

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

TUESDAY, 13 NOVEMBER 2007
9.48 A.M.
TRIAL

TRIAL CHAMBER I

Presiding

Before the Judges:

Benjamin Mutanga Itoe,

Bankole Thompson
Pierre Boutet

For Chambers:

Ms Peace Malleni
Ms Felix Nkongho
Mr Colin Smith

For the Registry:

Mr Thomas George

For the Prosecution:

Mr Peter Harrison
Mr Vincent Wagona
Mr Reginald Fynn

For the accused Issa Sesay:

Mr Wayne Jordash

For the accused Morris Kallon:

Mr Kennedy Ogeto

For the accused Augustine Gbao:

Mr John Cammegh

1 [RUF13NOV07A - DL]
2 Tuesday, 13 November 2007
3 [The accused present]
4 [The witness entered Court]
5 [Closed session]
6 [Upon commencing at 9:48 a.m.]

7 [At this point in the proceedings, a portion of the
8 transcript, pages 2 to 29, was extracted and sealed under
9 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: The Court is in an open session now.

3 PRESIDING JUDGE: Thank you. Well, we shall now resume
the

4 trial in a public session, and this is the ruling of the
Chamber

11:00:17 5 in respect of the closed session application made by learned
6 counsel Jordash, counsel for the first accused consistent with
7 the general requirement that criminal proceedings are to be
8 conducted in public as enjoined by Rule 78 of the Rules of
9 Procedure and Evidence of this Court, and taking into

11:00:38 10 consideration Article 17(2) of the Statute of the Court, but
11 exceptionally as authorised by Rule 79(A)(ii) of the said
Rules

12 and the need to protect witnesses as provided for in Rule 75,
13 this Chamber, on the application of counsel for the first
accused

14 for the entirety of the testimony of witness number DIS-281,
am I

11:01:16 15 right, Mr Jordash?

16 MR JORDASH: Your Honour, yes.

17 PRESIDING JUDGE: DIS-281 to be heard in closed session
did

18 by way of an exceptional procedure, grant this application for
19 reasons advanced in support thereof. We will now proceed or

11:01:29 20 continuing our proceedings in an open session. And at this
stage

reply, 21 the Chamber will call on Mr Harrison to reply, provide a
22 his reply to the motion that was originally raised by learned
23 counsel Mr Jordash on the issue of -- I mean, inviting the
24 Prosecution or the Courts to order the Prosecution to limit
the
11:02:13 25 scope of their case. And I remember very well this is
26 particularly in relation to whether the RUF forces entered
27 Freetown or not. I think it was around that controversy and
in
28 relation of cause to what we now have as the contents of
Exhibit
29 277. So may we have your reply please, Mr Harrison.

1 MR HARRISON: Yes the Prosecution relies on
approximately
2 29 witness whose were called in the Prosecution case. And it
is
3 body of that evidence which the Prosecution says demonstrates
and
4 proves beyond a reasonable doubt the crimes alleged in the
11:03:13 5 indictment with respect to Freetown.

6 Cross-examination has a number of purposes and
functions.
7 And three of them that come readily to mind would be to
undermine
8 the credibility of that particular witness. The second could
be
9 to try to undermine the incredible of another Defence witness.

11:04:02 10 And the third obvious purpose of cross-examination would in
11 certain instances, try to obtain evidence which corroborates
12 Prosecution evidence. And there is no restriction on any
13 cross-examining parties on which of those rules or functions
are
14 put into place, whether it is one, or it's three or some
others

11:04:46 15 that cross-examining counsel might wish to take on. But the
16 Prosecution evidence from its case in chief was that there
were
17 RUF fighters in Freetown; that there were people in Freetown
18 before the invasion and that there were fighters who went as
far

19 as Waterloo/Hastings area, perhaps a bit further towards Orugu
11:05:27 20 Bridge but that particular group did not make it into
Freetown.

21 So there is in the Prosecution submission that's not intended
to
22 be a complete review of the evidence, we are trying to assist
the
23 specific concern that we understood the Court needed some
24 assistance on but that there is within the Prosecution case in
11:05:49 25 chief, these areas of evidence which the Prosecution continues
to
26 rely upon.

27 And as we cross-examine parties, we may seek to
28 cross-examine one witness with one topic in mind. It may be a
29 topic where we are trying to cross-examine for two or more

1 purposes but there is nothing that the Prosecution is aware of
2 that in any way infringes upon the Rules of Procedure or the
3 general law. So the Prosecution is saying that we are not
4 changing or ignoring evidence that was heard in the

Prosecution

11:06:50 5 case and that the Prosecution anticipates that when final
6 argument is made, most if not all of that testimony from
those,
7 it could be -- I didn't complete an accurate count but I would
8 have to say that it is somewhere between 25 and 30 witnesses.

9 PRESIDING JUDGE: You talked of 27 earlier on.

11:07:29 10 MR HARRISON: Yes and I'm just advising the Court that
I'm
11 not sure of the exact number.

12 PRESIDING JUDGE: Without necessarily going into the
length

13 and breath of the testimony of all the 27, I mean is it --
could

14 you provide the Court, you know, with details about the
testimony

11:07:54 15 of a set of witnesses who you say from what you say, you know,
16 when you allege that the RUF fighters were in Freetown and
that

17 there were others, you know, well there were others who never
18 made it to Freetown, they stopped somewhere. But your 27
19 witnesses you are relying on did testify that there were RUF

11:08:26 20 soldiers in Freetown during the intervention.

group 21 MR HARRISON: If you took me to say that all of that
22 of 25 to 30 said the same thing, then I misspoke.
23 PRESIDING JUDGE: Okay.
24 MR HARRISON: I meant to convey to you that there were
25
11:08:40 25 to 30 witnesses who testified about events in Freetown --
26 PRESIDING JUDGE: In Freetown.
27 MR HARRISON: -- or the Western Area.
28 PRESIDING JUDGE: Yes.
29 MR HARRISON: Whether the number who spoke about RUF
coming

1 into Freetown on the 6th of January --

2 PRESIDING JUDGE: Because that is the bone of
contention,
3 the Defence is saying that the RUF soldiers were not in
Freetown,
4 they didn't manage to make it to Freetown.

11:09:09 5 MR HARRISON: That's fine. That is a good closing
argument
6 if that is what they say and we'll of course, in our closing
7 argument, will provide all of the evidence --

8 PRESIDING JUDGE: But we want you to provide it now for
9 purposes of disposing of this particular objection because --

I
11:09:22 10 mean if you are saying that some of the 25, you know, one, two
or
11 three of them did say, you know, what suits this objection we
12 would like to have a reference to that, that is what I am
saying.

13 MR HARRISON: I don't think I could do it justice with -
-

14 MR JORDASH: Sorry to interrupt, can I just, I don't
mean

11:09:40 15 to be on my feet again today. But we are not disputing that
16 there is evidence which places some fighters in Freetown who
are
17 said to have been at one stage or another RUF. We are not
18 disputing that. What we are --

19 PRESIDING JUDGE: In fact, the crux of your case is that

11:10:07 20 the intrusion into Freetown was mainly an SLA operation. That
21 has been the way you have presented, you know, your case in
your
22 cross-examination.

23 MR JORDASH: Which is why we do complain about an
apparent
24 shift in the Prosecution case because the evidence is
disparate

11:10:30 25 and suggests there was RUF in the town, there was not RUF in
the
26 town and so we are particularly sensitive as to what is the
27 Prosecution case on Freetown. So when we hear the Prosecution
28 put to a witness: It is the case that there was no
coordination
29 between the RUF and the Gullit group in Freetown, it is the
case

1 that the assistance offered was effectively limited to
assisting
2 them, the SLAs, to retreat, we, the Defence, say: Well, what
is
3 going on? You've called evidence to say there is RUF in town;
4 you've called evidence to say there isn't RUF in town; you've
11:11:10 5 called evidence consistent --

6 PRESIDING JUDGE: Let's cut a long story and make it
short.
7 You are saying that there is evidence that has been adduced by
8 the Prosecution that there was some presence, there was some
9 presence of RUF soldiers in Freetown.

11:11:31 10 MR JORDASH: There is some evidence.

11 PRESIDING JUDGE: There is some evidence that has been
12 adduced by Prosecution witnesses, right?

13 MR JORDASH: Yes.

14 PRESIDING JUDGE: If that is the case then I would not -

-
11:11:40 15 MR JORDASH: But our argument is about --

16 JUDGE BOUTET: Your argument, Mr Jordash, and it has
17 nothing to do whether we accept this evidence or not, there is
18 evidence, so you're not disputing there is evidence. What you
19 are saying is in spite of the fact that there may be some
11:11:53 20 evidence, pardon me, in their cross-examining of some
witnesses,
21 including your accused, they seem to have restricted their

alleged 22 position to a much more limited scope than what they have
is. 23 in the indictment, and that's basically what your objection
in 24 In other words, are you changing now what you've stated
11:12:09 25 your indictment to say it is more limited in scope or is it
still 26 the same -- you are saying -- it would appear that they've
27 changed. That was my understanding of your objection -- your
28 comments yesterday and suggestion that, if that is the case,
then 29 that we should order the Prosecution to change the indictment
to

1 limit that scope, as it appears to be the case.

2 MR JORDASH: Yes, the submission rests upon the fact
that

3 there is all this disparate evidence suggesting one thing,
4 suggesting another and then when the Prosecution selects a

11:12:49 5 version from that disparate evidence and puts it confidently
to a

6 witness then we, the Defence, are entitled to say: Okay, that
is

7 your case, you should indicate that is your case and let's not

8 worry ourselves with this other disparate evidence which you
as a

9 party appear to have abandoned.

11:13:06 10 JUDGE THOMPSON: Let me tell you how I understand your
11 position. Are you suggesting that the Prosecution should now,
12 because of the way you perceive their position in terms of the
13 Freetown situation, should now be put to their election?

14 MR JORDASH: Yes.

11:13:24 15 JUDGE BOUTET: In other words are we coming close to the
16 possibility of some measure of equivocation because when you
say

17 disparate here -- in other words -- because for me the idea of

18 your case being narrowed down or limited, you can still narrow

19 your case down from what it was, a global kind of
presentation,

11:13:53 20 without any degree of equivocation. What I want to know is
that

21 exactly what clarification are you seeking from them based on
22 your own perception of how their case has now evolved.

23 MR JORDASH: There has been --

Defence

24 JUDGE THOMPSON: How -- in other words what is the

11:14:21

25 entitled to know now and how, what if ever they come out with
26 this clarification, how will that help you reconfigure your
27 Defence.

28 MR JORDASH: We go further than saying the Prosecution
29 should clarify. We submit they should be ordered to limit

their

1 case to the one they've put to the Defence witnesses.

2 JUDGE THOMPSON: I see.

3 MR JORDASH: There has been equivocation throughout the
4 Prosecution case as to the alleged involvement of the accused

in

11:14:56 5 the January 6 invasion. It's gone from TF1-366 who claims
that

6 there was absolute coordination with passwords; with absolute
7 involvement of the RUF in that attack within Freetown, all the
8 way to TF1-167 who almost totally repudiated any involvement

of

9 the RUF whatsoever. That type of equivocation is a problem in
11:15:29 10 any event, especially when the Prosecution have not at any
stage

problem

11 indicated where their case lies. But it is a particular

equivocation

12 when we've gone through a Prosecution case full of

13 and then the Prosecution cross-examine some of the major

put

14 witnesses, including Mr Sesay, including the last witness and

11:15:52 15 to them a very specific case -- a specific case which hugely
16 narrows the case and which we ought to, as the Defence, be
able

17 to rely upon.

this 18 JUDGE THOMPSON: In other words you are saying that at

of 19 point in time, if your submission is right and your perception
11:16:05 20 what the case is now is valid, you will need to reconfigure
your
21 defence because, if you are in a state in which the
Prosecution's
22 case has become rather amorphous, then your client needs to
know
23 precisely, at this stage, what to answer; is that what you are
24 suggesting?
11:16:32 25 MR JORDASH: But we have two completely different
versions
26 now before the Court. Which is one, there is coordination
from
27 early 1998 a communication, radio communications meetings and
so
28 on, leading to this coordination of the various groups: SAG
29 Musa, Gullit, Superman and the Sesay group attacking Kono, all

witness

1 the way to my learned friend's position advanced to the

that

2 yesterday that there was no coordination and, in fact, all

to

3 happened was the RUF came up at the rear and helped the SLAs

11:17:20
issue

4 escape from Freetown. The two are irreconcilable and the

5 Prosecution ought not to be able to ride two horses on an

to

6 which potentially leads to convictions which potentially leads

7 huge punitive consequences and it is not enough, I would

and

8 respectfully submit, for the Prosecution to simply stand up

9 say, "Well, our case is everything. It's 29 witnesses, all of

11:17:43
is

10 whom we say speak to the Freetown attack. It doesn't matter

11 whether it's consistent or not. We say everything happened,"

12 not enough, I would respectfully submit.

finished,

13 PRESIDING JUDGE: But Mr Harrison had not quite

14 you know, when you sprung on your feet. That is okay. We've

11:18:05
the

15 taken that -- Mr Harrison, you hadn't quite concluded in your

16 submissions when Mr Jordash, with our leave, you know, took

17 floor.

examination.

18 MR HARRISON: Yes, if I could go back to cross-

one 19 I have to say it's foreign to the Prosecution the notion that
11:18:30 20 must with every witness ask exactly the same questions with
21 respect to the indictment. The way we have always understood
22 cross-examination is that one would make an assessment of what
23 the witness is likely to say, try to imagine what answers they
24 would provide that would either, again, returning to the
11:18:58 25 functions, undermined the credibility of that particular
witness
26 under cross-examination, undermined the credibility of another
27 Defence witness or which may lead to some evidence which could
be
28 corroborative of the Prosecution case. And that, as we
29 understand it, is generally the appropriate way to undertake

in

1 cross-examination. And with respect to what has taken place
2 this trial, the Prosecution led its evidence, the Prosecution
3 will ultimately be making submissions on what it is the Court
4 should accept. The Defence know what all of the evidence is.

