. Is that not all
17 interested right by you, at least this aspect of it? We are not
18 in knowing what your interest is; that will come later.

19 MR TAKU: Yes, Your Honours.

10:35:53 20 PRESIDING JUDGE: Because you will be served; that was
your

21 concern, wasn't it?

22 MR TAKU: We will be served, Your Honour, but we want at
23 this stage to say that we would discuss further with Mr
Jordash
24 when his witness comes to testify.

10:36:06 25 PRESIDING JUDGE: You are free to.

26 MR TAKU: Because he appears also on our witness list as
a
27 witness for Kallon, but we have to see our colleague and see
the
28 modality on which he would testify, so we are very, very
29 interested --

in

1 PRESIDING JUDGE: And whether they would be interested
2 having him testify as a common witness also?

3 MR TAKU: Yes, we would discuss with our colleague.

4 PRESIDING JUDGE: Well, that is what we have always
10:36:30 5 encouraged here. I mean, it's for you to --

6 MR TAKU: But we are very interested in the application
7 made by Mr Jordash. We are interested in what orders will be
8 made in this way.

9 PRESIDING JUDGE: All right. Okay. Yes, Mr Jordash?

10:36:42 10 MR JORDASH: Could I ask then that the Court Management
11 serve that document in time for today so that we can be fully
12 apprised of everything Your Honours are and everything the
13 Prosecution is?

It

14 PRESIDING JUDGE: Yes, you should be served, I think.

10:36:57 15 is so ordered, you should be served with the documents. It is
16 there and I think it should be served on the parties.

17 Well, Mr Harrison, it is now the understanding that the
18 application is confidential but it is no longer ex parte.

10:37:49 20 refiled

19 MR HARRISON: With the Court's leave, we will simply add
20 that as the first paragraph to the document that will be
21 today as a confidential document, if that's the Court's wish.

parte 22 PRESIDING JUDGE: So this application is no longer ex
23 and the Court so orders.
24 MR HARRISON: If I could just correct the Court
slightly;
10:38:03 25 it was never framed as a motion. It was referred to as a
notice.
26 But we will file as a notice so as not to be confusing, if
that
27 is sufficient with the Court's expectations.
28 [The witness entered court]
29 PRESIDING JUDGE: You wanted to leave? I didn't want to

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1 take you hostage here, Mr Harrison. Maybe from time to time
we
2 need your presence here because your historical knowledge of
this
3 case is so important at this stage of the proceedings.

4 WITNESS: DIS-225 [Continued]

10:39:11 5 [The witness answered through interpreter]

6 EXAMINED BY MR JORDASH: [Continued]

7 PRESIDING JUDGE: Yes, Mr Jordash, you may proceed.

8 MR JORDASH: Thank you, Your Honour.

9 Q. Good morning, Mr Witness.

10:39:35 10 A. Yes, I have arrived.

11 Q. Are you feeling better?

12 A. Thank God for my health.

13 Q. You will perhaps be relieved to know, I won't be too
long
14 with you.

10:39:56 15 A. Okay.

16 Q. Now, you were telling us about a law in 1994 which
stopped
17 the carrying of loads by civilians for the commandos; do you
18 recall that?

19 A. Yes.

10:40:18 20 Q. Now, I want to return to Giehun at around that time and
I

ask

21 want to deal with the years afterwards and farming. Could I

22 you how far is Giehun from Giema?

23 A. Seven miles.

24 Q. What's between Giehun and Giema?

10:41:11 25 A. There are towns between them.

26 Q. Can you name some of them, please, if you know?

27 A. Yes.

28 Q. Go ahead.

29 A. There is Konoma, there is Yengema, there is Sandiama and

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1 Gumduma and Giema.

2 Q. Thank you.

3 A. Okay.

4 Q. In the years after 1994 until the end of the war --

10:41:54 5 PRESIDING JUDGE: I didn't quite get the town after
6 Yengema, after Yengema and before Bunduma [sic] or so. What
was

7 the other town? What was the town between Yengema and --

8 THE WITNESS: Gumduma.

9 PRESIDING JUDGE: Gumduma. What was the town before
which

10:42:10 10 you mentioned before Bunduma or Gumduma.

11 THE WITNESS: Sadia.

12 MR JORDASH: I will supply the spellings later, if I
may.

13 Q. And in your job, please don't say what it was, but in
your

14 job in 1995 and 1996 until the end of the war, did you have
cause

10:42:41 15 to move around these areas?

16 A. Yes, I used to work between those villages.

17 Q. Did you say walk or work between those villages?

18 A. Sometimes when there was work I used to go and perform
it.

19 Q. What work did you perform? What were the activities you
10:43:16 20 were performing?

21 A. We used to farm.

22 Q. Who's "we"?

23 A. We, myself and my colleagues.

24 Q. And were your colleagues civilians?

10:43:55 25 A. Yes, they were civilians.

26 Q. Was there a time in the years from '94 to the end of the
27 war when they did not work for themselves?

28 A. Go over that again.

29 Q. Who did they do the work for; was it for themselves or
for

1 someone else?

2 A. We worked for somebody.

3 Q. Who did you work for?

4 A. We worked for Mr Issa Sesay.

10:44:39 5 Q. Where was that work?

6 A. Giema.

7 Q. Do you know the year when?

8 A. I can't remember.

9 Q. Are you able to say how many years after the time when
you

10:45:00 10 took the job?

11 A. In my opinion, the work that we did --

12 Q. Yes.

13 A. -- it took about three years before the war came to an
end.

14 More than three years.

10:45:29 15 Q. How many years had you been doing your job when the work
16 for Issa Sesay began?

17 A. Which type of work?

18 Q. Okay. Which work did you do for Issa Sesay?

19 A. Issa Sesay, the only work I did for him was when he

10:45:58 20 cultivated the farm at Giema.

21 Q. And where was the farm in Giema; can you remember?

22 A. Yes.

23 Q. Where was it?

24 A. The farm that he cultivated, the town he was staying was

10:46:23 25 called Kambama. That bush was around that town.

26 Q. Do you know if any other commanders at that time had
farms?

27 A. Yes. For farming it was everywhere. Farming was done

28 everywhere.

29 Q. But other commanders, do you know if they had farms that

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1 civilians worked on at the time you had worked for Issa Sesay?
2 A. Mr Vandi cultivated a farm.
3 Q. Mr Vandi, is that Peter Vandi?
4 A. Vandi, I don't know his surname. The only -- they used
to
10:47:17 5 call him Vandi Tangia.
6 Q. Sorry, they called him what, Mr Witness?
7 A. Vandi Tangia.
8 Q. Was he an RUF commander?
9 A. Yes.
10:47:36 10 Q. How long did Issa Sesay's farm operate; do you know?
11 A. What?
12 Q. Do you know how long Issa Sesay's farm existed for?
13 A. Issa cultivated for one year only.
14 Q. And did you personally work on the farm?
10:48:24 15 A. The farm, I did not work there.
16 Q. Do you know anyone who did?
17 A. Yes.
18 Q. Did they ever speak to you about it?
19 A. Yes, when they left there and came.
10:48:44 20 Q. Did you have any role in organising the work?
21 A. Yes. We were responsible for that arrangement.
22 Q. And what happened? How did it work?
23 A. What?

24 Q. Describe how the arrangement worked?

10:49:24 25 A. At that time we made an arrangement. When there was a
26 commander, when he had a work to be done, if he told our
leaders
27 we would be able to go and do it. So there was a time Issa
was
28 staying at Giema. There was a bush close to that town. That
29 bush was also around Kambama. Then he asked for that bush
from

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1 the town people. He asked them to be given that bush to
2 cultivate, and they accepted. So the time he was ready, he
told
3 the town people the paramount chiefs. They wrote letters to
all
4 the sections explaining that Issa's farm would be -- we would
be
10:50:50 5 working on Issa's farm on these dates. The people went there
to
6 brush. They brushed and came back.
7 Q. Do you know how many people worked at that farm, how
many
8 people usually worked at the farm?
9 A. They said that we were to give five people each.
10:51:28 10 Q. Each what, each town or each section or what?
11 A. The section headquarters.
12 Q. And how did each section -- well, how did the section
you
13 were in find those people?
14 A. What?
10:52:03 15 Q. How did the section that you were operating in find the
16 five people?
17 A. Those five people, the way we -- we gave them -- we have
18 villages, but those villages were not occupied by everybody.
So
19 we appointed one person each, then we took two people from the
10:52:44 20 town I was staying, then that one, some up to five, then they

21 went.

