



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

TUESDAY, 20 NOVEMBER 2007  
9.59 A.M.  
TRIAL

TRIAL CHAMBER I

Presiding

Before the Judges:

Benjamin Mutanga Itoe,  
Pierre Boutet

For Chambers:

Ms Erica Bussey  
Mr Colin Smith

For the Registry:

Mr Thomas George

For the Prosecution:

Mr Charles Hardaway  
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 [RUF20NOV07A - MD]  
2 Tuesday, 20 November 2007  
3 [Open session]  
4 [The accused present]  
09:51:50 5 [Upon commencing at 9.59 a.m.]  
6 [The witness entered Court]

7 PRESIDING JUDGE: Mr Kallon, just sit down a while. I  
will  
8 ask you to stand.

9 Good morning, learned counsel. We are resuming our  
10:03:56 10 proceedings this morning after we ended our Plenary yesterday.

11 As you will already have noticed from the composition of  
12 the Bench this morning, Honourable Justice Bankole Thompson is  
13 not on the panel because he is unable to continue sitting in  
14 these proceedings on the grounds of the pending motion against  
10:04:59 15 him.

16 Accordingly, and pursuant to the provisions of Rule  
16(A)  
17 of the Rules of Procedure and Evidence we, in the interests of  
18 justice, order that the proceedings continue in his absence.  
19 Accordingly, we shall now proceed with the cross-examination

by  
10:05:32 20 mister -- was it not Mr Fynn?

21 MR FYNN: Yes.

Okay. 22 PRESIDING JUDGE: Oh, yes, Mr Fynn. That's right.

I 23 For the Prosecution of Defence witness DIS-293 -- I hope

24 am right with that? The 15th Prosecution witness.

25 MR JORDASH: Defence witness.

witness. 26 PRESIDING JUDGE: I am sorry, I am sorry. Defence

the 27 We would want to indicate here that after the conclusion of

proceedings 28 cross-examination by Mr Fynn, of this witness, these

29 will be adjourned to a date which we shall announce to you and

1 thereafter we will resume on a date that we think would be  
2 convenient. We hope certainly of course before the beginning  
of  
3 the recess. So we just thought we should put you on notice  
4 because the proceedings will continue anyway. It's just to  
5 determine important preliminary issues before we do proceed.  
And  
6 I just wanted to invite the, yes, I saw Mr Kallon wanting to  
say  
7 something.

8 ACCUSED KALLON: Yes, My Lord.

9 PRESIDING JUDGE: Yes, Mr Kallon.

10 ACCUSED KALLON: Good morning, My Lords.

11 PRESIDING JUDGE: Mr Ogeto, your client is on his feet.  
12 You know he is on his feet. He doesn't want to speak through  
13 you?

14 MR OGETO: Good morning, My Lords.

15 PRESIDING JUDGE: Good morning.

16 MR OGETO: Mr Kallon mentioned just after we came to  
Court  
17 this morning that he wanted to address the Court on an issue  
that  
18 he thinks should not be presented to the Court by counsel.

19 PRESIDING JUDGE: I see.

20 MR OGETO: And I said he can do it with the leave of the  
21 Court.

is 22 PRESIDING JUDGE: Yes, Mr Kallon. It is your case, it  
23 your Defence you've made. Yes, Mr Kallon, please be brief.  
24 ACCUSED KALLON: Yes, Sir.  
10:09:44 25 PRESIDING JUDGE: Yes. We are listing to you.  
Good 26 ACCUSED KALLON: Yes, Sir. Thank you very much, sir.  
joint 27 morning, Sir. Sir, I stand up to associate myself with the  
28 Sesay/Gbao motion dated 14 November 2007; the motion to  
29 disqualify Honourable Justice Bankole Thompson from the RUF

SCSL - TRIAL CHAMBER I

1 proceedings. I do this -- I gave instructions to my counsel  
to  
2 sign the motion on my behalf but they failed to sign the  
motion.

3 That is why I bring this to the Court's notice.

4 And I also, I signed a memorandum of association to the  
10:10:28 5 motion. My counsel seized that memorandum not to be filed  
before  
6 your Honourable Justice. Thank you very much, Sir.

7 PRESIDING JUDGE: Mr Kallon, are you saying that you  
filed  
8 a memorandum and your counsel -- let me talk with your  
counsel;  
9 which counsel seized it?

10:10:58 10 ACCUSED KALLON: My lead counsel is the one I addressed  
the  
11 memorandum to, for him to file on my behalf.