11:19:55
Court

5 They make an assessment of the weight that will be given to it
6 and make their counter submissions. And we are asking the
7 to reflect upon what it is we're currently discussing, and

this
and
eye

8 might be a discussion that is not contemplated in the rules,
9 it may be one that can be looked at with a somewhat critical

11:20:39

10 as to whether this is an appropriate discussion to be taking
11 place at this point in time.

12 PRESIDING JUDGE: Yes.

13 MR JORDASH: I know my learned friend is chomping at the
14 bit to get up, but if I can just --

11:21:05
for

15 PRESIDING JUDGE: But he will come last because he is

second

16 the third accused. He should not jump up very fast. Mr Ogeto
17 will -- Mr Ogeto who also has to sit there himself. The

18 accused will come before him.

19 MR JORDASH: I'll be brief because I've made many of my

11:21:19
20

points. But just dealing with the last comment of

21 my learned friend, that is not an appropriate discussion to be
22 having at this time. It's always an appropriate discussion
for a
23 Defence to be asking the Prosecution to specify their case.
It's
24 always an appropriate time for that, especially when the
11:21:35 25 Prosecution appear to be putting contradictory cases before
the
26 Court. Article 17, the right to be informed promptly and in
27 detail in a language which the accused understands of the
nature
28 and cause of the charge against him. It is always an
appropriate
29 time, and the time is appropriate whether the Prosecution
start

dealt 1 to contradict themselves. Secondly, and my learned friend
thing 2 with a number of functions of cross-examination. The one
a 3 that ties together all functions of cross-examination is that
4 party must not put matters which are not consistent with their
11:22:15 5 case. That must flow from Article 17, but flows from logic.
You
6 don't put what you don't wish to prove. And there would be
7 no -- there would have been no problem if my learned friend
had
8 put to the witness: Isn't it correct that there was an
attempt
9 by the RUF to help the SLAs to retreat and they, in fact, did
11:22:50 10 help them to retreat, because that's not what my learned
friend
11 put. What my learned friend put was, as a security, I think
you
12 know what we're talking about, as a security you would have
known
13 that Rambo tried his best to link up, but the Freetown
operation
14 was not coordinated as the said commander, Black Jah, was not
11:23:17 15 going by the instruction from the High Command. As the
security
16 you would have known that the RUF under Rambo were unable to
17 enter Freetown, but Rambo made it possible for Gullit and
others

18 to retreat. So this is not, as my learned friend puts to the
19 Court, a case of taking a part of the overall case and putting
it
11:23:46 20 to a witness. This is a case of the Prosecution putting to a
21 witness a case which sits in contradistinction to another case
22 which they've advanced through their witnesses. That's the
23 problem which the Prosecution have created. They want to
24 basically put whichever case they can to whichever witness,
and
11:24:10 25 then when the submissions come they can look up what their
26 various cases are and say, "Well, let's cherry pick. We'll
take
27 that one because that looks as though it will succeed, but
let's
28 put it in the alternative and say this one is also the case."
29 They want everything. What they don't want is to be fair to
the

1 accused and indicate with any precision what their case is in
2 case they don't get their conviction. Those are my
submissions.

3 PRESIDING JUDGE: Thank you. Mr Ogeto, the second
accused,
4 did you want to say anything?

11:24:47 5 MR OGETO: I thought Mr Cammegh was up first.

6 PRESIDING JUDGE: No. We were going in turns here. You
7 have counsel for the second accused. If you have nothing to
say
8 then Mr Cammegh for the third accused will come in.

9 MR OGETO: I have no problem with that, My Lords. As I
11:25:07 10 said yesterday I associate myself with the submissions made by
my
11 colleagues. And I only wish to add that the submissions made
by
12 the Prosecution don't hold any water at all because if they
make
13 a concrete proposal, and an equivocal proposal in the course
of
14 examining that witness, and that proposal that they make

11:25:38 15 contradicts their case, either in the indictment, the pre-
trial
16 brief or in the testimony of their witnesses, my submission is
17 that they are bound by that proposal.

18 They have a duty to explain to the court why they should
19 not be bound by that proposal and, in the absence of any

11:26:12 20
proposal

20 explanation, the Defence is entitled to assume that the
21 they have made is their new case and that henceforth we should
22 probably respond to that proposal as opposed to what they have
23 alleged in their indictment, what they have alleged in their
24 pre-trial brief, and what their witnesses have been alleging.

11:27:06 25
that

know,

25 It is not just enough to talk about cross-examination,
26 they are different functions of cross-examination, that we
27 that is very obvious. In this case, My Lords, a concrete
28 proposal has been made to a Defence witness and, without
29 repeating myself, the Prosecution should be bound by that very

made
their

1 concrete, very clear very unequivocal proposal that has been
2 to a Defence witness. The Defence must assume that that is
3 case now. Those are my submissions.

4 PRESIDING JUDGE: Thank you, Mr Ogeto. Maybe --

11:27:51
a

5 JUDGE THOMPSON: Maybe just a short word. I actually am
6 little in a quandary here, and this is just a question of
7 terminological decision in terms of the use of the word
8 "proposal" at this point in time. When you say "proposal"

what
a

9 precisely, from a legal prospective, are you characterising as
10 proposal, because it was cross-examination, questions put and
11 answers given, so could you help me a little just for my
12 enlightenment?

11:28:19

13 MR OGETO: Maybe I used -- my understanding of this
14 argument is that it revolves around a proposition.

11:28:41
in

15 JUDGE THOMPSON: Yes, a proposition put to the witness
16 the form of a question.

it
the

17 MR OGETO: In the form of a question, and I understood
18 to mean that the Prosecutor believed that that proposition is
19 correct state of events.

11:28:58 20 JUDGE THOMPSON: From the prosecutorial prospective.
21 MR OGETO: Exactly, My Lords.
22 JUDGE THOMPSON: In other words, and your position is
that
23 once they put that proposal to the witness, and the witness
has
24 an opportunity of answering the proposal, the proposition, as
you
11:29:12 25 say, then they are bound by that proposition in terms of the
26 complexion or the nature of their case.
27 MR OGETO: Exactly, My Lord.
28 JUDGE THOMPSON: Actually, I would just hope that if are
29 you going to stand on that firmly that at the end of the day
you

1 would probably, for my benefit, give me some authorities to
help 2 me. Not now, not at this stage, some case law authority or
3 something later on.

4 MR OGETO: I will remember to do that, Your Honour.

11:29:43 5 JUDGE THOMPSON: Yes, quite. Thanks.

6 PRESIDING JUDGE: If there is any, there could be a
7 proposal of law made by counsel, which is not necessarily
8 supported by jurisprudence but it may not necessarily invalid.

9 PRESIDING JUDGE: There could be some jurisprudence.

11:29:55 10 JUDGE THOMPSON: But I seek enlightenment.

11 PRESIDING JUDGE: Yes, indeed.

12 JUDGE THOMPSON: That is the way the judicial process
13 works.

14 MR OGETO: Exactly. But also, even without authorities,
my

11:30:03 15 submission is that it is common sense; the Prosecution is
saying 16 this is the correct position, this is what we are alleging and
17 this is what we are putting to you. My view is that they
should 18 be bound by that. I don't need --

19 JUDGE THOMPSON: I don't want to go into the merit or
11:30:21 20 demerit of your submission, actually, I just merely, in the
21 tradition of the law, ask for some kind of guidance for my

22 benefit, that is all.

23 PRESIDING JUDGE: You made the promise that if you have

24 some jurisprudence you will look for it and see if you can

11:30:37 25 provide it because we are not giving the ruling in this matter

26 today anyway. So if you have some jurisprudence you can

submit

27 that to the legal officers of the Chamber.

28 MR OGETO: I will endeavour to --

29 PRESIDING JUDGE: And maybe to the Prosecution as well.

SCSL - TRIAL CHAMBER I

authorities

1 MR OGETO: I will try to endeavour to get some
2 to that effect.

3 PRESIDING JUDGE: Good, thank you. Mr Cammegh.

functions

4 MR CAMMEGH: I have no difficulty with the three

11:31:10 5
6
arching

that Mr Harrison cited in respect to cross-examination that is
not controversial. But I would venture that the one over-

is

7 and consistent thing that should be put in one's
8 cross-examination, whether as Prosecution or Defence counsel,

9
11:31:42 10
or

to put one's case, and that's consonant not only with what his
Honour Judge Thompson said just now which is that the client

facing,

11 the accused has the right to know what allegations he is

an

12 it is consonant of course back to basics with Article 17 that

13 accused must in a timely fashion be allowed to understand the
14 nature of the charge against him.

11:32:04 15
16
17
as

Now the difficulty, and I would like to explain why I
support Mr Jordash's point with a practical example because I
think practical examples are best in order to focus one's mind
18 to where the potential mischief might lay. When the original
19 chief Prosecutor opened this case, which he did with extremely

11:32:29 20 emotive language but with very little specif -- it is a word I
21 can't say -- very little specifics in relation to how each
22 allegation was going to be proved.
23 We for the third accused was somewhat at a loss as to
24 discover what the evidence was going to be, what the
Prosecution
11:32:53 25 case was in respect inter alia to the crime base of Freetown
26 January 6 1999. And so as the case developed I listened with
27 interest to see how the Prosecution were going to put their
case.
28 Mr Harrison is right, some 20 or 30 or so witnesses have
29 testified to what happened in Freetown but, of course, that

as I 1 doesn't directly concern Mr Gbao. What concerns Mr Gbao is,
2 said yesterday, how, presumably, through the vehicle of joint
3 criminal enterprise the Prosecution were going to prove that
4 particular aspect of the indictment.

11:33:47 5 Eventually they called Witness 366. One would hope that
he
6 was tested and demerited so thoroughly in cross-examination
that
7 perhaps his allegation of Gbao attending a meeting in Buedu in
8 December 1999 wouldn't trouble one so much. But very late in
the

9 case they introduced the witness 371 who also, whilst he was
11:34:04 10 contradicted in cross-examination as to his account of Gbao's
11 attendance at such meetings, also testified to such
attendance.

12 And unless I am wrong, therein lies the basis of the joint
13 criminal enterprise, presumably, Category 3 against Mr Gbao on
14 the count relating to Freetown. And therein lies the well

11:34:27 15 rehearsed complaint that this Court has heard over the last
three

16 and a half years that we often reach scenarios which are
17 tantamount to reversal of a burden of proof for the simple
reason

18 that in the absence of specific allegations in the pre-trial
19 brief or in the opening, it has really been for the Defence to
11:34:48 20 discover where the possible evidence of a joint criminal

21 enterprise are found.

22 It is all very well for Mr Gbao to be alleged to have
23 committed a joint criminal enterprise to commit murder in
24 Freetown, but in what way? The Prosecution have never

explained

11:35:13 25 what Gbao allegedly agreed to do or what Gbao could allegedly
26 have foreseen. It is not defined in the pre-trial brief. It

is

27 tantamount, we'd say, to reversal of the burden of proof

because

28 it has become for the Defence to spot the items, if you like,

29 that the Prosecution might eventually rely on. The one thing

for

1 sure is the Prosecution have never told us what to look for.
2 Now if we have arrived at a scenario yesterday where
3 Mr Harrison has defined or restricted the Prosecution case,
he's
4 essentially assisted the Defence by putting a case which
seemed
11:35:53 5 to us to be no more than the RUF's role in Freetown was no
more
6 than to aid and abet the retreat. Then that is something that
on
7 behalf of Mr Gbao I want to take advantage of. It is for the
8 Prosecution to put their case. And the best place to do that,
in
9 the absence of specifics in a pre-trial brief or in an
opening,
11:36:17 10 is via cross-examination so we all know where we stand. The
11 Court has also heard complaints through the years of the
12 Prosecution molding their case. Well here, ironically,
perhaps,
13 is an example of their molding their case to the Defence's
14 benefit. It may be, I don't know, a mistake on their part.
But
11:36:31 15 if that is the case that is put, then that is the case surely
16 that they stand by and they have to stand by.
17 The words read by Mr Jordash just now for me speak
volumes.
18 It is not for the Prosecution to sort of modify their case as

And 19 they go along. They have to nail their colours to the mask.

11:37:00 20 what we want to know, first of all is, is that the case on
21 Freetown? If it is not the case, why was that question put in
22 those terms yesterday? And above all, what is the case?

23 We asked Your Honours to rule that the Prosecution
should,
24 at the very least, tell us what their case is because there is
11:37:23 25 equivocality now. And where there is equivocality there is a
26 risk, we submit, a prejudice to the defendant. Is this the
27 Prosecution inferentially admitting that their case on joint
28 criminal enterprise on Freetown is not as strong as way back
in
29 2004 they had hoped it would prove to be? If that is the
case,

1 let us take advantage of that. It should be limited now.

2 And those are my submissions. I am grateful.

3 PRESIDING JUDGE: Well we've heard all of the arguments.

4 We will put it on advisement and we will come with our ruling
on

11:38:29 5 this in due course. We are setting a date, you know, for it.

6 MR JORDASH: May I just -- sorry.

7 PRESIDING JUDGE: Yes, Mr Jordash.

8 MR JORDASH: Simply for Your Honours' assistance, if I
may

9 just give you the reference of the cross-examination of Sesay
on

11:39:02 10 the same point, which is 26th of June, going from
approximately

11 page 43 until --

12 PRESIDING JUDGE: On what date, Mr Jordash?

13 MR JORDASH: 26th of June 2007, going from approximately

14 page 43 to 50 -- sorry, to approximately page 60.

11:39:26 15 PRESIDING JUDGE: To 60.

16 MR JORDASH: Yes.

17 PRESIDING JUDGE: Forty-three to 60. All of those pages
or

18 just some of them? I would be surprised if 43 to 60 would be

19 based only on the Freetown incident.