22 Q. Do you know how those people were treated on the farm?

23 A. Can I explain? When they went to work, they said Issa
24 cooked for them. They ate and they were fed, and then --

10:53:31 25 THE INTERPRETER: Your Honours, can the witness take
that

26 last bit again?

27 MR JORDASH:

28 Q. Pause there and take the last bit of your answer again?

29 A. Yes.

1 Q. Repeat your answer again?

2 A. When they went to work, we asked him about our own -- we
3 asked them about our own condition. They said Issa cooked for
4 them and they ate.

10:54:10 5 Q. Did you speak to the people working there to receive
that
6 information?

7 THE INTERPRETER: Your Honours, can the learned counsel
8 take that question again?

9 MR JORDASH:

10:54:22 10 Q. Where did you get the information from, Mr Witness, that
11 there was food cooked by Issa Sesay?

12 A. Those workers, those civilians that we gave to go and
work.

13 Q. And did they express any opinion to you about how it was
14 working on the farm?

10:55:05 15 A. The farm they went to work, they said they talked to
them
16 very nicely. They treated them well, and they also spoke to
him,

17 to Mr Issa.

18 Q. And did you, Mr Witness, have anything to do with any
19 aspect of the farming?

10:55:44 20 A. What?

21 Q. Let me ask you about the food.

22 A. Okay.

23 Q. Do you know how the food was supplied to the workers?

24 PRESIDING JUDGE: What, was he there?

10:56:06 25 MR JORDASH: Well, that's what I'm trying to get at.

26 PRESIDING JUDGE: He was not there. How do you expect
him

27 to --

28 MR JORDASH: Well, he wasn't on the farm but --

29 PRESIDING JUDGE: He wasn't there.

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1 MR JORDASH: No, but he wasn't on the farm.

2 PRESIDING JUDGE: Yes.

3 MR JORDASH:

4 Q. Do you know anything about how the food got to the farm,
10:56:20 5 Mr Witness?

6 A. They cooked food.

7 Q. Did you have anything to do with the food?

8 A. The time they were going to work for him?

9 Q. Yes.

10:56:46 10 A. For that farm work I was not responsible for the food.
It

11 was the time when he cultivated the swamp. I did not go to
the

12 farm to work.

13 Q. Tell us about the swamp.

14 A. He cultivated a swamp.

10:57:09 15 Q. Was this at the same time as the farm you've just told
us

16 about, or later, or earlier?

17 A. There was a swamp and now he was in charge of it.

18 Q. Do you know when that was?

19 A. The time he was staying at Giema.

10:57:35 20 Q. What did you have to do with the food?

21 A. At that time, when he cultivated the farm, then later he

Even 22 cultivated the swamp. Then we went to cultivate the swamp.

23 myself, I went to cultivate, to brush the swamp.

24 Q. Why did you go to cultivate and brush the swamp?

10:58:14 25 A. I was very happy because those who were coming from his

see 26 farm, the way they were explaining, I also decided to go and

27 for myself.

28 Q. Well, what did you see about the way people were treated

on 29 the farm?

that 1 THE INTERPRETER: Your Honours, can the counsel take
2 question again?

3 MR JORDASH:
4 Q. What did you see about the way in which people were
treated 5 on the farm?
10:58:41

6 PRESIDING JUDGE: You called it a swamp [indiscernible].

7 MR JORDASH: Sorry, the swamp.

8 PRESIDING JUDGE: The swamp.

9 MR JORDASH:
10:58:48 10 Q. The swamp. What did you see about the way people,
11 including yourself, was treated on the farm -- the swamp?

when 12 A. So, the way we made our arrangement to our own place,
13 those works were to be carried out, they will write to all the
14 villages where we were staying; say that person has asked us
to 15 go and help him. They said Issa has asked us to go and help
10:59:27 him
16 to brush his swamp.

17 JUDGE BOUTET: We've been through that evidence already
18 with this witness.

19 MR JORDASH: No, but that was the other farm. This is
the
10:59:42 20 swamp that Mr Sesay had, the witness says.

21 JUDGE BOUTET: Oh, okay.

22 MR JORDASH: But I can deal with it shortly.

23 Q. Were the arrangements for the swamp the same or
different

24 to the arrangements for the first farm --

10:59:59 25 THE INTERPRETER: Your Honours, can the counsel take
that

26 question again?

27 MR JORDASH:

28 Q. The arrangements for organising the work on the swamp,
were

29 they the same or were they different to the arrangements on
the

1 farm?

2 A. Yes.

3 Q. The same or different?

4 A. For the crowd in the swamp, there were too many.

11:00:38 5 Q. Why were there too many?

a 6 A. They said if one goes to work, to Issa, Issa would cook

7 lot of food.

8 Q. Did you have anything to do with the food, Mr Witness?

9 A. Yes. When we went to the swamp.

11:01:05 10 Q. Yes. Go on.

11 A. When we went to the swamp, as we arrived, they said you

control 12 would not be sitting aside and we take another person to

13 the swamp. They said you would be responsible for the

14 arrangements now; when we went to brush the swamp.

11:01:40 15 PRESIDING JUDGE: They said; who?

16 THE WITNESS: When we went to brush his swamp. We went

17 brush his swamp. When we went to brush his swamp. We were up

to

18 50 in number.

19 MR JORDASH:

11:02:08 20 Q. Go ahead.

"Among 21 A. When all of us went there, up to 50, then they said,

22 this crowd, appoint one person, including you, and share the
23 work." Then we took two people per portion. Then we divided
24 that portion into 25. Then the work was done quickly. Then
they
11:02:56 25 told me, "Now that you've divided the swamp completely, go to
26 Issa now. Say we are 60 in number." I said, "Why?" "So that
he
27 would give us more food so that we would be able to," so when
I
28 went I was in his room. I told the people who were cooking.
29 Then they entered to him and told him. They said, "Just cook

cooked

1 what is sufficient for them. Cook." The food that they
2 for us, they met we have completed brushing. Then during the
3 process of eating, there was about a problem to crop up. Then
4 they went to him and asked him so that his children would come

to

11:04:15

5 the swamp. Then it just coincided that those soldiers came to
6 enter into the swamp. Then they ate all that rice. Then they
7 were quarrelling among themselves with these children, with

these

8 of his children in the swamp. Then we ate that rice. Then we
9 came back. We did not go to him to say goodbye. Then we went

to

11:04:59

10 our villages.

children

11 PRESIDING JUDGE: Who was quarrelling with these

to

12 in the swamp? Who was quarrelling with the children who came

13 the swamp? You said children, Issa's children, you called for

quarrel.

14 Issa's children, they came to the farm and there was a

11:05:23
even

15 So when they were eating there was a quarrel, or before that

Take

16 there was a quarrel, so you asked for the children to come.

am

17 that again. I want to know more about this quarrel because I

18 a bit confused about what you are saying about --

19 THE WITNESS: The quarrel? I have not yet understood.
11:05:58 20 MR JORDASH:
21 Q. Mr Witness, you're talking about an incident on the
swamp.
22 Some children, Issa's children came to the swamp; am I right?
23 A. Yes, yes. Those guys who wanted to come to the swamp
and
24 eat all that rice from us, I'm explaining about that.
11:06:26 25 Q. Who did they quarrel with?
26 A. Issa's soldiers who were with him, they would not be
27 allowed to go into the swamp and eat all that rice from us.
28 That's the exchange of those words. They did not allow them
to
29 come into the swamp. Then we ate that rice. Then we were
fed.

1 Then we came back.

2 Q. So you've referred to soldiers coming in and children
3 coming into the swamp. Who came into the swamp, Mr Witness?

4 A. That is what I am -- the bodyguards, his bodyguards, I'm
11:07:42 5 referring to them as his children.

6 Q. How old were they?

7 A. We were of the same age.

8 Q. How old was that, approximately? How old are you now?

9 A. I'm about 35.

11:08:11 10 Q. Thank you. So the bodyguards of Issa Sesay came in,
tried

11 to steal the food; this was sorted out and the civilians were
12 then able to eat the food. Is that a fair summary?

13 A. Yes. When the guards came, they wanted to enter into
the

14 swamp. They wanted to take that rice from us and eat. That
was

11:08:44 15 the time Issa's children came.

16 Q. Okay. Let's move on, Mr Witness.

17 A. Okay.

18 Q. Take a drink.

19 A. I've drunk.

11:09:55 20 Q. We heard you.

21 A. I've taken some water.

22 Q. I just want to clarify the last story.

23 A. Okay.

24 Q. Just answer very simply; who tried to steal the food?

11:10:25 25 A. In the swamp?