12 JUDGE BOUTET: So I understand clearly what you are  
13 intending to do now, Mr Kallon: You have seen the motion that  
14 has been filed by counsel for Sesay and Gbao?

10:11:20 15 ACCUSED KALLON: Yes, Sir.

16 JUDGE BOUTET: The motion for disqualification.

17 ACCUSED KALLON: Yes, Sir.

18 JUSTICE BOUTET: You have seen that before it was filed?

19 ACCUSED KALLON: Yes, Sir.

10:11:25 20 JUDGE BOUTET: Or after? Before?

21 ACCUSED KALLON: I see it before it was filed.  
22 JUDGE BOUTET: And you were asked if you were to  
associate  
23 with that motion or something like that?  
24 ACCUSED KALLON: I give instruction. My team worked  
10:11:39 25 together on that motion but on the day to file it my team  
26 withdraw.  
27 JUDGE BOUTET: Okay.  
28 ACCUSED KALLON: They failed to sign it.  
29 JUDGE BOUTET: So you are saying to the Court today that

SCSL - TRIAL CHAMBER I



1 you do associate yourself with that particular motion?

2 ACCUSED KALLON: Exactly so, Sir.

3 PRESIDING JUDGE: Mr Kallon, you may sit down, please.

4 ACCUSED KALLON: Thank you very much.

10:13:08 5 PRESIDING JUDGE: Yes, Mr Kallon, please stand.

6 The order of the Court is that Mr Kallon's application

is

7 accepted and that his counsel, even though out of time, is

he

8 authorised to file the memorandum in order to enable him, as

been

9 has requested, to associate himself with the motion that has

10:13:47 10 introduced by the first and the third accused persons. It is  
so

11 ordered and it should be filed, since it is ready already, it

the

12 should be filed by the end of today. It should be filed by

13 end of this day because time is of the essence or maybe, to be

14 fair to you, that it be filed by the end of tomorrow, please,

10:14:21 15 okay?

16 MR OGETO: Most obliged, My Lords, and I will  
communicate

17 this information, this order, to the late counsel from the  
team.

18 PRESIDING JUDGE: Right.

our

19 JUDGE BOUTET: You, Mr Ogeto, you should not understand

10:14:37 20  
relationship

21 order to be trying to intervene or interfere in the  
22 that you have with your client but, the accused being the  
23 accused, and having stood up in Court to make this  
24 representation, we felt obliged to hear him and we could not  
ignore his representation at this very moment. This is not

for

10:14:59 25  
So

25 lack of trust or confidence in your ability, absolutely not.

best

26 this is just a procedure that we feel is applicable and is  
27 serve the purpose of justice at this moment.

28 MR OGETO: I fully understand the position taken by Your  
29 Lordships. I also fully understand the position taken by

1 Mr Kallon, as the accused person in this case.

2 PRESIDING JUDGE: And you know that his interests in  
these  
3 circumstances are pre-eminent and they would normally, in  
4 situations like this, override maybe the positions that, the  
10:15:36 5 position that has been now adopted by his lead counsel.

6 MR OGETO: They are paramount; they are supreme.

7 PRESIDING JUDGE: That's right. Mr Fynn, yes?

8 MR FYNN: If I may, My Lord, I wish to seek  
clarification  
9 regarding how the new time frame will affect the filing of the  
10:15:58 10 Prosecution's response.

11 PRESIDING JUDGE: Yes. It will be filed -- it's good  
you  
12 have drawn our attention to that -- it is going to be filed by  
13 tomorrow, as we are saying, and then we expect a response from  
14 the Prosecution by the end of Thursday, that is, the day after  
10:16:17 15 tomorrow.

16 MR FYNN: Grateful, My Lord.

17 PRESIDING JUDGE: Right.

18 Well, my colleague is drawing my attention to a  
pertinent  
19 point and that is that it is only the response of Kallon that  
is  
10:16:46 20 coming in on Thursday, not the one which was ordered to be in  
by

you 21 today. Not the response that was ordered to be in by today,  
22 know.

23 MR FYNN: As My Lord pleases, save that I --

adopt 24 PRESIDING JUDGE: And, of course, if you just want to  
10:17:00 25 the same submissions, it makes things easier for you to file  
the

26 response which might not be fundamentally different, I would  
27 suppose, I would imagine, from that which you expected to file  
28 today, as we ordered in our expedited filing order in this  
29 matter.

1 MR FYNN: My Lord, the Prosecution stands ready to file  
2 today, save that our understanding was that Kallon is joining  
the  
3 motion and the motion will continue to be a single motion and,  
4 therefore, we would have preferred to have filed a single  
reply.