11:39:43 20 MR JORDASH: Well this deals with the specific case
being

21 put on exhibit, I think, 227 which deals with the --

22 PRESIDING JUDGE: You say up to page what -- page what,
23 page 43 to 60.

24 MR JORDASH: Yes.

11:40:00 25 PRESIDING JUDGE: Forty-three to 60.

26 MR JORDASH: To six-zero.

27 PRESIDING JUDGE: Six-zero, okay, yes. Okay, as I said
we

28 will put this matter on advisement and we will come up with a
29 ruling in due course. But please, if you have -- if learned

SCSL - TRIAL CHAMBER I

1 counsel have any jurisprudence or any legal material that may
 2 throw some light in these arguments in order to enable us to
 make
 3 not just a determination but a better determination of this
 4 matter, the Tribunal will be expecting certain material which
 can
 11:40:55 5 be channeled through our legal officers. Thank you.

6 I think this said, we would be proceeding -- we will be
 7 recessing for a few minutes, and we would resume the session
 8 shortly. The Chamber rises please.

9 [Break taken at 11.37]

12:12:30 10 [RUF13NOV07B - JS]

11 [Upon resuming at 12.09 p.m.]

12 [The witness entered Court]

13 PRESIDING JUDGE: Yes.

14 WITNESS: DIS-293 [Sworn]

12:15:04 15 [Witness answered through interpreter]

16 PRESIDING JUDGE: Mr Jordash, this would be -- this is
 DIS?

17 MR JORDASH: DIS-293. The language is Krio.

18 PRESIDING JUDGE: And is this your 16th witness or --

19 MR JORDASH: 15th, I think.

12:15:41 20 PRESIDING JUDGE: 15th.

21 MR JORDASH: Yes. Thank you.

22 PRESIDING JUDGE: Yes, Mr Jordash.

23 MR JORDASH: I beg your pardon, sorry.

24 PRESIDING JUDGE: You may proceed, please.

12:16:31 25 EXAMINED BY MR JORDASH:

26 Q. Good afternoon, Mr Witness.

27 A. Good afternoon, sir.

28 Q. I notice you answered in English.

29 THE INTERPRETER: Your Honours, the witness is not
audible.

SCSL - TRIAL CHAMBER I

1 MR JORDASH:

2 Q. Can you perhaps raise the microphone a little bit so
it's
3 nearer your mouth and try to speak a little bit more -- with a
4 little bit more volume. I know it's probably a strange thing
to
12:17:16 5 have these on your head and a microphone in front of you, but
try
6 your best.

7 PRESIDING JUDGE: We are in an open session, I hope,
8 technically?

9 MR GEORGE: Yes, My Lord.

12:17:33 10 PRESIDING JUDGE: Right. Okay.

11 MR JORDASH:

12 Q. We are in an open session, so make sure that what you
say
13 would not identify you. Do you follow me?

14 A. Yes, sir.

12:17:59 15 Q. Now, I want to ask you some questions and then others
will
16 ask you questions. If you don't understand the question,
please
17 ask me to repeat it.

18 A. Okay, sir.

19 Q. And what you say is being translated, so take it at a
12:18:22 20 fairly moderate pace.

21 A. Yes, sir.

22 Q. I want to take you to 1995. Do you recall where you
were

23 in 1995?

24 PRESIDING JUDGE: May we have his name, please?

12:18:57 25 THE WITNESS: Yes.

26 MR JORDASH: We're in an open session, Your Honour.

27 PRESIDING JUDGE: Oh, okay. I'm sorry. I'm sorry.

28 MR JORDASH:

29 Q. Do you recall where you were in 1995?

SCSL - TRIAL CHAMBER I

1 A. Yes, sir.

2 PRESIDING JUDGE: How old is he?

3 MR JORDASH: Yes, you're right. I'm sorry, I should
have dealt with this introductory material.

12:19:23 5 Q. How old are you, Mr Witness?

6 A. I'm 27 years old.

7 Q. And which language do you speak?

8 A. I speak Krio.

9 Q. Did you go to school?

12:19:40 10 A. I'm not going to school now.

11 Q. Did you go to school when you were a child?

12 A. Yes.

13 PRESIDING JUDGE: I just want to put this witness at
ease.

14 If you think you'll express yourself better in Krio, please do
12:20:00 15 that.

16 THE WITNESS: I want to express myself in Krio.

17 PRESIDING JUDGE: In Krio, yes, in which event, you
know,

18 you have to at least follow the translations and hear from the
19 person who is interpreting to you.

12:20:17 20 THE WITNESS: Yes, sir.

21 PRESIDING JUDGE: And then you can give your evidence in
22 Krio; understand?

23 THE WITNESS: Yes, sir.

24 MR JORDASH:

12:20:25 25 Q. Okay, so don't listen to me speaking English. Listen to
26 the translation coming through, okay?

27 A. Yes, sir.

28 Q. And then speak in Krio into the microphone?

29 A. Yes, sir.

SCSL - TRIAL CHAMBER I

1 PRESIDING JUDGE: You say you are how old?

2 THE WITNESS: I'm 27 years old.

3 MR JORDASH:

4 Q. When did you leave school? How old were you?

12:21:07 5 A. I left school in 1995.

6 Q. Where were you when you were going to school?

7 A. I was in Freetown.

8 Q. When you left school in 1995, did you go anywhere?

9 A. Yes, I went to Kono.

12:21:38 10 Q. Why did you go to Kono?

11 A. To mine diamonds.

12 Q. I think you're still responding in English; is that
right?

13 A. I want to explain in Krio.

14 Q. Are you receiving Krio in your headphones?

12:22:29 15 A. I'm not getting the Krio version.

16 Q. All right. That's the problem. Can we --

17 MR HARRISON: I can see that he pushed the wrong -- the
18 button on the wrong side.

19 MR JORDASH: Mr George, can you put the button on the --
I
12:23:01 20 think the other side. I think the other side, Mr George.

21 Q. Now, let's try again. Mr Witness, can you hear me or
shall

22 I say can you hear a translation of what I'm saying?

23 A. Yes.

24 Q. Are you sure you can hear Krio?

12:23:43 25 A. That's why I want to translate in Krio.

for a 26 Q. Don't listen to me in English. All right. Ignore me

27 minute.

witness I 28 THE INTERPRETER: Your Honours, Your Honours, the

29 suppose is still not getting the translations in Krio.

SCSL - TRIAL CHAMBER I

in

me

you'd

- 1 MR JORDASH:
- 2 Q. You can hear me speaking in English, can you?
- 3 A. I can hear you.
- 4 Q. Can you hear anything coming through on your headphones
- 12:24:22 5 Krio?
- 6 A. No.
- 7 Q. All right. Okay, let's try again. I know you can hear
- 8 speaking in English, but can you hear Krio coming through?
- 9 A. Yes, I'm getting the -- yes, sir. Okay, sir.
- 12:25:42 10 Q. Great. So ignore my English. Just listen to your
- 11 headphones.
- 12 A. Okay, sir.
- 13 Q. You told us that you left school in 1995; is that right?
- 14 A. Yes, sir.
- 12:26:02 15 Q. Then you went to Kono to mine diamonds?
- 16 A. Yes, sir.
- 17 Q. Which -- did you work for a company?
- 18 A. Yes, we were working in a company called Kolola Mining.
- 19 Q. I think that's K-O-L-O-L-A. Was this the first time
- 12:26:33 20 been involved in the mining trade?
- 21 A. Yes.
- 22 Q. Who owned the company?

23 A. MB Savage.

24 Q. Was he a civilian or an armed fighter?

12:27:15 25 A. He was civilian at that time.

26 Q. How many others worked for his company?

27 PRESIDING JUDGE: Did he say he was a civilian at that
28 time?

29 MR JORDASH: Yes.

SCSL - TRIAL CHAMBER I

1 THE WITNESS: He's a civilian.

2 MR JORDASH:

3 Q. Did he remain a civilian as far as you know?

4 A. Yes.

12:27:41 5 Q. How many people worked for the company?

6 A. About 200.

7 Q. Where did you mine?

8 A. We mined at small Sefadu, Benduma.

9 Q. Do you know or are you able to describe the type of
mining

12:28:29 10 it was?

11 A. Yes.

12 Q. Go ahead?

13 A. The mining we did was a two-pile condition. We worked
for

14 Mr Savage who was the company manager. They licensed the
place.

12:28:33 15 When you work you take two pile, one goes for the company and
one

16 goes for the labourers.

17 Q. If you found a diamond, what would you do with it?

18 A. When we find diamond we sell it to those who support us,
19 who sponsor our work. They buy it from us and we share the
money

12:29:04 20 among ourselves, our friends -- the friends I used to work
with.

21 Q. And the supporters, were they different to Savage? Who
22 were the supporters?

23 A. Yes, they are different from Savage. There were other
24 supporters. Because we worked in gangs. There are three men

in

12:29:37 25 one gang. Some pits are 50 gang, some 20, 30. It depends on
how

26 you open the pit.

27 Q. And was there one supporter to a gang or more than one
28 supporter?

29 A. There are more than one because all of them had their

1 workmen. If there are 10 supporters all of them had their
2 workmen.

3 Q. Who would decide the price of the diamond that you
found?

4 A. If we find the diamond, we will sit down and talk with
our

12:30:28 5 supporters. If we do not agree on the price, then we will --
we

6 divide the money into two. He would take his own part and the
7 three of us will take our own part. From that part we share

8 among our three, the three of us, and the supporter will take
his

9 own part because he's the one doing the job.

12:30:59 10 Q. Did you continue working for MB Savage?

11 A. We worked there for five months. After the five months
we

12 left and transferred to another mining area because we were
not

13 working on one --

14 THE INTERPRETER: Your Honours, can the witness go
slowly.

12:31:21 15 MR JORDASH:

16 Q. Mr Witness, just remember your Krio is translated into
17 English for people like me, so take your time. So just go

back

18 two sentences, please, and just repeat what you said?

owns
12:31:57
told
12:32:16
went

19 A. I said we worked at Kolola Mining for MB savage. He
20 the company. We had a supporter who was supporting us with --
21 any group had their own supporter.
22 Q. You worked with the Kolola company for five months you
23 us. Did you then go somewhere else?
24 A. Yes, sir.
25 Q. Did you work for someone else after that?
26 A. Yes. I worked for somebody else.
27 Q. And what was the name of the company?
28 A. Well, it was Kasim Basma. When I left Kolola, then I
29 to Kasim. That was where I started to work again.

1 Q. And how long did you work there?

2 A. I worked there for three months.

3 Q. And what kind of mining was that; can you describe it,
4 please?

12:33:17 5 A. Yes. We did -- we were working with the Kasim company,
6 that would carry the gravel. It was a daily wage. We carried
7 the gravel from the gate to the plant site where we washed the
8 gravel. But we do not wash. They carry it on the pan and
take
9 it to the washing site. In the evening they pay us 10,000
each.

12:33:57 10 Q. And do you get a share of any diamond that you find?

11 A. No, they would not share it among us. It's only -- they
12 were only paid 10,000 for the day, whether we found diamond or
13 not, we would not be given anything.

14 Q. And -- excuse me -- was the owner of the company a
civilian
12:34:25 15 or a fighter?

16 A. He was a civilian.

17 PRESIDING JUDGE: You're referring to Kasim?

18 MR JORDASH: No, I was trying not to refer to the actual
19 owner's name. But the name of the company was Kasim, Kasimba.

12:34:52 20 JUDGE THOMPSON: Basma, is that it?

21 THE WITNESS: Yes, Kasim Basma owns the company.

22 MR JORDASH: My mistake. Thank you.

you
23 Q. You worked for this person for three months; what did
24 do after that?
12:35:21 25 A. After that I transferred to number 11. At number 11 we
are
26 tripping. We joined other people to be involved in tripping.
27 Q. What's tripping?
28 A. Tripping, like if you dig a hole, then the gravel was
down,
29 that involved tripping. That is what is meant by tripping.

SCSL - TRIAL CHAMBER I

1 Q. And how was it organised in terms of payment for you?

2 A. We were not paid -- fair. When we transferred there to
3 gravel,
4 work, we operated on a two-pile system. After we got the

5 that was shared between us. The one that owned the plot had a
12:36:22 6 pile. We, the workers, had a pile and we shared our pile into
a

7 bucket. If you were three in number, you receive a bucket.

If

8 you were -- if you were only a single man you receive a
9 bucket.

10 If you were three, the three would receive three buckets.

11 Q. And if you found a diamond in your pile, what would you
do

12:36:49 13 with it?

14 A. We will take the diamond to the supporter who would buy
it

15 from us. After buying it from us, we will share the money

16 amongst ourself, the workers.

17 Q. Who would decide the price of the diamond?

12:37:14 18 A. Amongst us?

19 Q. When you went to the supporter and the supporter would
buy

20 it, who would divide --

21 A. Well, we had -- we had the group leader, we had a
leader,

22 he was going to bargain on our behalf. Whatever price they

12:37:39 20 bargain on, if he paid us we will receive the money but they
did

21 not agree on a price we would go elsewhere and sell the
diamond

22 after which we would share the money amongst ourselves.

23 Q. Did you stay in Kono?

24 A. Yes, I was in Kono up to '96.

12:38:15 25 Q. Where did you go in 1996?

26 A. I was there until '97, then I left -- I left Kono and
went

27 to Tongo.

28 Q. Perhaps I should have asked you this question, Mr
Witness:

29 When you went to Kono in 1995 and remained there in 1996 and
then

1 left in 1997, were you a civilian or were you a member of any
2 armed group?

3 A. No, I was a civilian.

4 Q. At any stage from 1995 until the end of the war, were
you a
12:39:27 5 member of any armed group?

6 A. No. I was a civilian.

7 Q. So you arrived in Tongo in 1997 as a civilian, and did
you
8 work?

9 A. Yes, because I went there purposely to mine diamonds.

12:39:57 10 Q. Why did you go there purposely to mine diamonds?

11 A. Because my friends invited me and informed me that there
12 were diamonds in Tongo. That's -- and entreated me to go to
13 Tongo, that was why I left Kono and went to Tongo.

14 Q. Did you go alone or with anyone else?

12:40:30 15 A. I went alone.