26 Q. In the swamp; who tried to steal the food?

27 A. The commandos.

28 Q. Who -- don't, pause. Who stopped them stealing the
food?

29 A. Wait for me. When they cooked the food from Kambama.

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1 Q. No, Mr Witness, answer simply: Who stopped the
commandos
2 stealing the food? Who?
3 A. Issa. Issa's bodyguards.
4 Q. Thank you. That's it. Let's move on from that. I want
to
11:11:13 5 deal with one last subject, Mr Witness. Do you know anything
6 about an airfield in Buedu?
7 A. Yes. I can explain something about that.
8 Q. Now, before you do, was there a time when the RUF wanted
to
9 build an airfield in Buedu?
11:11:59 10 A. Yes.
11 Q. And was -- when was that, do you know?
12 A. The year from '94 to '98. Between that period.
13 Q. Well, let's try to --
14 A. I am not educated. I cannot give dates in English.
11:12:35 15 Q. Well, let me ask you this: Was there an attempt to
build
Kailahun? 16 an airfield after or before Johnny Paul Koroma came to
17 A. We did it before.
18 Q. Was there an attempt to build an airfield at the time
19 Johnny Paul Koroma was president?
11:13:15 20 A. Yes.

the
21 Q. Okay. Do you know whether it was in the dry season or
22 wet season?
23 A. Dry season.
24 Q. What do you know about who worked on trying to build the
11:14:08 25 airfield?
were 26 A. That airfield, at that time where we used to stay, we
for 27 very far from Buedu. When that time -- when that time came
brushing 28 that airfield to be built, we went there. We made the
29 has been done.

1 Q. Stop. Stop. Who went there?

2 A. We, ourselves. We went there.

3 Q. Who is "we"?

4 A. We, the manpower.

11:15:04 5 Q. Is the manpower civilians or soldiers?

6 A. They are civilians.

7 Q. Why did the civilian manpower go there?

8 A. The time they were talking about that airfield, they
told

9 us that Mr Sankoh has told us to make an airfield in Kailahun

11:15:41 10 District.

11 Q. Who told you that?

12 A. When we went there, we were not asking commanders. We
were

13 just asking among ourselves.

14 Q. How many people went there?

11:16:02 15 A. To the field?

16 Q. How much manpower went to the field?

17 A. We that left that place, we were about 15.

18 Q. Did you meet any manpower there?

19 A. No. When, if -- if you go there, you would do your own

11:16:28 20 work and then you would go back.

21 Q. And did the people you went with come from your town?

22 PRESIDING JUDGE: He has not answered the question. Did

23 you meet any other manpower there? Did you meet any manpower
24 there when you arrived?

11:16:47 25 MR JORDASH:

26 Q. Could you answer the question again, Mr Witness. Did --

27 A. We made the work has been done. If you could leave your
28 own section, there was your own work to be done. When you did
29 it, then you would go back. Sometimes as you were working,

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1 others would arrive.

2 Q. Thank you.

3 A. Okay.

4 Q. Did the people -- where did the people you went with
come

11:17:24 5 from?

6 A. The town where I'm staying, they were coming from the
7 environs.

8 Q. And why did they go?

9 A. They said, "Let us make an airfield," we from Kailahun
11:18:04 10 District.

11 Q. And did the people you went with go through choice or
not?

12 A. Yes. To the airfield?

13 Q. Yes. Mr Witness --

14 A. Yes.

11:18:52 15 Q. -- would you answer the question, please.

16 A. Yes.

17 PRESIDING JUDGE: Can you put the question to him again,
18 please? Yes, Mr Wagona?

19 MR WAGONA: My Lords, sorry to interrupt, but I wish to
11:19:11 20 make this observation: Counsel embarks on a subject about the
21 airfield. It's not in the summary, but that means he knows
that

22 he is going to be asking about the airfield, and he has not

is 23 included it in the summary. So it would appear that maybe it
24 deliberate because it is not like it's an amplification of the
11:19:45 25 witness's testimony. It was a new subject that was
introduced,
26 meaning counsel was aware he is going to be taking the witness
27 through this, but it's not in the summary. And I only make
this
28 observation to say that it's not fair.
29 JUDGE BOUTET: But you're making this observation for
what

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1 purpose? You say you're not making objection, so what are we
2 supposed to do with this?

3 MR WAGONA: Well, in the past, the Chamber has said that
4 the witness is entitled, you know, to amplify on his testimony
in
11:20:34 5 Court. It's for that reason that I would say that I am only
6 making the observation.

7 JUDGE THOMPSON: Of course, the difficulty you put us in
8 now is that, since there is no objection and no grounds in
9 support, we cannot intervene because our general principle is
the

11:21:06 10 principle of orality, which means that, as you're rightly
saying,
11 a witness is entitled to amplify and elaborate on his
testimony
12 because actually what is crucial for us is not what he stated
out
13 of court to an interviewer is what he is now testifying to in
a
14 viva voce manner from the witness stand under oath is what we
are

11:21:33 15 called upon to evaluate. But, indeed, you are right. The
16 principle is of orality and, of course, orality in the sense
that
17 he must testify to matters that clearly are within permissible
18 limits. So if you take an objection, I'm sure the Bench will
be
19 disposed to rule on the objection. But as the learned Justice

11:22:03 20 Boutet said, we don't know whether you are seeking any remedy,
so
21 you probably would have to advise yourself. I will restrain
22 myself further.
23 MR WAGONA: The remedy I am seeking is that -- just to
ask
24 counsel to help us to ensure that the summary that is provided
11:22:26 25 has sufficient information --
26 PRESIDING JUDGE: Put you on notice on matters which are
to
27 be brought before the Court. Is that what you're saying?
28 MR WAGONA: That's what I'm saying, and especially when
it
29 is embarked on as a new subject, not that it's coming from the

has
1 witness by way of additional information to what the witness
2 already stated, but it's a subject that is deliberately
3 introduced as a new subject for the witness to testify about.
4 Meaning that counsel knew from the beginning that he would be
11:23:01 5 taking the witness through this subject, but has not included
it 6 in the summary.

7 JUDGE THOMPSON: Even if it's not contentious?

8 MR WAGONA: Well, in this particular case it is.

9 JUDGE THOMPSON: That's the question really because we
have
11:23:17 10 in this trial been treated to all kinds of evidence from both
11 sides, some of them clearly background material, some of them
not
12 contentious, and we have allowed -- and under the doctrine of
13 flexible admission of evidence, but clearly it is entirely up
to
14 you. If you feel that your side is prejudiced, you have a
right
11:23:43 15 to take an objection, but I'm sure that if that is meant to be
16 cautionary, Mr Jordash will take note of that.

17 MR JORDASH: My learned friend takes a fair point. It
was
18 an omission. I can only refer Your Honours back to our
19 outstanding application for additional manpower, if I can use

11:24:17 20 that term. My learned friend does take a fair point and takes
it
21 fairly, although I would submit there is no prejudice to the
22 Prosecution. They have known it to be an issue of labour and
use
23 of -- at the airfield is a contentious issue. They know we
say
24 it wasn't forced labour. They are on notice of that position.
11:24:45 25 This witness is dealing with it, but if my learned friend
wants
26 to apply for an adjournment, then we wouldn't oppose it.
27 JUDGE BOUTET: But these are the very type of issues
that
28 yourself has raised continuously when the Prosecution was
giving
29 evidence, and this kind of information has been disclosed to
you.

1 This is a subject matter that I am sure you are very, very
2 familiar with and you know the rulings of this Court in this
3 respect. But anyhow, I think it is only notification that --
and
4 they only claim problems that may be of fairness but there are
11:25:27 5 others that [indiscernible]. Therefore, you may proceed, from
6 what I can see.

7 MR JORDASH:

8 Q. Let's, Mr Witness, continue with this --

9 A. Okay.

11:25:44 10 Q. -- issue. How were the workers and yourself treated
when
11 working at the airfield?

12 A. That work, when you went there, together with your own
13 manpower, you would be given a portion. Having done it, they
14 would cook food, burghul. If you complete your own work
together

11:26:40 15 with your own group, then you would eat that food. Then you
16 would say goodbye, then you would come back.

17 Q. And the people you were with, including yourself?

18 A. Yes, I took them there.

19 Q. And the people you were with, besides receiving food,
how
11:27:13 20 else were you treated when doing the work?

21 A. We worked there for -- we worked there only once. The
day

gave 22 we worked there, nobody treated us badly. The moment they

23 us our own portion, nobody ever came to us again.

24 PRESIDING JUDGE: And they were fed?

11:27:56 25 THE WITNESS: We were not fed properly.

26 MR JORDASH:

27 Q. What do you mean you were not fed properly?

28 A. We were plenty. There were some people. Food, when you

you 29 are given the food, if you eat and complete it, then all of

1 are not fed up at the same time --

2 THE INTERPRETER: Correction, interpreter, all of you
are
3 not fed at the same time.

4 PRESIDING JUDGE: What does that mean, Mr Interpreter?
You

11:28:46 5 take your food and eat together, then all of you are not fed
at
6 the same time. Can you please translate yourself again so
that
7 we get you intelligently.

8 THE WITNESS: Me?

9 PRESIDING JUDGE: The interpreter; can you translate the
11:29:03 10 witness properly, please.

11 THE INTERPRETER: Your Honours, can the witness kindly
12 repeat his answer?

13 PRESIDING JUDGE: Mr Witness, can you please repeat your
14 answer.

11:29:12 15 THE WITNESS: The food, when you went to work and they
finish
16 cooked the food, if you are up to ten and you eat it and
17 it. If you finish it in the bowl, then all of you will not be
18 full at the same time. Some people will be full and others
will

19 not be full. That is why I said that. The food that they
gave

11:29:54 20 to us, we ate, ate and finished it.

21 MR JORDASH:

22 Q. Okay. Do you know who was in charge of the food,
whether

23 there was an RUF commander in charge of distributing the food?

24 A. Pardon me?

11:30:13 25 Q. Do you know if there was an RUF commander in charge of
26 distributing the food, or in charge of the food?

27 A. Yes. The one time that we went there, we went to him.

28 Q. What was his name?

29 A. They said O'Jalley.

1 Q. O'Jalley?

2 A. Yes.

3 Q. And how did O'Jalley treat the civilians?

4 A. O'Jalley? We were not in the same place.

11:30:59
Witness,

5 Q. Okay. I've got no further questions for you, Mr

6 but there will be questions from others.

7 PRESIDING JUDGE: Yes, Mr Taku?

8 MR TAKU: No questions.

9 PRESIDING JUDGE: No questions, okay. Yes, Mr Taku, we

11:31:48 10 have taken a note of that.

11 MR TAKU: Thank you, Your Honour.

12 PRESIDING JUDGE: Mr Cammegh?

13 MR CAMMEGH: Does Your Honour want me to go ahead now?

I

14 won't be long.

11:32:12 15 PRESIDING JUDGE: Yes, yes, you may, you know, so that -

-

16 you won't be long; when you say you won't be long, what would

17 that mean? I know you will say it will depend on the answers

you

18 receive from the witness.

19 MR CAMMEGH: I hope no more than five minutes.

11:32:23 20 PRESIDING JUDGE: No more than five minutes.

21 MR CAMMEGH: There's just a matter I want to clarify.

could 22 PRESIDING JUDGE: Yes, I think if you finish, then we
23 just come to the Prosecution after the morning period.
24 MR CAMMEGH: Certainly.
11:32:36 25 PRESIDING JUDGE: Okay.
26 CROSS-EXAMINED BY MR CAMMEGH:
27 Q. Good morning, Mr Witness.
28 A. Yes, good morning, Pa.
29 Q. I just want to ask you a question about life in Giema

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AFRC

to

11:33:28

11:33:51

11:34:10

show

1 during approximately the three years immediately before the
2 coup. I'm going to ask you or I'm going to make a suggestion
3 you. I want to see if you agree with me. What I suggest is
4 this: That there was a G5 commander during that approximate
5 three-year period in Giema and that his name --

6 PRESIDING JUDGE: Can you stop there. Was there a G5
7 commander during that period?

8 MR CAMMEGH: Thank you.

9 THE WITNESS: In Giema?

10 MR CAMMEGH:

11 Q. Yes.

12 A. Yes.

13 Q. Okay. Thank you. What I suggest is that his name was
14 Foray Mansaray or Foray Sannoh; am I right about that?

15 A. Foday? Yes, that was his name.

16 Q. Now, I'm confused because I'm not sure whether his other
17 name was Mansaray or Sannoh. Can you help us -- or both?

18 A. Well, during that war their real names, they wouldn't
19 it out, so we only knew the foreign name.

11:34:44

20 Q. And that name was Foday. Could you just say that word
21 again? I didn't get you. Foray or Foday. I didn't get you?

22 A. Foday. Foday.

23 Q. Did Folley have a farm in Giema when he was G5 commander?

24 A. I can't explain.

11:35:28 25 Q. Does that mean you don't know or you don't remember? If

26 you do not remember, that's fine, just say so.

27 A. I don't know.

28 Q. All right. That's all I have. Thank you very much.

29 A. Okay.

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1 THE INTERPRETER: Your Honours?

2 PRESIDING JUDGE: Yes.

3 THE INTERPRETER: The interpreters would like to make an
4 observation --

11:36:06 5 PRESIDING JUDGE: Yes, please. Go ahead.

6 THE INTERPRETER: -- in relation to the name Folay used
by
7 the witness. The typical Mende men in the village hasn't got
an
8 "R". In most cases they would pronounce Foray as Folay. So
we
9 have produced exactly what the witness said, Folay, whereas
the

11:36:28 10 possibility came that the witness may mean Foray, but we just
11 want to make this clear to the Bench that the typical Mende
12 people in the village do not have "R".

13 PRESIDING JUDGE: Yes, Mr Cammegh is on his feet.

14 MR CAMMEGH: Can I interject and thank the interpreter
11:36:46 15 profoundly for the comment he has just made.

16 PRESIDING JUDGE: Yes, Mr Cammegh has been to Kailahun.

17 MR CAMMEGH: I don't know much about --

18 PRESIDING JUDGE: Several times. I'm sure he's picked
up
19 some Mende along the roads -- the roadside.

11:37:01 20 MR CAMMEGH: I'm not going to profess to being fluent in
it

21 again. It's not for me, of course, to ask the Chamber to take
22 judicial notice, but I certainly leave that in your hands.
The
23 name I put was "Foray".
24 PRESIDING JUDGE: "Foray".
11:37:13 25 MR CAMMEGH: I'm very grateful to the interpreter's
26 interjection.
27 PRESIDING JUDGE: Good. Thank you. I just want to let
you
28 know that in some traditional African languages, some
languages
29 don't have a pronunciation for either "R" or "L" or in other

1 alphabets. They are completely pronounced differently from
what 2 they really are.

3 MR CAMMEGH: I'm grateful for that. I don't want to
4 mislead the Court as to my knowledge of Mende. The only word
I 5 actually know is [speaks Mende] which I think means "angry".
11:37:43 6

7 PRESIDING JUDGE: Okay. I think the Court will recess
for 8 their short break and we will resume in the next couple of
9 minutes.

10 The Court will rise, please.

11:38:47 11 [Break taken at 11.35 a.m.]

12 [RUF11OCT07B - MD]

13 [Upon resuming at 12.15 p.m.]

14 PRESIDING JUDGE: Yes, Mr Wagona. It's you doing the
15 cross-examination?

12:17:57 16 MR WAGONA: Yes, My Lord.

17 PRESIDING JUDGE: You may proceed, please.

18 MR WAGONA: Thank you.

19 CROSS-EXAMINED BY MR WAGONA:

20 Q. Good afternoon, Mr Witness.

12:18:07 21 A. Good afternoon, sir.

22 Q. I have some questions for you.

A. Okay.

23 Q. Witness, do you know when you were born?

24 A. Yes.

12:18:31 25 Q. When was that?

26 A. I was born in 1970.

27 Q. If you are 35 years now, weren't you born after 1970?

28 A. 35?

29 Q. I'm suggesting that if you're 35 years now, you must
have

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1 been born after 1970; you accept?

2 A. 35 years?

3 Q. Do you understand the question, Mr Witness?

4 A. Yes, I've understood it.

12:19:42 I'm

5 Q. You tell the Court that you are now 35 years old and so
6 suggesting to you that if you are now 35, then you were born
7 after 1972?

8 A. '72. Okay.

9 Q. Or is it that you do not know when you were born?

12:20:19

10 PRESIDING JUDGE: Let's get it right. Did he say he was
11 born in 1970 or 1972?

12 MR WAGONA: '70. That's what I heard, My Lord.

13 THE WITNESS: 1970.

I

14 PRESIDING JUDGE: Okay, because you came with '72. Did

12:20:37

15 hear you say --

meant

16 MR WAGONA: After 1970. I am sorry if I said '72. I
17 to say after 1970.

18 PRESIDING JUDGE: '70. Okay.

19 MR WAGONA:

12:20:51 year

20 Q. Mr Witness, I suggest to you that you do not know the
21 in which you were born?

22 A. What is the proof?

23 Q. Because, if you are now 35 years old, then you should
have

24 been born after 1970; do you accept?