16 Q. Did you meet your friend there?

17 A. Yes. I went and met my friend. We started working with
my
18 friends.

19 Q. Was there any fighting group in control of Tongo when
you
12:41:06 20 arrived?

21 A. Yes, the Sierra Leone Army and the Kamajors.

22 Q. Where were you staying in Tongo?

23 A. I was at Tongola, new side.

24 Q. Were there other people from Kono besides yourself who'd

12:41:54 25 come to Tongo?

26 A. Yes. There were people who were in Kono who left Kono
and
27 went to Tongo.

28 Q. Did you hear about a place called Cyborg pit?

29 A. Yes. I heard about it and they were mining there.

SCSL - TRIAL CHAMBER I

1 Q. Where did you mine?

2 THE INTERPRETER: The interpreter is sorry. Instead of
3 they were mining there, I was mining there.

4 MR JORDASH:

12:42:35 5 Q. So you were mining there. Who were you mining --

6 A. Yes.

7 Q. -- with or for?

8 A. We were mining together with Mr Amadu.

9 Q. How was the mining organised with this -- with this man?

12:43:13 10 A. Mr Amadu, we were working with him. When we had a
diamond,

11 he was buying it from us, he was our supporter.

12 Q. Who would decide the price of the diamond?

13 PRESIDING JUDGE: Was the man a civilian?

14 THE WITNESS: Yes, he was a civilian.

12:43:58 15 PRESIDING JUDGE: Yes, counsel wanted to know who would
16 determine the price of the diamond.

17 THE WITNESS: It was the group leader, the group leader
who
18 was with us. We would sit together and arrange and determine
the
19 price of the diamond. He was going to bargain on our behalf.

12:44:21 20 After we have agreed on a particular price, we would call --
we

21 would call on the person that was going to buy the diamond and
he

22 will pay the price that all of us have agreed on.

23 MR JORDASH:

24 Q. Would the diamonds be sold to anyone else or was it just

12:44:47 25 this one person?

26 A. We used to sell to our supporter, but we don't know
where

27 our supporter used to sell.

28 Q. And the supporter was one person; is that right?

29 A. Yes, it was a single person who was supporting us.

SCSL - TRIAL CHAMBER I

1 Q. Did you dig and pull gravel?

2 A. At Cyborg? There you have sand. You bale the sand and
you
3 pile it elsewhere.

4 Q. And what happens then?

12:45:49 5 A. After we pile the sand, we would divide the sand into
two,
6 one for the SLAs and the Kamajors, and one for us, the
workers.

7 Q. Were the Kamajors and the soldiers visible in and around
8 the mining pits?

9 A. Yes. I used to see them.

12:46:42 10 Q. Did you continue working at Cyborg?
11 A. I was -- I worked there for some time and afterall I
left
12 there.

13 Q. Why did you leave there?

14 A. I left there because the Kamajors had been harassing us
too
15 much. That was -- that made me to leave the place and went to
16 another mining site.

17 Q. When you say the Kamajors had been harassing you too
much,
18 what do you mean by that?

19 A. They were at times to get the gravel. After got our own
12:47:32 20 gravel, they would seize it from us and there were times when

21 they forced us to work for them. Those were the tricks of the
22 Kamajors. That's why our leader advised us to leave the place
23 and find a site where we would continue doing our job.

24 Q. Where did you go?

12:48:11 25 A. We started mining at Blama. We went to another mining
area

26 called Blama. There we started to work.

27 Q. Where's Blama?

28 A. Blama is in the same Tongo area.

29 Q. Did you have a different or the same supporter?

SCSL - TRIAL CHAMBER I

1 A. It was the same supporter.

2 Q. And when you were in Blama, did you see any Kamajors or
3 soldiers?

4 A. Yes. Kamajors had been going there, soldiers had been
12:49:07 5 going there, but they were not many as there were at Cyborg.

6 Q. Who was in control of Blama when you went there?

7 A. They had a committee, a civilian committee. So when we
had
8 a gravel, we would call those people and we divided it into
two
9 piles. They will take a pile for the Kamajors and the
soldiers

12:49:35 10 and we, the workers, had our own -- had our own pile.

11 Q. And were the soldiers Kamajors or were the soldiers
SLAs?

12 Who were the soldiers?

13 A. Both. There were SLAs, there were Kamajors there.

14 Q. And how were they behaving at Blama?

12:50:14 15 A. The Kamajors?

16 Q. Yes?

17 A. There were times when they appeared very violent. They
18 will remove us from where we were working. They will take us
to

19 where they were working and force us to work for them after
which

12:50:35 20 they will release us. So after we'd worked for them, we will
go

21 back to where we were working and continue our work.

22 Q. Do you know if work was still going on at Cyborg?

23 A. Yes, during that time work was continuing at Cyborg.

24 Q. Are you able to say approximately what date it was when
you

12:51:06 25 started working in Blama; was it --

26 A. No, I am unable to recall the date.

27 Q. Do you know if it was still 1997 or not?

28 A. It was in '97.

29 Q. Did anything happen concerning the presence of Kamajors
in

1 Tongo?

2 A. Yes. There was a time they had a clash with the SLAs.

3 Q. What kind of clash did they have with the SLAs?

4 A. There was a fight between them.

12:52:07 5 Q. Where were you living at this time?

6 A. At that time I was still residing at Tongola, new side.

7 Q. Without naming names, who were you residing with or near
at

8 Tongola?

9 A. I was residing near Mr Mohamed. We lived in the same
area.

12:52:49 10 His house and ours were adjacent.

11 Q. And did you have friends in -- at Tongo at this time?

12 A. Yes, I had friends, the ones that we had been working
13 together.

14 Q. Was anyone in Tongo doing anything other than mining at
the

12:53:19 15 time of the clash between the Kamajors and the SLA?

16 A. Yes. Some people were involved in business, some were
17 mining. That was the situation that was obtained during that
18 time.

19 Q. After the clash between the Kamajors and the SLA, did
12:53:40 20 anything happen with the Kamajors?

21 A. No. The SLAs abandoned the town. The Kamajors stayed.
22 The Kamajors -- the SLAs pulled out.

Were
23 Q. And from what you said then, the Kamajors remained.
24 they the only, at this time, the only armed group in Tongo?
12:54:20 25 A. After the SLAs had left the area, it was only the
Kamajors
26 that were there until the overthrow. After the overthrow, the
27 SLAs came again in the town. After the overthrow the Kamajors
28 left the town. That was the time the SLA entered the town
again.
29 Q. And let me just stop you there. I want to ask you about

SCSL - TRIAL CHAMBER I

1 what life was like with just the Kamajors in control of the
town.

2 Did you continue mining when the Kamajors were in control?

3 A. Well, during that time, if you had a contact with a
4 Kamajor, you would work. For those of us who hadn't contact
with
12:55:15 5 them, we hadn't the chance to work.

6 THE INTERPRETER: The interpreter is sorry, with the
leave
7 of the Court, can the witness slow down his speed?

8 MR JORDASH:

9 Q. Sorry, Mr Witness, it's not your fault, but just go a
bit
12:55:32 10 slower, okay? Don't worry, just try to keep the pace a bit
11 slower. So repeat the last two sentences, please.

12 A. I said the Kamajors, if you had -- if you had any link
with
13 them, you would work with them. But if you had no contact
with
14 them, they wouldn't allow you to work.

12:55:58 15 Q. When you say if you had contact with them, what do you
mean
16 by that?

17 A. That if you -- if you knew anybody amongst them, you
would
18 be allowed to work. But if you did not know anybody among
them,
19 you will not be allowed to work.

12:56:17 20 Q. Did you know anyone amongst them?
21 A. No. I did not know anybody among them. I only used to
see
22 them.
23 Q. And what were the conditions like in Tongo generally
under
24 the command of the Kamajors?
12:56:48 25 A. Conditions regarding the mining? It was a two-pile
system.
26 Q. The conditions of life in Tongo generally; how did the
27 Kamajors treat the civilians?
28 A. The Kamajors, they used to kill some people. If you're
29 suspected that you had a brother that was a soldier, you will
be

1 killed, and there were some people they arrested, they said
they
2 were soldiers. If you were working together with a soldier,
the
3 time when both the Kamajors and the SLAs were in town, they
would
4 either kill you or punish you.

12:57:38 5 Q. So, did life for the civilians remain the same after the
Kamajors 6 SLAs had left or was it different when it was just the
7 in command?

8 A. There were a lot of threat when the Kamajors had been
9 controlling the place, there were threats.

12:58:09 10 Q. Did there come a time when the Kamajors left?

Kamajors 11 A. Yes. When the SLPP government was overthrown, the
12 left.

13 Q. Do you know why they left?

14 A. Because they heard that the government had been
overthrown.

12:58:40 15 That was why they left.

16 Q. Did anyone else come into Tongo?

17 A. Yes. The SLAs and the RUF, they came to Tongo at that
time
18 after the Kamajors had left.

19 Q. How did you react to the Kamajors leaving and the RUF,
SLA

12:59:15 20 coming in to Tongo?

21 A. Well, some people were happy because the Kamajors had
been

22 maltreating people. When the RUF and the SLA came, some
people

23 were dancing. They were happy. They said their saviours had
24 come.

12:59:53 25 Q. Did the SLA and RUF do anything when they first arrived
in

26 Tongo?

27 A. They did not do anything which was bad. They called
people

28 and spoke with them. That was the only thing they did. They
29 said everybody shall remain in his or her place and that there

before 1 should be no quarrels, that we shall remain as how we were
2 this time.

3 Q. So where did they call people to?

4 A. They summoned a meeting at the barri.

13:00:48 5 Q. And who came to the meeting?

6 A. A lot of people went, but I did not attend the meeting
7 because I wasn't well. My friends with whom I had been
working
8 together, they went. Even my boss, he too went.

9 Q. And did they tell you what had happened at the meeting?

13:01:20 10 A. Yes. My friends with whom I had been working, they told
me
11 what happened at the meeting. I asked them. I said, "What
was
12 said in the meeting?" They said the SLAs and the RUF had come
to
13 town and that the mining was -- they were controlling the
mining
14 and that if somebody wanted to mine, he should mine under
their

13:01:47 15 control. So if somebody did bad to you, you should go to the
MP
16 and lodge your complaint, so that if it was a soldier who did
bad
17 to you, he was going to be dealt with. A civilian was going
to
18 be dealt with so that they could not unleash violence on the

19 civilians.

13:02:20 20 Q. Did they say at the meeting what kind of mining it would
21 be?

22 A. Yes. They said at the meeting that when the mining
would

23 have started, it would -- it would be operated on a two-pile
24 system, one pile for them and one pile for us. That was the
13:02:49 25 condition attached to the mining.

26 Q. Did you or were you able to begin mining, Mr Witness?

27 A. Yes. At that time we were mining. When the RUF and the
28 SLA came, we left Blama and we went -- we went again at Cyborg
29 and started working.

1 MR JORDASH: I notice the time, Your Honour, and I'm
just
2 about to obviously deal with the practicalities of him working
at
3 Cyborg.
4 PRESIDING JUDGE: [Overlapping speakers] he left Blama?
13:03:40 5 MR JORDASH: Yes.
6 PRESIDING JUDGE: So we're moving from Blama now to
Cyborg?
7 MR JORDASH: Yes.
8 PRESIDING JUDGE: The Chamber will recess for lunch and
we
9 will resume the session at 2.30. The Chamber will rise,
please.
13:05:01 10 [Luncheon recess taken at 1.00 p.m.]
11 [RUF13NOV07B - JS]
12 [Upon resuming at 2.46 p.m.]
13 PRESIDING JUDGE: Good afternoon, learned counsel. We
will
14 resume the proceedings, but before that I think for reasons
that
14:53:42 15 have been advanced to me by the head of Court Management we
might
16 not be able to sit after 4.30. We would have to rise at 4.30.
17 So it is just to give you this advice well in advance so that
you
18 know that when we do rise for the normal break, the normal tea

problem 19 recess, we would not be coming back. I think they have a
14:54:14 20 with the Stenography Unit. We also have, I better say so, we
21 have problems, Mr Cammegh, in particular, you know, that
22 apparently the transcripts are not -- I was told that the
23 transcripts are not --
24 MR CAMMEGH: Up to date.
14:54:34 25 PRESIDING JUDGE: -- cannot be ready, you know, they
can't
26 be updated the way we would want them to be because of
problems 27 of stenographers and it is related to Court Management, so we
28 cannot do more than we have done.
29 MR CAMMEGH: The problem applies --

SCSL - TRIAL CHAMBER I

1 PRESIDING JUDGE: But it doesn't mean that you would not
2 keep raising the issue because it is not normal that we
function 3 this way anyway. It isn't normal.

4 MR CAMMEGH: I think I've just been a mouthpiece for
14:55:06 5 everybody at the Bar in this room.

6 PRESIDING JUDGE: Indeed. Indeed.

7 MR CAMMEGH: And we all appreciate the efforts that Your
8 Honours have gone to ameliorate this unwarranted situation.

9 PRESIDING JUDGE: We will leave it and see how it
improves.

14:55:19 10 I have spoken to the Registrar anyway personally and I told
him

11 how this is impacting on the proceedings and that it is
delaying 12 us a lot.

13 MR CAMMEGH: Well, in the course of a meeting on a
separate 14 issue I had with the Registrar the week before last I made
14:55:33 15 comments and I felt that he took them on board. So one hopes
--

16 PRESIDING JUDGE: He did. He did.

17 MR CAMMEGH: -- that we will make progress in this
regard.

18 We saw that there was a new stenographer in Court today I
think

19 for the first time which was a welcome sight.