12:21:28 25 JUDGE THOMPSON: Counsel, this is my judicial curiosity.

26 Is this an issue in controversy between the parties?

27 MR WAGONA: No, My Lord. I intend to relate a different

28 subject.

29 PRESIDING JUDGE: That's okay. Thanks. Okay.

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1 MR WAGONA: Thank you.

2 Q. Witness, do you recall the position to which you were
3 elected or appointed in the earlier years, and please don't
4 mention that position. Focus your mind to that period. And I

12:22:08 5 would suggest to you that you got into that position when you
6 were less than 20 years old; you accept?

7 A. The position I occupied?

8 Q. Yes.

9 A. I was over -- I was above that age.

12:22:37 10 Q. How old were you?

11 A. The time I got that position?

12 Q. Yes, please.

13 A. I was about 28 years.

14 Q. And that was in 1994, wasn't it?

12:23:11 15 A. 24 years?

16 Q. I'm saying that was in the year 1994; is that right?

17 A. Yes. That's what I said.

18 Q. And you said that when the Gios had left, the only
person

19 that had a child was called Harris; do you remember that?

12:23:55 20 A. Yes.

21 Q. And that child was a soldier, wasn't he?

22 A. No, he was a civilian.

23 Q. Is it correct that your main role in the position you

24 occupied was to organise the carrying of loads?
12:24:34 25 A. Yes, that was the arrangement I had.
26 Q. And you said later on, there was a law stopping
civilians
27 from carrying loads; you remember?
28 A. Yes. After that, there was a law.
29 Q. When that law was passed, civilians were happy, weren't

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1 they?

2 A. After that law?

3 Q. Is it correct to say that when that law was passed
4 civilians were happy with that law?

12:25:33 5 A. Yes. There was happiness; we were all happy.

6 Q. I suggest to you that they became happy because they had
7 not been carrying those loads willingly; do you accept that?

among

8 A. They used to bring loads. We sat down and discussed

9 us that every village, they would take people out, to come and

12:26:38 10 take

stay in the town. They used to bring loads. If one person

heavy,

11 a particular load, when they -- even if the load was not

time

12 even that the manpower was to carry that load, that was the

that's

13 that report came to the elders, to the leaders. Said, if

will

14 what you were doing, whenever you bring your own load, you

12:27:22 15 everywhere.

be taking it by yourself. Then, that law was passed

16 That was how it happened.

bushes

17 Q. Okay. At this time, civilians were staying in the

18 because it was not safe to be in the town; not so?

19 A. Yes, there were civilians in the bushes.

12:27:56 20 Q. But the people who were going to carry these loads would
21 have to wait in town; not so?
22 A. Yes.
23 THE INTERPRETER: Your Honours, can the witness take
that
24 statement again?
12:28:19 25 MR WAGONA:
26 Q. Witness, please repeat your answer.
27 A. At that time we were in town, in the Joe Bush. There
was a
28 time they would ask us to go and stay in the Joe Bush. So
when
29 we went to the Joe Bush, the time we were in the Joe Bush, the

1 time the manpower was to be -- if they said they were going to
2 take five people each, they would be staying in the town. In
the
3 morning, others would replace them. That was the routine.
That
4 was what we used to do until that law was passed. Then we
forgot
12:29:22 5 about that.

6 Q. I suggest to you that this was a risky venture on the
part
7 of the civilians, having to be in town instead of in the bush
8 hiding, and having to carry these loads from one town to the
9 other; do you accept?

12:29:44 10 A. No. At that time, we used to stay in the town, so there
11 was a time the commandos would come. They said the guys were
12 coming. You are to make a Joe Bush in the bush. That was the
13 place we used to stay. They used to stay in the town. They
will
14 come to us and go back to the town.

12:30:37 15 Q. And these loads would be taken to the homes of the
16 fighters; not so?

17 A. Yes. Where there was calmness. They were not taking it
to
18 the front, to the war front.

19 Q. And these fighters would be coming with these loads from
12:31:09 20 the war front; not so?

21 A. Yes.

those 22 Q. I suggest to you that the fighters would have looted

23 loads from the war front; do you accept?

12:31:47 24 A. Well, that one I cannot explain that. The loads were
25 mixed. They would bring banana, food, so that was the way it

26 used to be. I never knew where they were coming with those

27 items, from.

continued 28 Q. And this practice of carrying loads for fighters

29 throughout the war; not so?

1 A. No. We stopped that before the war came to an end.

2 Q. Witness, I put it to you that the civilians were being

do

3 forced to carry the loads; they did not do so willingly. What

4 you say about that?

12:33:04 5 A. Go over that again.

not

6 Q. Witness, I'm putting it to you that the civilians did

7 carry these loads willingly; they were forced by the fighters.

8 What do you have to say?

in

9 A. Well, thank you. Since you said that, there was a war

12:33:40 10 the country. Civilian, if you want to be peaceful, to have

11 peace, you have to be humble. Then you be able to survive the

12 war. So that, we did not take that as bad thing. We used to

it

13 take those loads around our surroundings. We were not taking

14 to another country. That was how it happened.

12:34:21 15 Q. I also put it to you that this went on throughout the
war;

16 what do you have to say? This carrying of laws?

twice,

17 MR JORDASH: He has answered the question, I think

18 now. That was an objection.

19 MR WAGONA: Very well. Much obliged. I will move on.

12:34:44 20 PRESIDING JUDGE: What was the question?

that 21 MR WAGONA: My Lord, I was putting it to the witness
22 this practice of carrying loads went on throughout the war.
stopped 23 PRESIDING JUDGE: He had told you no, that they had
24 it before the end of the war.
12:35:05 25 MR WAGONA: That's correct, My Lord.
26 PRESIDING JUDGE: Yes.
27 MR WAGONA:
had 28 Q. Now, let's come to Issa Sesay's farm. So, Issa Sesay
29 two places where civilians had to go and farm; not so?

1 A. Yes.

2 Q. So one was a swamp and the other was not; is that so?

3 A. Yes.

4 Q. And I suggest to you that these two places existed

12:35:45 5 throughout the war; not so?

6 A. The farming for Issa? No.

7 Q. Now, the soldiers who came to the swamp to eat rice were

8 armed with guns; not so?

9 A. Those soldiers?

12:36:22 10 Q. Yes, the ones you said came to the farm and then were

11 confronted by Sesay's bodyguards?

12 A. No. I did not see them with guns.

13 Q. But Sesay's bodyguards had guns, didn't they?

14 A. They did not take guns along.

12:37:06 15 Q. Then, how did they manage to overcome the soldiers, if
they

16 had no guns?

17 A. They were afraid of them. So that if somebody is a big

18 man, his child will be afraid of that child.

19 Q. And at the time the soldiers came in, the bodyguards
were

12:37:39 20 with the farmers, were with the people who were on the farm;
not

21 so?

22 A. In the swamp?

23 Q. Yes.

24 A. Yes, they came and went to the swamp. Then some went to

12:37:59 25 us, where we were eating. Then they asked us not to be
afraid,

26 that we should eat that rice in peace. That nobody will come

27 there.

28 Q. So, were they always there, protecting the people who
were

29 working on the farm?

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1 A. His children?

2 Q. Yes.

3 A. The time we went there to brush, we only brushed for one
4 day.

12:38:47 5 Q. Yes, but on that day were they there to protect the
6 workers?

7 A. Yes. They used to come there and then go back to town.

8 Q. Witness, I put it to you that those bodyguards would be
9 having guns and they would be forcing the civilians to work;
what

12:39:20 10 do you say about that?

11 A. Who?

12 Q. I'm saying to you that those bodyguards, on Sesay's
swamp,
13 would be having guns and they would be forcing the civilians
to
14 work; what do you say about that?

12:39:48 15 A. Issa Sesay is a man --

16 PRESIDING JUDGE: He did not ask you a question about
Issa
17 Sesay. He asked you a question about the guards.

18 THE WITNESS: That's what I've said. The work we were
19 doing. That is the place I'm -- that is the question I want
to

12:40:14 20 answer. Where we used to do that work. Can I talk?

21 MR WAGONA:

22 Q. Yes, please.

23 A. When we went to work to Issa Sesay's farm, his
bodyguards
24 were not with guns on the farm. We were doing it happily.

12:40:49 25 Q. And the harvest, from Sesay's farm, was used by his
family;

26 not so?