14:55:43 20 PRESIDING JUDGE: That was the first sight already.
21 MR CAMMEGH: The green shoots --
22 PRESIDING JUDGE: Yes.
23 MR CAMMEGH: -- of recovery. We are very grateful to
Your
24 Honours and the part you've played in this difficult
situation.
14:55:56 25 PRESIDING JUDGE: Right. Thank you. Yes, Mr Jordash?
26 MR JORDASH: Thank you, Your Honour.
27 Q. Good afternoon, Mr Witness.
28 A. Good afternoon, sir.
29 Q. Let me take you back to the arrival of the RUF and SLAs
in

1 Tongo. You were telling us about a meeting which was held.
But
2 before I take you to the details of the mining, let me ask you
3 about your knowledge of the administration in Tongo at this
time.
4 PRESIDING JUDGE: Suggest a year to him, please, so that
we
14:57:06 5 can have a time frame now.
6 MR JORDASH:
7 Q. You told us that we were in 1997; is that right?
8 A. Yes.
9 PRESIDING JUDGE: And you remember before we separated
for
14:57:21 10 the lunch break he was moving from Blama back to Cyborg.
11 MR JORDASH: Yes.
12 PRESIDING JUDGE: In Tongo.
13 MR JORDASH: Yes.
14 Q. I'll come back to Cyborg pit in a minute, Mr Witness,
but
14:57:37 15 let me ask you this first: Do you know a place called
Tompkumbu?
16 A. Tompkumbu? I know Tompkumbu. It is in Tongo Town.
17 Q. When the RUF, SLA --
18 PRESIDING JUDGE: Mr Jordash, can you venture the
spelling
19 of that?
14:57:58 20 MR JORDASH: T-O-K --

I 21 PRESIDING JUDGE: You tried with the pronunciation, but
22 didn't think you went very far.
23 MR JORDASH: I hope I can spell it a little better --
24 PRESIDING JUDGE: I hope so.
14:58:08 25 MR JORDASH: -- than the pronunciation. T-O-K-P-U-M-B-
U.
26 Does that sound right to you, Mr Witness?
27 PRESIDING JUDGE: T-O-K-P-U-N --
28 MR JORDASH: T-U-M for mother B-U.
29 Q. Is that right as far as you know, Mr Witness? Is that
the

1 spelling?

2 A. The spelling is T-O-M -- T-O-M-P-K-U-M-B-U.

3 MR JORDASH:

4 Q. I think we should go with that spelling. And was there
14:58:50 5 anything at Tompkumbu that you remember after the arrival of
the

6 RUF in Tongo?

7 A. I cannot remember again.

8 Q. Was there any offices at that place?

9 A. No, except diamond offices that were there in those
places.

14:59:18 10 Q. And did the RUF or SLAs have a headquarters in
Tompkumbu?

11 A. The headquarter --

12 MR FYNN: If I may, My Lord. My Lord, we object to my
13 learned friend's line. He seems to be leading the witness.

The
14 witness has said nothing happened. He cannot remember
anything

14:59:46 15 at Tompkumbu. He has suggested first about diamond offices
and

16 now he's suggesting about something else.

17 PRESIDING JUDGE: Yes, Mr Jordash, it is sustained. You
18 can rephrase the question, please.

19 MR JORDASH: Your Honour, I'm not sure there's a dispute
15:00:01 20 between the Prosecution and the Defence that the RUF and the
SLA

21 had a headquarters in Tongo at this time.

22 PRESIDING JUDGE: No, but it is in Tompkumbu. You're
23 talking of Tompkumbu. This is where we are, not in Tongo.

24 MR JORDASH: But then I widened the question, and if my
15:00:16 25 learned friend is suggesting there wasn't an office then
perhaps
26 we don't need to --

27 PRESIDING JUDGE: No, he is not suggesting that. He has
28 made his objection. I think you can rephrase the question and
we
29 can get around it. You've moved us from Tongo and you've
taken

anything
and

1 us to Tompkumbu and the witness says he doesn't remember
2 happened there. Then he went further, you know, and so that's
3 when the objection came. You may just rephrase the question
4 we will see how we get around it, please.

15:00:49 5 MR JORDASH: Could I just take instructions, please?

6 PRESIDING JUDGE: Please do.

7 MR JORDASH:

8 Q. Dealing generally with Tongo, Mr Witness, were there any
9 offices in Tongo related to the RUF?

15:01:25 10 A. No. There was no office in Tongo that was dealing with
the

11 RUF business.

12 Q. Were there soldiers in Tongo at this time?

13 A. Yes, there were soldiers.

14 Q. Did they congregate anywhere?

15:02:00 15 A. The soldiers' headquarter. That was the place we were
16 gathering.

17 Q. Where was the headquarters, please, Mr Witness?

18 A. At the old MDMC camp.

19 Q. And which soldiers operated at that place?

15:02:32 20 A. It was the SLAs.

21 Q. Do you know what they did at the headquarters?

them 22 A. I don't know, because I was not a soldier. I just saw
23 there.
24 Q. Was there any -- was there anywhere for civilians to go
in
15:03:16 25 Tongo to meet soldiers?
26 THE INTERPRETER: Your Honour, let the lawyer take the
27 question again. It's not too clear.
28 MR JORDASH:
29 Q. Was there a place where civilians could go to meet the

SCSL - TRIAL CHAMBER I

1 soldiers in Tongo this time?

2 A. Until -- unless civilians see them in their
headquarters,

3 that's the place we were seeing them.

4 Q. Did civilians go to the headquarters then?

15:03:53 5 A. If you have a friend there or you have business there,
you

6 would go there.

7 Q. Do you know what kind of business the civilians would
have

8 at the headquarters?

9 A. No.

15:04:12 10 Q. Were there any police in Tongo at this time?

11 A. Yes, during that time there were police in Tongo.

12 Q. And did you observe what the police were doing in Tongo
at

13 this time?

14 A. No.

15:04:31 15 Q. Was there a place where the police congregated?

16 A. At the police station.

17 Q. Do you know if civilians ever went to the police
station?

18 A. Yes, civilians went there.

19 Q. Do you know why civilians went to the police station?

15:05:01 20 A. Yes. If you have a case there, you can go there.

21 Q. Do you know what kind of cases the civilians might have

22 with the police?

23 A. Yes, like they've stolen.

24 Q. Sorry, like stolen what?

15:05:33 25 A. Like theft cases.

26 Q. Any other kind of cases the civilians might have which
27 they'd take to the police?

28 A. That was the only case I witnessed there because at one
29 time I went there and I witnessed about a theft case there.

SCSL - TRIAL CHAMBER I

were 1 Q. When -- at the time the police station was operating,
2 there any schools in Tongo?

3 A. Yes, there was a school -- there were schools.

4 Q. Who was going to the schools?

15:06:27 5 A. School children were going to the schools.

of 6 Q. Were these children, civilians or soldiers, or children
7 civilians or children of soldiers?

8 A. They were civilians.

9 Q. Was there any --

15:06:50 10 PRESIDING JUDGE: Mr Jordash, you asked him whether the
11 children were civilians or children of civilians or children
of 12 soldiers.

13 MR JORDASH: Yes.

14 PRESIDING JUDGE: Are you suggesting that they were
15:07:03 15 soldiers; children were not at those schools? In those
schools
16 you had children. Were these children only children of
civilians
17 or they were also children of soldiers, you know?

18 THE WITNESS: Civilian children were going there.

19 Soldier's children were also going there.

15:07:48 20 MR JORDASH:

case 21 Q. Let me return for a moment, Mr Witness, to the theft
22 that you observed. Do you know what had been alleged to have
23 been stolen?
chickens 24 A. I just heard that somebody who stole or had stolen
15:08:08 25 at night and that he was brought there at night, in the
morning.
you've 26 Q. Thank you. Let's return now to Cyborg. From what
is 27 said there was a meeting and then you began working at Cyborg;
28 that right?
29 A. Yes, there was a meeting.

1 Q. Was it after this meeting that you began working?
2 A. Yes, it was after the meeting I started working at
Cyborg.
3 Q. What was the arrangement of the mining at that point?
4 A. The arrangement was two piles. When you remove the
gravel,
15:09:04 5 one for them and one for yourself.
6 Q. Who is "them"?
7 A. The SLAs and the RUF.
8 Q. And what happened to the pile that you had; what did you
do
9 with it?
15:09:32 10 A. Our own pile, we'll wash it.
11 Q. And when you've washed it, what would you do with it?
12 A. After washing it, if we see any diamond, they will take
it.
13 Q. And what did you do with the diamond that you saw?
14 A. The diamond, we would sell it to our supporter.
15:10:03 15 Q. Did you have the same supporter as you'd had before the
16 arrival of the RUF or a different one?
17 A. After the meeting we had another new boss man who was
18 called Mr Mohamed.
19 Q. Aside from you, were there other people who worked for
15:10:37 20 Mr Mohamed or had Mr Mohamed as a supporter?
21 JUDGE BOUTET: I'm sorry, Mr Jordash, I just missed --

22 THE WITNESS: No.

23 JUDGE BOUTET: About the supporter, Mr Mohamed, as to
when

24 was it he was his supporter.

15:10:54 25 MR JORDASH: After the meeting. Mr Mohamed was the new
26 supporter.

27 JUDGE BOUTET: Okay, thank you.

28 MR JORDASH:

29 Q. Let me just clarify your last answer. Were you the only

who 1 person who had -- was Mr Mohamed -- were you the only person
2 had Mr Mohamed as a supporter or were there others?

3 A. No. We, who Mr Mohamed was supporting, were five.

4 Q. And did the other four have the same or a different
15:11:31 5 arrangement with Mr Mohamed concerning the two piles?

6 A. It was the same arrangement. I and -- I made them five.
7 The five of us were in one group.

8 Q. How was it that Mr Mohamed became your supporter; could
you 9 explain to the Court how that happened?

15:12:05 10 A. Yes. When -- when Mr Mohamed had left us he said he was
11 travelling --

12 PRESIDING JUDGE: Mr Witness, let me get this very
clearly.

13 Is this the same Mohamed whose house was adjacent to where you
14 were living?

15:12:28 15 THE WITNESS: No, it was not that Mr Mohamed. This is
16 another one. This one, we were not staying together. He was
in 17 Tompkumbu and I was in Tombola [as interpreted].

18 PRESIDING JUDGE: I see, because you were staying with a
19 Mr Mohamed close to mister -- a certain Mohamed in Tombola.
So

15:12:50 20 this is a different Mohamed?

my

21 THE WITNESS: The Mr Mohamed I was with in Tongola was
22 neighbour. But this one I'm talking about, he was my second
23 supporter. He was supporting me at Cyborg after the meeting
24 which they held in Tongo.

15:13:11 25
sorry

PRESIDING JUDGE: All right. Okay. Yes, Mr Jordash,
26 to have interrupted you. You can proceed, please.

27 MR JORDASH:

28 Q. You were saying, Mr Witness, something about Amadu,
29 something happening with Mr Amadu?

Freetown. 1 A. Yes. He left us in Tongo, that he was coming to

2 When he came to Freetown we also joined another boss man and
3 started working with him.

4 Q. How was it that you came to join Mr Mohamed; could you
15:13:46 5 explain how it was you met him?

6 A. Yes. Mr Mohamed, we met with him. He told one of his
7 friends, Mr Alimamy, to help him to find men for him to work
8 with, and so Mr Alimamy said, "Okay, I'll try." So Mr Alimamy
9 met us at home and said, "For now I know your boss man have
15:14:13 10 already gone. So, I have a friend who is in need of workers."

11 We asked him where was the man. He said the man was at
12 Tompkumbu. When he said the man is at Tompkumbu, we told him
13 that we would meet the man for arrangement. If we'd work with
14 him, we will know. If we will not be able to work with him,

we

15:14:41 15 would know. That was how we worked with Mr Mohamed.

16 Q. And was Mr Mohamed a civilian or a fighter?

17 A. He was a civilian.

18 Q. What did Mr Mohamed as a supporter supply to you, if
19 anything?

15:15:02 20 A. Yes. He brought all the implements, like the shovel,
the

21 shaker, and he was responsible for feeding. And when we are
22 sick, he would give us medication.

23 Q. How long did you work at Cyborg?

24 A. I worked at Cyborg until when the ECOMOG entered Kenema.

I 15:15:39 25 Some people pulled out. I also pulled out. That was the time

26 stopped working at Cyborg.

27 Q. And by the time you pulled out, how long had you been

28 working at Cyborg. Just approximately, if you can.

29 A. From the time -- I do not understand your question.

SCSL - TRIAL CHAMBER I

1 Q. How many days, weeks or months had you been working at
2 Cyborg by the time you left during the intervention?
3 A. At that time they worked there for about three months.
4 Q. During the three months, did you have the same
supporter,

15:16:29 5 Mr Mohamed, or did he change?

6 A. No, I did not change. I worked with him.

7 Q. Did your mining activities remain the same during the
three
8 months or did they change?

9 A. No, it was the same conditions we were working under.

15:17:07 10 Q. And can you tell the Court just briefly what an average
day
11 at work involved; for example, when would you get to the
Cyborg
12 pit and what would you do?

13 A. When we were at the Cyborg pit we would work. After
14 working we would gather the gravel and then we share it into
two

15:17:40 15 halves. We will leave the government half and we would wash
16 ours. Only on Thursdays and Fridays, that's the time we
worked
17 for the government. Those are the two days they allowed us to
18 work for them.

19 Q. Okay. Well, let's deal first of all with when you were
15:17:57 20 working for yourself and we'll come to the Thursday and Friday
in

you 21 a minute. Would you go to work at a particular time or would
22 choose the time you went and it would vary?
23 A. At any time we want to go and work, we would work. At
24 times we may say, "Today let us don't go anywhere, let us
rest,"
15:18:27 25 and we will rest.
when 26 Q. And just so we're clear, who would make the decision
27 you wanted to rest?
28 A. It was us, we, the workers. We would tell the boss man
29 that today we are not going to work, we want to rest. He
would

then 1 say, "Okay, you go and rest. If you want to work tomorrow,
2 you will start your work tomorrow."

decide 3 Q. And who would decide when you left work or who would
4 what time you left work at the end of the day?

15:19:08 5 A. We had put a time that at half past four we should be
off.

when 6 That was the five of us who were working together. We said
7 it is half past four we would all leave and they will come to
8 town to rest.

at 9 Q. And who made that decision concerning everyone leaving

15:19:29 10 4.30?