27 A. When the time came to harvest, I was not there.

28 Q. Now, during this time, civilians would go looking for
food

29 in the bush; not so?

1 A. Yes. That rainy season.

2 Q. And so after work, on Sesay's farms, people would go to
the
3 bush to look for food; not so?

4 A. The time we used to go and work there, I -- when we ate,
12:42:08 5 when we were full, we would come and there would be -- we
would
6 go into different direction. I would not be able to answer
that
7 now.

8 Q. So you do not know whether people would be going to look
9 for food in the bush after work; is that so?

12:42:31 10 A. No.

11 Q. I will now ask you about work on the airfield. Now, you
12 said each person was given their portion to work on; do you
13 remember that?

14 A. Yes. There were portions given to us.

12:43:10 15 Q. So, is it correct to say that some people would finish
16 their portions before others?

17 A. We were going by station.

18 Q. What do you mean by that?

19 THE INTERPRETER: Correction, interpreter. We were
going

12:43:39 20 by section.

21 MR WAGONA:

individuals,
22

Q. Is it sections that were given a portion, or

23 or each individual was given a portion?

section,
24

A. What I'm talking about is your own section. That

12:44:04 25

when you, all of you go there.

other
26
27

Q. Okay then. If there were sections, is it correct to say

27 that some sections would finish their portions before some

28 sections?

29

A. We were not going there together. Your own sections in

the 1 that town, if you were called, when you went you'd be shown
2 area. They will ask you to work there. After work, having
3 finished, you would go back.

day; 4 Q. But the section would be at the airfield for the whole

12:45:01 5 not so?

6 A. Well, that one was by luck.

7 Q. By what?

8 A. It was by luck. The portions were not equal.

portion, 9 Q. Okay. Was it after, after you had finished your

12:45:35 10 is when they would give you the food; is that correct?

11 A. Yes. When you finished, you would eat. But if you
12 continued to work until the food was -- when the food was not
13 finished you would come and eat. Then you would go back and
14 work.

do 12:46:13 15 Q. But you said some people would be more full than others;

16 you mean that some people would be satisfied and others would
17 not?

18 PRESIDING JUDGE: Did you think he meant something else?

19 MR WAGONA: Much obliged.

12:46:32 20 Q. Witness, I suggest to you that the food was not enough;

21 what do you have to say?

22 A. No, well, that one --

23 PRESIDING JUDGE: Well, has he not said it? Mr Wagona?

24 Are we not visiting --

12:46:55 25 MR WAGONA: Much obliged. I will ask a different
question,

26 My Lord.

27 Q. Witness, I put it to you that the civilians did not work
on

28 the airfield willingly; they were forced by the RUF to do so.

29 What do you have to say about that?

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airfield, 1 A. Well, I thank you very much. The making of that
2 we were very happy to work there.

not 3 PRESIDING JUDGE: So you want to say the civilians were
4 forced; that's your answer? Mr Witness?

12:47:52 5 MR WAGONA: My Lords, that concludes my cross-
examination.
6 Thank you, Mr Witness.

7 PRESIDING JUDGE: Okay. Thank you, Mr Wagona. Yes,
8 Mr Jordash, any re-examination?

9 MR JORDASH: No re-examination, thank you.

12:49:23 10 JUDGE BOUTET: Mr Jordash, I presume you are ready to
call
11 another witness after this witness has proceeded outside the
12 Courtroom?

13 MR JORDASH: Yes, Your Honour, we are.

14 JUDGE BOUTET: How many more witnesses do you have ready
to
12:49:39 15 proceed with now? I say this because you made some comments
16 earlier in the week that there might be some difficulties.

17 MR JORDASH: We've got two, but I have to say that that
is
18 an unusual situation, that we have two, because generally we
only
19 have one, or have done so far, but we have two.

12:50:05 20
every

PRESIDING JUDGE: I would like to have more than one

21 day.

22 MR JORDASH: So would I.

23 PRESIDING JUDGE: On standby. Don't take us back to

24 resources, Mr Jordash. This case, we are not yet there. You

12:50:15 25
very

have had a long time to prepare this case. Please take us

26 seriously when we advise that we need you to have at least a

27 standby witness. The issue of resources or not is not what

of

28 should prevent you at this time to have a standby witness out

it

29 an announced list of 149 witnesses. This is the truth about

1 and you should at least be frank and to know, you know, that
what
2 we are saying is not out of place.

3 MR JORDASH: I --

4 PRESIDING JUDGE: So please try to have at least one
12:50:49 5 witness standing by. You have 149.

6 MR JORDASH: Well, we -- I don't know what else I can
say.
7 I've raised --

8 PRESIDING JUDGE: We have to revisit the number anyway,
9 because we are not going to sit here to listen to 149
witnesses.

12:51:09 10 That is the truth about it. The Prosecution came with the
same
11 proposals and they knew where they ended because we couldn't
take
12 the number of witnesses they announced. I think it was over
200
13 or so, core and support witnesses and so on and so forth. I
am
14 afraid we have to at least come to an understanding in these
12:51:29 15 matters. It's important.

16 MR JORDASH: I requested more resources in November
2005.
17 I have never shifted from that position. I do not shift from
it
18 now and I cannot do the impossible. And I note that during
the

19 Prosecution case, calling a similar number of witnesses, each
12:51:51 20 trial session they had up to seven counsel. So it is an issue
of
21 resources because I have two.

22 PRESIDING JUDGE: I always do not want -- I always do
not
23 want to draw that parallel between you and the Prosecution,
see.

24 We know what the difference is with the presentation of the
12:52:13 25 Prosecution's case as against the presentation of the case for
26 the Defence. You know what burden the Prosecution carries.

27 MR JORDASH: In terms of --

28 PRESIDING JUDGE: You know the burden it carries. I'm
not
29 saying you don't carry a burden. You do. But that comparison
of

1 resources between you and the Prosecution doesn't appear to
have 2 a justification at all times.

3 MR JORDASH: Well, seven counsel versus two. I am not
4 asking for seven counsel. I am asking for seven counsel

versus

12:52:49 5 three. That's it. Simple request I've made from November
2005.

6 I continue to make it. No one appears to be listening.

7 PRESIDING JUDGE: Mr Jordash, please, all we are saying

is

8 that we would like to at least always have somebody standing

by.

9 I think it is not unusual for the Bench to make this request.

12:53:14 10 The Prosecution was subjected to the same discipline in this

11 regard and we would expect you to make an effort, whilst your

12 request for additional resources is being examined.

13 MR JORDASH: We can only work so many days a week. We

can

14 only work so many hours a day and with the best will in the

world

12:53:38 15 I don't think we can, my team, work more than 14 or 15 hours a

16 day and I don't see why we should.

17 PRESIDING JUDGE: Well, I don't know if Justice Boutet's

18 question is answered. Justice Boutet, is your question
answered?

19 JUDGE BOUTET: Indeed.

12:53:57 20 PRESIDING JUDGE: Okay.

21 MR JORDASH: I can assure the Court I want to have ten
22 witnesses prepared and ready to go.

23 PRESIDING JUDGE: The Court will recess for lunch break
and
24 we will resume the session at 2.30.

12:54:26 25 The Court will rise, please.

26 [Luncheon recess taken at 12.50 p.m.]

27 [RUF11OCT07C - JS]

28 [Upon resuming at 2.57 p.m.]

29 [The witness entered court]

SCSL - TRIAL CHAMBER I

1 PRESIDING JUDGE: Learned counsel, good afternoon. We
are
2 resuming this session. Before we continue, and whilst we are
3 there, I just wanted to confirm that Court Management has
4 confirmed that tomorrow is a public holiday and that it has
been
15:02:13 5 duly announced to all of us. So there is no sitting for
6 tomorrow. I didn't just want to forget releasing or
confirming
7 that piece of information at this point in time. Yes,
8 Mr Jordash. I think we can take your witness, if you are
ready.

9 MR JORDASH: We're ready. This is, I think, our ninth
15:02:45 10 witness, a Mende speaker.

11 WITNESS: DIS-078 [Sworn]
12 [The witness answered through interpreter].

13 EXAMINED BY MR JORDASH:

14 PRESIDING JUDGE: And he will testify in Mende?

15:03:14 15 MR JORDASH: Your Honour, yes.

16 PRESIDING JUDGE: I think you'd better raise his
microphone
17 a bit. Raise it a bit.

18 MR JORDASH: Your Honour, I'd like to apply to go into
19 closed session for the first 30 minutes, and I hope after that
I
15:04:13 20 won't need to go into it again.

21 PRESIDING JUDGE: You wouldn't need to go into it again?

22 MR JORDASH: I don't think so.

23 PRESIDING JUDGE: Okay. Well, applications to go into
24 closed session are usually done in a closed session, so the
15:04:41 25 gallery should just be informed that in the next 30 minutes it
26 may be that we would be through for you to come into a
session.

27 MR JORDASH: Can I just say, the gentleman in the blue
28 shirt looking a little nervous --

29 PRESIDING JUDGE: Looking a little nervous?

SCSL - TRIAL CHAMBER I

I'd

1 MR JORDASH: -- is our international investigator and

2 request that he be allowed to stay. He has been --

3 PRESIDING JUDGE: Yes, that's okay. We will allow that.

4 He can stay in.

15:05:16 5 MR JORDASH: I'm grateful.

6 PRESIDING JUDGE: He's facing me directly. He should be

7 facing his lead counsel. Never mind, I will take care of him.

8 MR JORDASH: He's got a withering glance at times.

9 PRESIDING JUDGE: All right. Okay. Yes, Mr Jordash,

you

15:05:40 10 may proceed please.

11 MR JORDASH: We are not yet in closed session.

12 PRESIDING JUDGE: Mr Court Management, I was thinking it

is

13 a very fast process, so, you know. Mr Jordash, why don't you

sit

14 down until we are ready because it takes the technical

department

15:06:34 15 quite some time.

16 [At this point in the proceedings, a portion of the

17 transcript, pages 57 to 100, was extracted and sealed under

18 separate cover, as the proceeding was heard in a closed

session]

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SCSL - TRIAL CHAMBER I

1 [Open session]

2 MR GEORGE: Court is in open session, Your Honour.

3 PRESIDING JUDGE: Thank you.

4 This is the ruling of the Chamber on Mr Jordash's
17:25:14 5 application to move into a closed session, and the technical
6 services now permit us to resume the trial in a public session
7 and this is the ruling of the Chamber in respect to the closed
8 session application by learned counsel for the first accused,
9 Mr Jordash.

17:25:44 10 Consistent with the general requirement that criminal
11 proceedings are conducted in public as enjoined by Rule 78 of
the
12 Rules of Procedure and Evidence of this Court, and taking into
13 consideration Article 17(2) of Section 2 of the Statute of the
14 Court, but exceptionally as authorised by Rule 79(A)(ii) of
the

17:26:09 15 said Rules, and the need to protect witnesses as provided for
in
16 Rule 75, this Chamber, on the application of counsel for the
17 first accused, for a certain portion of the testimony of DIS-
078,
18 yes, I have it before me, the ninth Defence witness to be
heard

19 in a closed session did, by way of an exceptional procedure,
17:26:51 20 grant the said application for the reasons advanced in support
21 thereof.

22 Let us now proceed with the examination-in-chief or
23 continue with the examination-in-chief of this witness in the
24 open session.

17:27:12 25 MR JORDASH: Thank you.

26 PRESIDING JUDGE: We don't have much time left, but
let's
27 get along. I don't know whether, if you started an episode
now,
28 would you be able to -- would you really be able to, because
we
29 have just six minutes, you know, until 5.30.

1 MR JORDASH: I can hopefully gain some ground.

2 PRESIDING JUDGE: Good. Okay.

3 MR JORDASH:

4 Q. Mr Witness, we are in an open session, and so you should
be

17:27:52 5 careful about not saying anything to reveal your identity.

6 You've told us that for the first three years you were in
Mundu

7 Tawahun. Now, taking you there briefly, when the war came to
you

8 first of all, were the soldiers from Sierra Leone or from

9 elsewhere?

17:28:34 10 A. They came from other country, those rebels.

11 Q. Just briefly, how did they behave?

12 A. It was very pathetic to explain. They were very wicked
in

13 whatever way you may imagine.

14 Q. Did you meet a man called Timba?

17:29:06 15 A. His name was Charles M Timba. Timba.

16 Q. Did you meet a man called Edward Wuha.

17 THE INTERPRETER: Your Honours, can the learned counsel

18 take that name again?

19 Q. Did you meet a man called Edward Wuha?

17:29:27 20 A. Edward Wuha. Edward Wuha, I knew him.

21 Q. Were they Liberians?

22 A. He was a Liberian, yes.

23 Q. And who were you in Mundu Tawahun --

24 PRESIDING JUDGE: The two of them were Liberians,
weren't

17:29:49 25 they? Timba and --

26 THE WITNESS: Yes, they were Liberians.

27 MR JORDASH:

28 Q. And how far is Mundu Tawahun from Pendembu?

29 A. Seven miles.

SCSL - TRIAL CHAMBER I

1 Q. Who were you living in Mundu Tawahun with?

2 A. Together with the civilians, who were plenty.

3 Q. Don't mention what job you had, but could you briefly
4 describe how you were appointed to that job?

17:30:36 5 A. Well, that position, they called the chiefs. The time
they
6 captured us we were very plenty. We were sitting down. We
were
7 more than 1,000. They captured us. They said they were
rebels.
8 They've captured that country today. All of us who were
staying
9 there, we were now under the control of rebels. There they

17:31:09 10 appointed me -- they appointed firstly another man, but he was
a
11 chief. After some days, they appointed me as [REDACTED]. But
12 that [REDACTED] --

13 Q. Mr Witness, could I ask for that to be redacted, please,
14 from the transcript. Mr Witness, you are in an open session,
so
17:31:36 15 don't say what it was you were appointed to. Don't worry.

16 PRESIDING JUDGE: It is so ordered. That will be
redacted
17 please, so that his identity is preserved.

18 MR JORDASH:

19 Q. Don't worry, just be careful.

17:31:58 20 PRESIDING JUDGE: Mr Witness, we are now in an open

21 session. You should try as much as possible to make sure, you
22 know, that you don't reveal your identity. If you are not
sure
23 you should ask whether you should answer the question,
24 particularly if it touches on revealing your identity, your
17:32:16 25 personal identity, either through the name or the particular
26 locations.

27 MR JORDASH:

28 Q. Do you know why you were appointed to --

29 PRESIDING JUDGE: I want to find out from him if he has

1 understood what I have said. Have you understood, Mr Witness?

2 THE WITNESS: I want you to go over that, so that I can
3 understand.

4 PRESIDING JUDGE: Let your lawyer explain it to you.

17:32:46 5

MR JORDASH:

6 Q. Everything you say now, Mr Witness, will be heard by
7 anybody sitting in the public gallery. Before, you were in a
8 closed session, so it was private. Now it is not. So you
need
9 to make sure that your answers do not reveal who you are, or
what

17:33:19 10

specifically you did in terms of job title. Do you follow me?

11 A. Okay. I have understood that now.

12 Q. If in doubt, ask.

13 A. Okay.

17:33:46 15

14 Q. Now, you were appointed into a position. Why did you
become appointed; do you know?

16 A. Well, they appointed me because I used to understand
their
17 language fairly.

18 Q. Fearly?

19 A. I used to understand it fairly. I used to speak Krio.

17:34:11 20

That Liberian Krio they used to speak, I used to speak but
21 fairly, but not fluently.

22 MR JORDASH:

23 Q. Not fluently but fairly?

24 THE INTERPRETER: Correction, interpreter. Not very

17:34:35 25 fluently.

26 MR JORDASH:

27 Q. Okay. Thank you, Mr Witness. Did you, in this first
year

28 or so, know Foday Sankoh?

29 A. No.

SCSL - TRIAL CHAMBER I

1 Q. Did you ever -- let me ask you this: Did you go to
2 Pendembu in the first year or so of the war?

3 A. Yes, I went to Pendembu.

4 Q. Can you explain why, without giving away your job title?

17:35:35 5 A. There was an office in Pendembu. I used to leave Mundu
they 6 Tawahun. I went to Pendembu. There was some meeting, when
7 summoned us to, I would leave from Mundu Tawahun, I went to
8 Pendembu. Then after the meeting I would come back to Mundu
9 Tawahun.

17:36:05 10 Q. Who would summon you for a meeting?

11 A. They used to call him battle group commander.

12 Q. Was he Liberian or Sierra Leonean?

13 A. He was a Sierra Leonean, that battle group commander.

14 Q. And what kind of things were discussed at meetings?

17:36:28 15 A. At that time, if there was any work to be done, for
16 example, subscription of food to be sent to the war, to the
17 ground, we would do that.

18 Q. Was it done willingly?

19 A. No.

17:36:55 20 Q. Did there come a time when you met or heard about Foday
21 Sankoh?

22 A. Yes.

23 Q. And did you speak or hear Foday Sankoh speak?

24 A. Yes.

17:37:16 25 Q. Can you remember the type of thing he said?