11 A. Well, in our own side, in our own group leader, he was
12 telling us that when it is half past four they would come and
13 rest.

day 14 Q. Now, you've referred to Thursday and Friday being the

15:19:55 15 when you would work for the government. Could you explain
what

16 the arrangement was with Thursday and Friday?

where 17 A. Yes. On Thursdays we will transport their own gravel

18 they are washing for the government. On Friday we will go and
19 wash it. After washing it we will all be scattered.

15:20:25 20 Q. And who told you -- let me rephrase that. How did this
21 arrangement come about? How was it communicated?
22 A. Well, it was something -- they will tell everybody in
the
23 mining, anybody working in the mining, that Thursdays and
Fridays
24 they should do government work. They have certain people that
15:20:53 25 they would come and they will tell us the message.
26 Q. And who was "they" told everyone. Who do you mean by
27 "they"?
28 A. They had the committees, the soldiers, the civilians who
29 were liaising between us and the soldiers.

fighters 1 Q. And who was on the committee, do you know? Was it
2 or civilians?
3 A. The committee consisted of civilians.
4 Q. Do you know what the role of the committee was? You say
15:21:45 5 liaising with civilians or liaising between the fighters and
the 6 civilians. Could you explain that further, please?
7 A. They liaised between us and the soldiers. Whatever the
8 civilians 9 soldiers had wanted to tell us, they would tell those
10 and the civilians will meet us in our place of work and inform
15:22:12 11 us.
12 months 13 Q. Did you see the committee working during the three
14 you were there?
15 A. Yes. The committees were working.
16 were 17 Q. During this three months, do you know how many people
18 working at Cyborg, approximately?
15:22:57 19 A. We were about 200. It was about 200 people because it
was 20 a big pit.
21 Q. And how many days a week did you work at Cyborg during
the 22 three months?

15:23:33 20 A. For ourselves or for the government? For the government
we

21 would work for two days. For ourselves we would work for five
22 days.

23 Q. And the 200 people, did -- let me rephrase that. Was it
24 always around 200 people working at Cyborg when you were
there?

15:23:59 25 A. Not at all times. There were times we will not be up to
26 that number, but at times the number would be up to that.

27 Q. And who would decide where you worked in Cyborg?

28 A. Nobody decided. We decided on our own that we are to
work

29 here or let's go over there and begin to work there.

Thursday

1 Q. And what was the conditions of the mining on the
2 and Friday?

where

3 A. On Thursdays you would carry the gravel and pile it

go

4 they were washing for the government. Friday morning we will

15:24:53

5 there to wash.

Friday?

6 Q. And how were the civilians treated on Thursday or

buy

7 A. Well, Thursdays, when we carried the gravel, they will

you

8 for us oranges. At times they would cook for us, rice. If

9 were a smoker they will buy cigarette for you. Those were the

15:25:18

10 things they used to do for us. They did those things for us.

11 Q. And how did you feel about working on a Thursday or a

12 Friday, Mr Witness, for the government?

spoke

13 A. We felt good because they used to encourage us. They

work

14 to us nicely. We were not forced. They never forced us to

15:25:39

15 for them. They talked to us and we were willing to work for

16 them.

to

17 Q. Did you observe the other civilians and their attitude

18 working for the government?

19 A. Yes. Some civilians did not go, but the majority went

15:26:06 20 because of the encouragement that was given to us.

21 Q. Did anything happen to those who did not go?

22 A. No. If you did not go, nothing was done to you. No
23 question would be put to you as to why he did not go.

24 Q. And do you know the number who went on a Thursday or a
15:26:35 25 Friday; was it the same or different to other days?

26 A. Well, on Thursdays many of us would go. We were many.
27 Because that was the time we transported the gravel. On

Friday

28 at times we will not be so many because not everybody would

29 wash the -- not everybody had a shaker to wash. That was why
not

1 everybody would go that Friday.

2 Q. Did you know anyone called Monpleh during your three
months

3 at Cyborg?

4 A. Yes, I knew Monpleh.

15:27:37 5 Q. What did Monpleh do?

6 A. Monpleh was a miner.

7 Q. Was he a civilian or a fighter?

8 A. He was a civilian.

9 Q. Did he occupy any position?

15:28:01 10 A. No, I cannot say regarding that, if he had any position,
11 but I used to see him.

12 Q. What did you see Monpleh doing?

13 A. I used to see him in the town because I knew him
facially.

14 Q. Did you see anyone called Sam Bockarie during this time?

15:28:35 15 A. Yes. I only saw him once in Tongo Town.

16 Q. Did he do anything when you saw him or was he doing
17 anything?

18 A. I did not see him doing anything.

19 Q. When you were working in Cyborg, did you see any men
with

15:29:34 20 arms around or near the vicinity of Cyborg?

21 A. Yes, I used to see men with arms, but they did not go
down

22 to the pit that we were working. They were just up.

23 Q. What were they doing when you saw them?

24 A. Some of them were just around.

15:29:49 25 Q. Are you able to tell the Court how old they were?

26 A. Yes. Some of them were about 25 years, 28 years, 45
years.

27 Those were the ones I used to see.

28 Q. Just so we're clear, what was the youngest soldier you

29 think you saw in that three months?

SCSL - TRIAL CHAMBER I

1 A. 25 years.

2 Q. You've just given two answers; one was 20 and 25, and
now
3 you've said 25. Can you clarify what was the youngest you
think?

4 A. 25 years.

15:30:53 5 Q. If there were any complaints about the mining at Cyborg?

6 A. There were no complaints.

7 PRESIDING JUDGE: Wait, wait, wait for the question.

8 MR JORDASH: There were no complaints. I will leave it
9 at --

15:31:19 10 PRESIDING JUDGE: I thought you started with if there
were
11 any. Anyway, we take it that there were no complaints about
12 mining in Cyborg, is that -- Mr Witness, is that what you're
13 saying?

14 THE WITNESS: Complaints?

15:31:31 15 PRESIDING JUDGE: Yes.

16 THE WITNESS: There were no complaints. The complaint
that
17 were made, if somebody offended his colleague, then the person
18 will make a report about that person.

19 MR JORDASH:

15:31:50 20 Q. Who would they make a report to?

21 A. You can make the complaint to the committees.

complaint?

22 Q. And do you know what the committees did with the

23 A. When we lodge our complaint to them, they will call us

24 together and talk to us and advise us not to do bad to each

15:32:20 25 other.

26 Q. Did you meet anyone called Manawai during your time in

27 Tongo?

28 A. Yes.

29 Q. Do you know what he did?

SCSL - TRIAL CHAMBER I

1 A. He was a soldier.

2 Q. Was he an RUF or an SLA?

3 A. He was an RUF.

4 Q. Did you see him in Tongo?

15:32:57 5 A. Yes, I used to see him in Tongo.

6 Q. Did you hear about what he did?

7 A. I did not -- I did not hear about what he did. I only
used

8 to see him in Tongo Town. I did not see him in the mining
site.

9 I only saw him in Tongo Town.

15:33:24 10 Q. Did you know anyone called Yamakati?

11 A. Yes, I knew him. He was an SLA.

12 Q. Did you hear about --

13 PRESIDING JUDGE: Mr Jordash, what's the name again,

14 please?

15:33:38 15 MR JORDASH: Yamakati, Y-A-M-A-K-A-T-I, I think.

16 Q. Did you hear anything about him and his activities?

17 A. No, I did not hear anything about him.

18 Q. Thank you. Did you hear anything about Kamajors when
you

19 were at the Cyborg pit?

15:34:33 20 A. Well, the time we were working there, during the days of

21 the SLAs and the RUF, there were no Kamajors in the township.

22 They were not around.

23 Q. Did you hear if there were any outside of the township?

24 Was this news which came to you?

15:34:56 25 A. Yes. We heard that they were outside the town in the

26 villages around, the small villages around.

27 Q. Did you hear what they were doing in the small villages

28 around?

29 A. No. I did not hear. We were only told that the

Kamajors

SCSL - TRIAL CHAMBER I

1 were in the various villages.

2 Q. During the time you were there, did anything -- did
3 anything happen at Cyborg which you remember?

4 A. The time I was working there, I did not see anything
that
15:36:02 5 went wrong there.

6 Q. You've told us about men who were around the mines who
had
7 guns. Did you ever hear of guns being fired while you were at
8 Cyborg?

9 A. Yes. They fired a gun, because when the population
15:36:42 10 increased in the pit, so that the sand would not kill people
in
11 the pit, they fired so that the people will -- would realise
12 that.

13 Q. Let's go back over that. You said something about
14 population. What did you mean by the population being too
much?

15 A. Like when we were about 200, or more than that, there
16 were
17 times when the sand would cut and fall into the pit. That was
18 why they used to fire so that we would reduce, the number
would
19 reduce from the pit. And when they fired, some people would
come
out of the pit and come up to the place.

15:37:39 20
with

Q. Let me try to break this down. What was the problem

21 the sand falling into the pit? What happened to the people if

22 the sand fell into the pit?

23
sometimes

A. Some would die. Some of them, their hands were

24 broken.

15:38:15 25

Q. Did this happen when you were there?

26 A. Yes. That had happened once while I was working there.

27
what?

PRESIDING JUDGE: You said some people's hands were

28 THE WITNESS: Were broken.

29 MR JORDASH:

1 Q. Try, Mr Witness, to -- none of us as far as I know in
this
2 room are miners or have been miners, so explain to us what
this
3 issue was in Cyborg in terms of the sand and the problem of
the
4 sand falling. Try and give us some detail.

15:39:05 5 A. When the sand --

6 THE INTERPRETER: The interpreter is sorry. The
7 interpreter is -- the interpreter is kindly asking the Court
for
8 the witness to go very slowly so that this particular area of
his
9 testimony will be properly interpreted.

15:39:23 10 MR JORDASH:

11 Q. Okay. Can you take it very slowly. This is important
that
12 we get it translated, Mr Witness, okay? Start again, slowly.

13 A. When the sand has formed itself into dunes and the
miners
14 were in the pit, there were at times when it fell into the
pit.

15:40:01 15 If it -- if it fell on you in the pit, it either break your
hand
16 or your leg or killed you.

17 Q. And did the -- how much of a problem was this? How
often
18 did it happen?

19 A. I witnessed that once.

15:40:33 20 Q. And did the soldiers or the committee react to this at
all?

21 A. When the committee realised that the sand has formed
itself

22 into dunes and wanted to fall into the pit, they will go to us

23 and inform us to stop so that the sand would not fall on
anyone

24 in the pit.

15:41:10 25 Q. And did people always stop when they were told by the
26 committee?

27 A. Yes, they would stop.

28 Q. So what was the issue then of a gun being fired or guns
29 being fired. What was that about?

1 THE INTERPRETER: The interpreter is asking that the
2 attorney comes again.

3 MR JORDASH:

4 Q. You've mentioned a gun being fired. Can you explain how
15:41:45 5 this fits into this issue of the sand?

6 A. Well, if they went and met us and informed us about the
7 situation of the sand dunes, they will fire a shot in order to
8 give us a signal and they will tell us to get out of the pit.

9 Q. Who would fire and tell you to get out of the pit?

15:42:23 10 A. It was the SLAs.

11 Q. Now, during the three months you were working at Cyborg,
12 could you explain what other civilians were doing, aside those
13 who were mining?

14 A. Apart from the ones that were mining, some used to send
--

15:43:07 15 sell cigarettes, food and other items.

16 Q. Were there any markets in Tongo?

17 A. Yes.

18 Q. Do you know if it was possible to travel to Kenema
during
19 this time?

15:43:41 20 A. Yes. Some of us used to go to Kenema at the time.

21 Q. Did you ever go to Kenema?

22 A. Yes, I went to Kenema once.

23 Q. Did you come back?

24 A. Yes. When I went, I returned.

15:44:03 25 Q. Why did you come back?

26 A. I returned to work.

27 Q. Are you able to say generally from what you observed how
28 the RUF and SLA soldiers were reacting or interacting with the
29 civilians in Tongo during this time?

SCSL - TRIAL CHAMBER I

1 A. No.

2 Q. You don't know what the relationship was like between
the
3 soldiers and the civilians from what you saw?

4 A. The relationship between them was the working
relationship
15:45:19 5 between them -- between us and themselves. But to say that
there
6 was an extra relationship between them and ourselves, no.

7 Q. I think there's been a problem with the question or the
8 translation. Perhaps I'll just leave it at that, actually.

Let
9 me ask you this: You've told us that you left at the time of
the
15:46:05 10 intervention; is that right?

11 A. Yes. The time they overthrew the AFRC government, that
was
12 the time I left Tongo.

13 Q. Before I ask you about the intervention, there's one
other
14 question I want to ask you. At the time --

15:46:27 15 PRESIDING JUDGE: He said he left Tongo when they
overthrew
16 the AFRC government?

17 MR JORDASH: Your Honour, yes. I'll come back to that
in a
18 moment.

19 THE WITNESS: Yes, I was --

15:46:39 20 MR JORDASH:

21 Q. Go ahead.

22 A. I was in Tongo when the AFRC government was overthrown.

23 Q. Let me ask you first before I ask you about the

24 intervention, when you were in Tongo and working at Cyborg,
were

15:47:02 25 there any rules or laws in the town which you were aware of?

26 A. Yes, there were laws in the township.

27 Q. Can you tell us what they were as you saw them?

28 A. Yes. I would state some to you. You should not steal.

29 You shouldn't fight. Those were the laws in existence. A

1 soldier should not disadvantage a civilian.

2 Q. And do you know if those laws were working?

3 A. Yes. Those laws were in operation.

4 Q. Thank you. Now, you left during the intervention. How
did

15:48:01 5 you leave?

6 A. Well, when we heard that the ECOMOG had come to Kenema,
we

7 left Tongo, we walked on to Kenema. From Kenema we came to

8 Makeni.

9 Q. Why did you leave Kenema, Mr Witness, or -- sorry, why
did

15:48:29 10 you leave Tongo?

11 A. Because --

12 THE INTERPRETER: The interpreter is sorry. With the
leave

13 of the Court, can the witness come again?

14 MR JORDASH:

15:48:47 15 Q. Let me stop you, Mr Witness, because the translators got
16 lost. Just repeat your answer, please. Why did you leave
Tongo?

17 A. Because the ECOMOG had been entering Tongo. That was
why I

18 left Tongo.

19 Q. Who did you leave with, Mr Witness?

15:49:17 20 A. I and my friend with whom I had been working.

your

21 Q. Were there any other civilians who left with you and

22 friend, or were you the only two?

23 A. We were many. We were many and we worked. We were over

24 100 people that went to Kenema.

15:49:42 25 Q. Did you see why they were also going to Kenema?

us

26 A. The civilians, yes, they too were running away. All of

27 were running away. Some people were afraid that if the ECOMOG

met

28 entered, the Kamajors would come. So whosoever the Kamajors

why

29 there, if you were not lucky they would kill you. That was

1 people were deserting the town.

2 Q. Did you return to Tongo at any time?

3 A. No. From the intervention I did not go to Tongo.

4 Q. What about after the intervention; was there a time you
15:51:00 5 went back?

time I

6 A. After the intervention I did not go there. The only

7 went there it was the time when the RUF were in control of the
8 place.

9 Q. Do you know which year that was?

15:51:25 10 A. Yes. That was in 2001.

RUF

11 PRESIDING JUDGE: 2001 you went back to Tongo when the
12 was in control?

13 THE WITNESS: Yes.

14 MR JORDASH:

15:51:48 15 Q. What did you do when you went back?

continue

16 A. I did not do anything. I only returned there to
17 my work.

18 Q. And did you meet anyone called Peleto?

It

19 A. Well, the time I entered Tongo, Peleto was not there.

15:52:27 20 was later when Peleto came and met us there.

21 Q. Did you ever see Sesay there around this time?

22 A. No, I have not been seeing him in Tongo.

23 Q. Let me finish, Mr Witness. Could you indicate to the
24 Court, please, what it is you do now as an occupation?

15:53:22 25 A. Yes. I'm still mining.

26 Q. Are you able to say when it was you earned the most
money;

27 during your time at Cyborg, during the RUF/SLAs, or now?

28 A. Well, it was when the RUF were there, that was the time
I

29 was able to get a lot of money.

If 1 MR JORDASH: Thank you. I've got no further questions.
2 you wait there, Mr Witness, there will be some questions from
3 others.

this 4 PRESIDING JUDGE: So you're making less money today at
15:54:19 5 time?

money 6 THE WITNESS: Yes, for now I will not make a lot of
7 because I have not got a big diamond as yet.

8 PRESIDING JUDGE: Yes, Mr Ogeto.

9 CROSS-EXAMINED BY MR OGETO:

15:55:15 10 Q. Good afternoon, Mr Witness?

11 A. Yes, good afternoon, sir.

12 Q. I am Mr Ogeto. I represent the accused Morris Kallon in
13 these proceedings and I have a few questions for you, very few
14 questions. I will take not more than 15 minutes, so, please,
15:55:39 15 bear with me?

16 A. Yes, sir.

SLPP 17 Q. You said you went to Tongo after the overthrow of the
18 government?

19 A. Yes. Yes.

15:55:57 20 Q. And you said you stayed in Cyborg for three months
during
21 this period?

22 A. Yes, I worked there for three months.

23 Q. Did you stay at any other place in Tongo during that
24 period?

15:56:25 25 A. No, it was only in Tongola. I was only in Tongola.

26 Q. And you said you left Tongo after the capture of Kenema
by
27 the ECOMOG forces; was that correct?

28 A. Yes.

29 Q. Now, during the time you were at Cyborg in Tongo, did
you

1 know a person called Mustafa, an RUF soldier called Mustafa?

2 A. No.

3 Q. Based on the testimony that you've given and the answers
4 that you've provided to my learned friend Mr Jordash, is it

15:57:33 5 correct to state that you were never forced by anybody to mine
6 while you stayed at Tongo during this period?

7 A. Yes. Nobody ever forced me to mine. I was willing. I
was
8 willing. That's why I mined.

9 Q. In fact, you never witnessed anybody being forced by any
10 soldier to mine during your stay in Tongo during that period?

11 A. Yes, I never saw any soldier forcing somebody and their
12 commanders were telling them not to force us to work.

13 Q. During that period did you witness any killing of
civilians
14 by soldiers in Tongo?

15:58:36 15 A. No, I never saw any soldier killing a civilian or even
16 beating him.

17 Q. And, in fact, you never heard of any killings by
soldiers
18 in Tongo at that time?

19 A. No, never. I never heard of it and I never saw it.

15:59:15 20 Q. I didn't get the translation of that, My Lords. Can it
be

21 repeated, please? Can you please repeat your answer so I get
the

22 translation, Mr Witness? I'm sorry.

23 A. I never saw a soldier killing somebody or even beating a
24 person there, the time I was there.

15:59:45 25 Q. And you said that during your stay there, there were
26 certain laws that were in operation; is that correct?

27 A. Yes.

time 28 Q. It's correct to state that civilians in Tongo at that
29 were living a normal life and there was peace generally?

SCSL - TRIAL CHAMBER I

fighting, 1 A. Yes. The time the RUF were there, there was no
2 there was no palaver, the place was so peaceful.

3 Q. And, in fact, there was free movement of people and
4 vehicles between Tongo and other neighbouring places?

16:00:43 5 A. Yes, in fact, vehicles were going from Kenema to Tongo.
6 Everybody was going about his own business. It was peaceful.
7 There was nothing that happened there that was bad during the
8 time they were there.

9 PRESIDING JUDGE: During the time when the RUF was
there?

16:01:03 10 THE WITNESS: Yes.

11 MR OGETO:

general 12 Q. Witness, I know you've answered this question in a
13 way, but I now want to be very specific and please listen
14 carefully. During your stay in Tongo, and specifically at the
16:01:26 15 Cyborg pit, did you witness the killing of 45 civilians by the
16 RUF forces?

45 17 A. I never saw it and I never heard of it to say RUF killed
18 men. I never saw it and I didn't hear that.

19 Q. Thank you very much, Mr Witness.

16:02:00 20 MR OGETO: Thank you, My Lords. I have no further
21 questions for this witness.

please.

22 PRESIDING JUDGE: Yes, Mr Cammegh, you may proceed,

23 CROSS-EXAMINED BY MR CAMMEGH:

when

24 Q. Mr Witness, you referred to ECOMOG a few minutes ago

16:02:28

25 Mr Jordash asked you some questions.

to

26 A. Yes. He spoke about ECOMOG. That was the time that I

27 reached Kenema. That was the time I knew the ECOMOG had come

28 Kenema. That was the only thing I said about them.

on

29 Q. Yes. What effect did the ECOMOG entry into Kenema have

1 the civilian population as a whole?

2 A. Well, the time the ECOMOG came to Kenema, well, we also
3 left Tongo and came to Kenema. I did not see any effect
towards
4 the civilians.

16:03:28 5 Q. Okay. Did you hear of any incidents that took place in
6 Kenema Town when the ECOMOG and CDF forces entered Kenema
Town?
7 I should say Kamajors?

8 A. Well, at one time I heard that the Kamajors were holding
9 they will look at you and if they are not satisfied with you,
16:04:09 10 they will say you were RUF and they will kill you. I heard
about
11 it but I never saw it.

12 Q. Did you hear about how the Kamajors would kill you if
they
13 found out that you were an RUF?

14 A. Yes, I heard about that.

16:04:34 15 Q. How did they kill people who they thought were RUF, to
your
16 knowledge?

17 A. Well, if they knew that you were an RUF, they will shoot
18 you or they will hack you with their machete.

19 Q. Were the civilians living around Tongo or Kenema Town
16:05:08 20 afraid of the Kamajors?

killed

21 A. Yes, a lot of them were afraid of them because they
22 people. That was why a lot were afraid even for you to be
23 with them.

seen

24 Q. Were they afraid of ECOMOG soldiers as well?

16:05:40
Kamajors

25 A. Some were not afraid of ECOMOG. It was only the
26 that the people were afraid of.

27 Q. Would you say that the majority of the civilians were
28 afraid of the Kamajors at that time?

29 A. Yes, the majority were afraid of them.

civilians
Town?

1 Q. Mr Witness, did you ever hear of any stories of

2 being burned in Hangha Road near the market place in Kenema

he

3 A. Yes, I heard that. I heard about that once when I was

4 passing along Dembi Street we met a corpses there and they said

16:06:42 5
him.

was burned by a Kamajor -- they said it was an RUF. They said

6 the Kamajors had burnt his body, they killed him and roasted

left

7 Q. Did it appear -- well, did you see the body yourself?

8 A. Yes, I saw the corpse because by then I was by Hanga

9 Road -- I and my friend who had left Tongo. That was why we

16:07:02 10
the
there.

Kenema, we came to Makeni. We said there the Kamajors, there

11 Kamajors not kill us there because we do not have people

things

12 Q. Mr Witness, did -- how did seeing that body affect you?

13 A. I was afraid because I have never seen any of those

things.

14 in my life. That was the first time I saw those type of

16:07:51 15

That was why I was afraid. I have no zeal to stay in Kenema.

16 That was why I left Kenema to travel to Makeni.

18
19

17 Q. And were you aware of thousands of people fleeing out of

18 Kenema District and into Kailahun District at that time?

19 A. Well, I did not see that, yes.

16:08:16 20 Q. But you said that you fled to Makeni, correct?

21 A. Yes, I went to Makeni.

22 Q. Were you aware of other civilians fleeing from Kenema
Town

23 at that time, fleeing from the Kamajors?

24 A. Yes. I even travel with some of them. We all ran away.

16:08:46 25 We left Kenema. Someone stopped at Bo. I went as far as
Makeni.

26 Q. And would you say that a great number of civilians fled

27 from Kenema Town at that time?

28 A. Yes. A lot of civilians left Kenema during that time.

29 Q. Finally this: Were -- no, I won't ask that question.
That

Witness. 1 concludes my cross-examination. Thank you very much, Mr

2 A. I thank you, too.

3 PRESIDING JUDGE: Yes, Mr Fynn, you may proceed with
your 4 cross-examination.

16:10:07 5 MR FYNN: Thank you very much, My Lords.

6 CROSS-EXAMINED BY MR FYNN:

7 Q. Mr Witness, I will ask you a few questions and I would
also 8 ask that you go just as slowly as you've been going. I will
try

9 to do so myself. First I want to talk about the laws you
16:10:34 10 mentioned in Tongo. You said there were laws in Tongo, am I
11 correct?

12 A. Yes, sir.

13 Q. This was when the -- after the AFRC/RUF had taken over
14 control of the government in Sierra Leone and they were also
in

16:10:53 15 charge of Tongo. Now, you said those laws included no
stealing,

16 no fighting and that soldiers should not take advantage of
17 civilians, not so?

18 A. Yes, sir.

19 Q. Would I be correct to say that there were laws regarding
16:11:17 20 mining time as well?

laws 21 A. Laws, no, there was no laws on the mining. The only
any 22 that were in the mining that you should not fight there or do
were 23 other thing like bad tricks. Those were the only laws that
24 there.

16:11:40 25 Q. Would I be correct that people were not allowed to mine
at 26 night?

27 A. Yes. The people were not allowed to work at night
28 because -- so that the sand might not drop on them. That was
for 29 people's life. That was why we were not allowed to work at

1 night.

2 Q. Would I also be correct that on occasion there were
people
3 who attempted to break this law?

4 A. Well, I did not see people breaking those laws. People
16:12:34 5 were going according to the law. They were abiding by the
law,
6 what was said. When there was no work at night, nobody should
go
7 to work there because some of us were even afraid to work at
8 night because of our lives.

9 Q. Is it true that people were afraid to break those laws
16:12:57 10 because they would be punished by the RUF -- AFRC/RUF?

11 A. Well, people were afraid of those laws for their own
lives,
12 but I never saw RUF punishing people for not working at night.
13 We were afraid for our own lives. That was why we were not
14 working there at night.

16:13:24 15 Q. I apologise, witness. The question is not whether they
16 they
17 were punished for working at night. They were punished if
18 worked at night. I hope I'm clear.

18 A. Yes. If you are caught working at night, they would
punish
19 you. Either they will take you to a guardroom but they will
not
16:13:52 20 beat you. They will put you into the guardroom and they would

stop
say
night
16:14:11
there?

21 advise you that next time don't work there at night. Why we
22 you from working at night, it is for your own life because at
23 night there is too much risk. That was the only law. But to
24 they will beat you or kill you, no, they will hold you at
25 and then they will keep you at night. Maybe you will be there
26 until the afternoon and then in the afternoon they might leave
27 you. That was the only law I knew there.
28 Q. Isn't it true, witness, that the RUF would approach the
29 mining site at night and fire guns if people were working

heard 1 A. Well, I never saw people working at night and I never
2 when a gun was shot at night -- and I never heard a gunshot at
3 night.

4 Q. Mr Witness, you say you were still engaged in the mining
16:15:09 5 business, am I correct?

6 A. Yes, sir.

7 Q. You would agree with me that, in fact, disagreements and
8 fights are not unusual at diamond mining sites?

9 A. Yes.

16:15:30 10 Q. You would also agree with me that it is not uncommon for
11 these disagreements to be about stolen diamonds?

But 12 A. Yes, like the stealing of diamonds, it's very common.

13 you only steal a diamond with the man who you are working with
14 who is the boss man because the two of you have business with
the

16:16:01 15 diamond. To go and steal somebody's diamond, it never
happened.