26 A. Firstly, he summoned a meeting once. We went to that
27 meeting. He talked to the elders, all of them, that he had
28 brought the war.

29 Q. Anything else said?

SCSL - TRIAL CHAMBER I

1 A. Yes. He told us that even myself, I have heard a lot of
2 news about the Liberians doing harm to you, but those things I
3 want to put under control.

4 Q. And did anything happen after he'd made that statement
at
17:38:06 5 the meeting?

6 A. Well, after that, he went back to Kailahun.

7 Q. And did anything happen after he had gone back to
Kailahun?

8 A. When we went to Mundu Tawahun, when the war started in
'91,
9 things were very bad.

10 Q. Did anything happen as a result of Foday Sankoh saying
he
11 wanted to bring things under control?

12 A. Yes. That was the tap 20.

13 Q. Just briefly, what was tap 20?

14 A. It was very bad. It was very sympathetic. You would
cry.

15 If you heard of tap 20, you would cry. They killed a lot of
16 people. They killed a lot of people.

17 Q. Who killed a lot of people?

18 A. They were Liberians.

19 Q. Who did they kill?

17:39:45 20 A. They used to kill civilians. Even when they brought
some

them. 21 Vanguards, they called them Vanguards, they killed some of

22 They killed civilians.

23 Q. What happened after tap 20?

24 A. There was a time again they began to call tap 40.

17:40:19 25 Q. What happened in tap 40?

26 A. They killed people at random. More than ever before.

27 Q. Who killed people at random?

28 A. Oh, God, they were Liberians.

29 Q. Who were they killing?

1 A. They used to kill civilians, in large numbers.

2 Q. How long after the war started, can you remember, was
tap

3 40?

4 A. From 1991 to 1992, between those two periods.

17:41:16 5 Q. And where were you?

6 A. At that time, I was staying at Mundu Tawahun.

7 Q. And did anything happen tap 40?

8 A. Well, concerning that tap 40, there were people who used
to

9 go there, including myself, we went there to see Mr Foday
Sankoh.

17:41:48 10 Q. Did he say anything else?

11 A. We asked him a lot of questions.

12 Q. Who's "we"? Don't -- be careful about your identity.

13 A. We, the civilians. We were about 20 and we asked him.

14 Q. Did he respond?

17:42:09 15 A. Yes.

16 Q. What did he say?

17 A. We asked him, "Mr Foday Sankoh, the war that you have
18 brought, is it to kill our family or is it to save us, as they
19 are saying? Which one that you've brought?"

17:42:32 20 Q. Did anything happen after this conversation?

21 A. He say, "My people, I have given you just one week. All

in 22 these people that you are seeing, you will not see them again
23 this country."
24 Q. Did anything happen?
17:42:56 25 A. After that, he went -- he left Pendembu and went. It
was
26 after two or three weeks.
27 Q. And what happened then?
28 A. Well, we saw one commander. He was called general --
29 THE INTERPRETER: Can the witness take that name again,

SCSL - TRIAL CHAMBER I

1 please?

2 MR JORDASH:

3 Q. General who, Mr Witness?

4 A. General Dongbo Megasu.

17:43:32
Liberians

5 Q. Did the Gios or the Liberians -- sorry, did the

6 leave?

7 PRESIDING JUDGE: General who?

8 MR JORDASH:

9 Q. Repeat the name.

17:43:41

10 A. General Dongbo Megasu. General Dongbo Megasu.

said

11 JUDGE BOUTET: Mr Jordash, could you clarify when he

12 we went -- we were about 20, we went to see Sankoh, where was

13 this, where he says they went to see him.

14 MR JORDASH: Yes.

17:44:04
the

15 JUDGE BOUTET: I take it it's different scenario than

16 first time.

17 MR JORDASH: Yes.

he

18 Q. This second meeting you've described with Sankoh, where

19 said that within a week there'd be some resolution, where was

17:44:28

20 that meeting?

many

21 A. We held that meeting at Pendembu, but there were not

22 people. When he said those people would leave this country,
23 there were not that many people there in the meeting.

24 Q. So it was in Pendembu?

17:44:45 25 A. Yes.

26 Q. Did the people, the Liberians, leave?

27 A. Well, General Dongbo, when he came, he called Pa --

28 PRESIDING JUDGE: Dodo, what nationality --

29 THE WITNESS: He is a Liberian. I don't know his tribe

but

1 he's a Liberian.

2 MR JORDASH:

3 Q. What happened then with this general?

4 A. Well, the man who was in charge of that tap arrangement,
17:45:30 5 they called him Tawi, he came and told us that Mr Foday Sankoh
6 had given us 72 hours so that all these people will leave this
7 country, so that everybody, you would have to be ready, so
that
8 72 hours can, from now, they would be prepared to leave this
9 country.

17:45:52 10 Q. And did they leave?

11 A. All of them went. There were only few, very few that
left
12 behind.

13 PRESIDING JUDGE: He gave the name of the man in charge
of
14 tap 40?

17:46:12 15 MR JORDASH:

16 Q. What was the name you said? Was it --

17 A. James Kaway.

18 PRESIDING JUDGE: A Liberian?

19 THE WITNESS: He's a Liberian. He's a Liberian.

17:46:36 20 MR JORDASH:

21 Q. And when they left, did Foday Sankoh have any more
22 meetings, that you were aware of?

some 23 A. Well, after that time, when they left I began to see

24 Sierra Leoneans, but in small numbers.

17:47:00 25 Q. Did Foday Sankoh have a meeting concerning the Liberians
26 leaving?

he 27 A. When they left this country he summoned a meeting, when

28 arrived from Kailahun, but the place where he was going, I did

29 not know but when he came, he summoned a meeting.

1 Q. Where was the meeting?

2 A. We held that meeting at Pendembu.

3 Q. And what did he do during the meeting?

4 A. Well, he said the Liberians came to this country. The

17:47:42 5 Liberians that I brought into this country, all of them had
6 returned. Now, today, the war is in the hands of your
children.

7 I have handed over the war to them.

8 Q. And did he say anything to you, and please be careful
about
9 your identity?

17:48:04 10 A. Well, he said something. The time I returned to
Tawahun,
11 that Mandu Tawahun, at that ground, the soldier who was there,
12 who was called Michael Diatu, he appointed me that I was to
13 occupy that position.

14 Q. And say the name again, please?

17:48:44 15 A. Michael Diatu.

16 Q. And was he -- which nationality was he?

17 A. He's a Liberian.

18 Q. And do you know who he worked for?

19 A. That Liberian?

17:49:14 20 Q. Yes.

21 PRESIDING JUDGE: Mr Jordash, you should be thinking of
22 rounding up please because we have some official engagements

23 before six.

24 MR JORDASH:

17:49:25 25 Q. Who did he work for?

26 A. He used to work for Foday Sankoh.

27 Q. Last question: At this stage did you see any jets
around

28 this time?

29 A. Yes. It used to come on many occasions. It would come

SCSL - TRIAL CHAMBER I

1 towards the evening. The first time it came he -- it dropped
2 bombs at Pendembu and killed 27 people.

3 Q. And did the civilians do anything in response to the
4 bombing by the jet?

17:50:17 5 A. What, what could we have done? You don't know anything
6 about that. What could we have done?

7 Q. Well, did the civilians go anywhere?

8 A. Yes, people went into the bushes but they came back to
the
9 town.

17:50:35 10 MR JORDASH: Right. Your Honour, that, with Your
Honour's
11 leave, is a convenient moment.

12 PRESIDING JUDGE: But you are not closing your
13 examination-in-chief anyway. You are not yet at the end of
your

14 examination-in-chief. It's fair. You will continue, not
17:50:55 15 tomorrow, unless you want to come into an empty courtroom. I
am
16 sure you need some rest yourself.

17 Well, learned counsel, the Court will rise. We wish you
a
18 happy weekend and for the Muslims a happy feast for the
Ramadan.

19 The Court will rise, please.

17:52:15 20 [Whereupon the hearing adjourned at 5.50
p.m.,

21

to be reconvened on Tuesday, the 16th day of

22

October 2007 at 9.30 a.m.]

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WITNESSES FOR THE DEFENCE:

21 WITNESS: DIS-225

21 EXAMINED BY MR JORDASH

39 CROSS-EXAMINED BY MR CAMMEGH

42 CROSS-EXAMINED BY MR WAGONA

55 WITNESS: DIS-078

55 EXAMINED BY MR JORDASH

86 CROSS-EXAMINED BY MR CAMMEGH