16 Q. What about disagreements over stolen gravel?

17 A. Well, those type of confusion, it is only now, during
the

18 RUF time nobody will go to steal somebody's gravel because
they

19 passed a law that nobody should steal. It is only now that if
16:16:33 20 you have gravel and if you don't sleep near it, if you don't
be

things 21 careful, they will wash it for you. It is only now these
22 are happening. During the RUF time it never happened to say a
23 gravel were stolen at night, no.

guard. 24 Q. Is that because there were armed RUF men standing on
16:16:54 25 That's why it was rare for that to happen during that time?
to 26 A. Yes, because any mining during the RUF time, there used
27 be security. One person should not steal another's gravel.
28 Q. You would agree with me that the RUF were themselves
29 miners; they had an interest. They were miners themselves?

1 A. Well, I never saw RUF mining. I only saw us, civilians,
2 mining. Anybody I did not see with a gun, I will not say
whether
3 it is RUF or a soldier. Until I see you with a gun, then I
will
4 know you are RUF, but I never saw that.

16:17:56 5 Q. You'd agree with me, Mr Witness, that the RUF did have
6 people mining for them?

7 A. I did not observe that.

8 Q. Is it your evidence, Mr Witness, that nobody mined for
the
9 RUF?

16:18:28 10 A. I did not see that, so I can't say if somebody was
mining
11 diamond for them. I have never seen somebody saying that, "I
was
12 working for the RUF, I'm working under such-and-such a
13 commander." I did not see that.

14 Q. Were there RUF supporters?

16:18:56 15 A. I did not see them. I did not know them and I have
never
16 seen somebody saying that, "I am an RUF supporter."

17 Q. Did you see small boys mining?

18 A. No. I did not see any child mining, involvement in
mining.

19 Q. Is it your evidence that there was no small boy in the
16:19:33 20 mining pit?

to 21 A. I did not see any small boy that went to the mining pit

22 work.

mining? 23 Q. Mr Witness, how old were you at the time you were

mining? 24 A. At the time I was mining, from the time I started

16:20:02 25 Q. Yes?

1995. 26 A. The time I started mining I was 19 years old during

27 During that time it wasn't under the RUF. It was during the
28 government of the NPRC.

29 Q. You were 19 years old in 1995?

1 A. Yes, sir.

2 Q. And you are now 27?

3 A. Yes, sir.

4 Q. Now, Mr Witness, you have testified that on occasion
guns

16:21:14 5 would be fired at the mine site; is that correct?

6 A. Yes.

7 Q. Would I be correct to say that it was by firing guns
that

8 the RUF maintained control over the mining site?

9 A. Yes, sir.

16:22:15 10 Q. I would put it to you, Mr Witness, that those guns were
11 fired to ensure that RUF miners continued mining for the RUF?

12 A. They only fired those -- those gunshots so that people
13 would not continue to work, not to make people to continue to
14 work.

16:22:55 15 Q. So your suggestion is that the gunshots were to stop
work?

16 A. Yes.

17 Q. And if people refused to stop, did anything happen,
18 Mr Witness?

19 A. If the people denied to stop the work, they will go down
to

16:23:22 20 the pit and stop the people to stop. So they will tell them
to

21 go and we will see the people coming up.

leave 22 THE INTERPRETER: The interpreter is sorry. With the
23 of the Court, will the witness talk a little bit slow.
24 MR FYNN:
16:23:44 25 Q. Mr Witness, you seem to have lost the interpreter, so
you
26 have to speak a little slower, okay? Could you repeat your
27 answer?
28 A. Okay, sir.
29 Q. Now, my proposition to you was that the guns were fired
to

1 ensure that people worked for the RUF?

2 A. No. Guns were not fired in order for people to work for
3 the RUF. Guns were fired when the place was in danger. Like
4 when the sand dunes had come to the edge of the pit, that time
16:24:39 5 they will fire in order for the people to stop working so that
--

6 THE INTERPRETER: The interpreter is still sorry. Can
the
7 witness come again?

8 MR FYNN:

9 Q. Just if you could just repeat the last thing you said,
16:24:55 10 Mr Witness?

11 A. I said they would fire a shot when the sand dunes had
come
12 to the edge of the pit so that we would not fall on the people
in
13 the pit; that was why they use to fire the shot. They were
not
14 firing for people to continue to work.

16:25:14 15 Q. Yes, and I followed that question up with another,
16 Mr Witness, and that question was that if people refused to
come
17 out of the pit, would anything happen to them?

18 A. There were times the pile of sand would fall on them,
those
19 that were stubborn. At times the soldiers will come down to
the

16:25:44 20 pit and force them out. They would force the people outside
the

21 pit because when we saw the soldiers there we would leave that
22 place because we knew that they were going to stop us so that
the

23 sand will not fall on people.

24 Q. I would suggest to you, Mr Witness, that the soldiers
would

16:26:01 25 open fire on the civilians if they refused to take their
orders?

26 A. No, I did not see that and I did not hear that, that
27 soldiers opened fire at civilians in order for them not to
28 continue their work, if the civilians refused and they would
open

29 fire at them, I did not see that at all.

1 Q. Mr Witness, were you born in 1980?

2 A. Yes.

3 Q. I put it to you that you were 15-years old when you
started

4 mining?

16:27:08 5 A. No, I wasn't 15 years when I started mining. I was 19
6 years old when I started mining. That I was not born in 1980.
I

7 was born in 1979.

8 Q. You were born in 1979, and you started mining in 1995?

9 A. Yes, sir.

16:27:34 10 Q. I put it to you you were 14-years old?

11 A. No, I was not 14-years old when I started mining.

12 Q. Mr Witness, I would suggest to you that there were other
13 boys of your age at the mining site in 1995?

14 A. I wouldn't deny that. Members of my age group were
there

16:28:24 15 mining in '95. I wouldn't deny that.

16 Q. And there were also members of your age group with guns
at

17 the mine site?

18 A. During '95, I am unable to understand your question.

19 Q. You did say you started mining in 1995, not so?

16:28:55 20 A. Yes, sir.

21 Q. You spent one year and then you went down to Blama, not
so?

22 A. I did not spend a year in Kono when I went to --

23 THE INTERPRETER: Can the witness come again, please?

24 MR FYNN:

16:29:21 25 Q. How long did you take before you went to Blama?

time I 26 A. It was when the Kamajors were in Tongo, that was the

27 left Cyborg pit, I went to Blama. That was in 1997.

28 Q. That was in 1997?

29 A. Yes.

SCSL - TRIAL CHAMBER I

in 1 Q. You were then 16-years old, am I correct? How old were
2 '97, do you know?
3 A. Yes. I was 16-years old.
4 Q. You were 16-years old in '97?
16:30:08 5 A. Yes.
old 6 Q. Do you now agree with me that in '95 you were 14-years
7 when you started mining?
age 8 A. Well, I did not check my age. I did not know the exact
9 during that time.
16:30:32 10 Q. I'm sure you can check it now, but if you can't, we can
do 11 it for you?
witness 12 MR JORDASH: Objection, relevance. So what if the
13 was 13, 14, 12 in 1995 and was mining. It's not relevant to
the 14 charges.
16:30:52 15 PRESIDING JUDGE: [Indiscernible] as to the credibility
of 16 his testimony as to when he started mining and the
credibility, 17 you know, of his entire evidence. Do you think it isn't
18 relevant?
19 MR JORDASH: Yes, I do think it's not relevant.

16:31:14 20 JUDGE BOUTET: What is not relevant, credibility or that
21 question?
22 MR JORDASH: That question. Moreover, it's confusing,
23 certainly to me. My learned friend was told by the witness
that
24 he was born in 1979 which would have made the witness 16 in
1995
16:31:42 25 and then my learned friend put to the witness that he was, I
26 think, 19.
27 JUDGE BOUTET: 14.
28 MR JORDASH: 14. I beg your pardon. So it's not
relevant
29 and it's become confusing and is of little value to the Court,
I

1 would submit.

You

2 PRESIDING JUDGE: Maybe he may ask the question again.

3 may put the question to the witness again, and more clearly,

4 please, so that you don't confuse him.

16:32:17 5 MR FYNN: I apologise, My Lord.

6 Q. My intention was not to confuse you, Mr Witness, but how
7 old did you say you were in 1997.

8 A. In 1997 I was 17-years old.

9 PRESIDING JUDGE: I thought I have 16 here.

16:32:39 10 MR FYNN: As My Lord pleases.

what

11 PRESIDING JUDGE: In 1997 I was 16-years old. That is
12 you said? You now say you were 17.

13 MR JORDASH: To be fair, Your Honour, he could have been
14 both. Depends when his birthday is.

saying

to

16:33:00 15 PRESIDING JUDGE: You see, the problem here is he has
16 advanced definite dates, you know, about his birth and when he
17 started mining and things like that. It's not that he's

18 that he wasn't even sure of when he was born. There appears
19 be some certainty as far as he is concerned as to when he was
16:33:23 20 born.

21 MR JORDASH: I agree.

were

22 PRESIDING JUDGE: Are you now saying that in 1997 you

23 17-years old.

24 THE WITNESS: Yes, sir.

16:33:47 25 PRESIDING JUDGE: Yes, Mr Fynn. Please.

26 MR FYNN: Thank you, My Lord.

27 Q. Mr Witness, you now say you were 17 at the time?

an

28 PRESIDING JUDGE: Mr Fynn, I'm afraid, you know, we took

29 engagement that at 4.30 we would release the stenographers and

1 I'm afraid I have my eyes on the watch, and clock and it's
2 already 4.30. So I think we will have to pursue your
3 cross-examination to close it maybe on Thursday instead of
4 tomorrow.

16:34:47 5 MR FYNN: Yes, My Lord, I apologise for coming so close
to
6 the time but I may not be more than ten minutes. I just
wanted
7 the Court to know. As My Lord pleases.

8 PRESIDING JUDGE: And we didn't go beyond now because
they
9 were taking some engagements. The stenographers are under a
lot

16:35:03 10 of pressure. In fact, they wanted us to close at 4, at 4.00.
It
11 is we who insisted that we would go up to 4.30 and not at
4.00.
12 So you understand.

13 MR FYNN: I do, My Lord.

14 MR JORDASH: May I just put on the record and I don't
want

16:35:24 15 to belabour the point --

16 PRESIDING JUDGE: Yes.

17 MR JORDASH: I want to buttress what Mr Cammegh said. I
18 think it's startling that the Registry should be putting the
19 accused in this position that we are rising early because they

16:35:42 20 haven't provided the stenographers with the resources they
have.

21 PRESIDING JUDGE: Mr Jordash, I share your views
entirely.

22 MR JORDASH: Thank you.

23 PRESIDING JUDGE: I share your views entirely. It is
24 offensive and it impedes the judicial process and goes against
16:36:01 25 the whole concept of having a completion strategy, whose
26 completion is usually blamed on others and not on the rest who
27 are responsible for it.

28 MR JORDASH: Yes, and the accused have been in custody
29 since March 2003.

1 PRESIDING JUDGE: Indeed. Indeed, I agree with you --
we
2 agree with you, I'm sure, as the Bench.

3 MR JORDASH: I'm grateful.

4 PRESIDING JUDGE: And that is why we said we are not
going

16:36:25 5 to rise at . That was their request that we should rise at 4.
I

6 said no. In fact our original response was no, we are not
going
7 to rise that we were going to go right up to the normal time.

8 But when we received the request the second time just before
we

9 came in, we said, well, not 4.00, we said 4.30. But I think
they

16:36:49 10 say that it is only for, is it this week or so? We hope so.

11 That it is only for this week.

12 MR JORDASH: Yes. Of course I'm not casting any -- I
know

13 the stenographers are doing their very best.

14 PRESIDING JUDGE: Certainly, of course.

16:37:06 15 JUDGE THOMPSON: But I think perhaps it needs to be
said,

16 too, that they are the ones who compute the timing of sittings
of

17 the Court and complain to the Management Committee that this

18 Court has not moved as expeditiously as possible, the Court

19 Management unit, so they can be [indiscernible] at the same
time.

16:37:29 20 JUDGE BOUTET: I should say that you should pray that
the

21 two stenographers that they stay healthy. If one of them gets
22 sick, we are all in trouble, absolutely.

23 MR JORDASH: Yes, absolutely.

24 JUDGE BOUTET: As you know, it is absolutely impossible
to

16:37:42 25 do this work alone.

26 PRESIDING JUDGE: Because they are in The Hague.

27 MR JORDASH: And I have seen the stress and the fatigue
on

28 their faces.

29 JUDGE BOUTET: So that's why I say that. It's demanding
a

1 huge amount of work on their part under very stressful and
2 difficult conditions. So if one of them is unable to perform
any
3 more we will have to suffer, I would say, dire consequences of
4 that. There will certainly be delays, as such.

16:38:08 5 PRESIDING JUDGE: There will be delays.

6 JUDGE BOUTET: We hope it does not happen. But life
being
7 what it is, it may happen.

8 JUDGE THOMPSON: [Overlapping speakers] the managerial
dog
9 wants to wag the judicial tail.

16:38:25 10 PRESIDING JUDGE: Yes, Mr Ogeto.

11 MR OGETO: My Lord, just very briefly for the record, my
12 client is also very concerned about this situation.

13 PRESIDING JUDGE: All of us are concerned about your
14 clients. I think that if we are insisting on expedition it is
16:38:40 15 because we want to get done with this trial as soon as
possible
16 and that is what accounts for some of our questions, you know,
17 because of these proceedings.

18 Well, we have understood ourselves and I think there is
19 nothing we can do about it. We have given our commitment and
I

16:39:01 20 think it will be the same thing, you know, for Thursday and we

21 would see what happens on Friday. The Chamber will rise,
please.

22 [Whereupon the hearing adjourned at 4.35
p.m.,

23 to be reconvened on Thursday, the 13th day
of

24 November 2007 at 9.30 a.m.]

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WITNESSES FOR THE DEFENCE:

WITNESS: DIS-281 3

CROSS-EXAMINATION BY MR HARRISON 3

RE-EXAMINED BY MR JORDASH

26

WITNESS: DIS-293

47

EXAMINED BY MR JORDASH

47

CROSS-EXAMINED BY MR OGETO

87

CROSS-EXAMINED BY MR CAMMEGH

89

CROSS-EXAMINED BY MR FYNN

92