10:17:45 5 PRESIDING JUDGE: No, no, no. You will file --

6 MR FYNN: If that is --

7 PRESIDING JUDGE: -- you will file the reply today and  
then  
8 you will -- you can just say you maybe adopt the arguments  
which

9 you are going to file today as we did order. As you can see,  
10:17:51 10 this is an extraordinary situation which we have to meet up  
with  
11 and I think we have to go that way, Mr Fynn.

12 MR FYNN: We stand guided by Your Lordship.

13 JUDGE BOUTET: Obviously your response will be, as the  
14 Presiding Judge has just stated, probably similar or  
essentially

10:18:11 15 the same unless Mr Kallon, through his counsel, comes in with  
16 some new proposal but, for the time being, there is no such  
17 indication and the information that we have is they are

joining  
18 the motion and obviously not adding anything just joining, but  
we

19 have to wait and see the filing. That is all we can say. If  
the

10:18:31 20 filing is the same your response will essentially be the same  
so

21 it should not complicate your life. But we want to get your  
22 response to date to what has been filed up to this particular  
23 moment.

24 MR FYNN: Thank you very much, My Lord. We do hope it  
10:18:47 25 doesn't complicate our --

26 PRESIDING JUDGE: It shouldn't. I don't think it  
should.

27 Mr Fynn, I don't think it should, you know. It's easy, if I  
were

28 where you are and where I was for a number of years, it's a  
very

29 simple thing. It's a simple procedure to do and there is  
nothing

at 1 extraordinary about it. There is nothing complicated about it  
2 all. Right.

3 Yes, Mr Ogeto.

Court 4 MR OGETO: My Lords, if I may be of assistance to the

10:19:18 5 and to the Prosecution: If I understood Mr Kallon's  
submissions

anticipate 6 he simply wants us to join in the motion, and I do not

7 that we will be making any additional submissions apart from  
8 simply associating ourselves with that motion. So there is  
9 nothing really new that is going to come up at this stage.

That 10 is what I can say.  
10:19:40

11 PRESIDING JUDGE: Mr Fynn, I hope that you've gotten the  
12 message.

My 13 MR FYNN: And I am very grateful for the clarification,  
14 Lord.

10:19:52 15 PRESIDING JUDGE: Thank you.

Jordash, 16 Yes, now, if I may, if we may, having said this we have  
17 indicated that the proceedings will have to be put in abeyance  
18 for some time. What would be the reaction to this? Mr  
19 first.

10:20:41 20 MR JORDASH: My first response is, and I speak obviously  
on  
21 behalf of the whole team and Mr Sesay --  
22 PRESIDING JUDGE: I would like you, for the whole -- for  
23 what team?  
24 MR JORDASH: For Mr Sesay's team.  
10:20:41 25 PRESIDING JUDGE: For your team; okay.  
26 MR JORDASH: And for Mr Sesay, is that we are absolutely  
27 determined, if at all possible, not to lose time. Now,  
28 naturally, this is a -- Your Honours will treat this motion  
with  
29 the seriousness which it is clear Your Honours are treating  
it,



1 and obviously, it may take Your Honours some time to consider  
the 2 merits of it.

3 But, having said that, I simply would like on record  
that 4 if at all possible any delays are kept to an absolute minimum.  
10:21:18 5 We are keen to keep moving. We have a witness house full of  
as 6 witnesses and yes, we are keen to get these proceedings done  
7 soon as possible, and there is not much more I can say at this  
8 stage, but we recognise the seriousness of the issue and these  
9 things sometimes take time.

10:21:46 10 What would be helpful, from our perspective, is an  
11 indication if at all possible --

12 PRESIDING JUDGE: The time frame?

13 MR JORDASH: Yes, because we obviously have witnesses in  
14 the witness house, and we need to know whether to send them  
home 15 or whether to ask them to remain for a few days. We are not  
16 really sure what to do unless we have some indication of when  
we 17 might begin.

18 PRESIDING JUDGE: But what -- I know there are some  
19 witnesses who are very uneasy staying here for a long time,  
10:22:20 20 because they have other preoccupations back in their homes, in  
21 their towns, but, whilst they are here, for those who may want

22 to, they are catered for by the witness protection unit.

23 MR JORDASH: Yes.

24 PRESIDING JUDGE: They are catered for by the witness  
10:22:40 25 protection unit.

26 MR JORDASH: Yes.

27 PRESIDING JUDGE: Well, all I can say is that we have  
taken

28 note of the fact that we -- the period, you know, of waiting  
29 would be reduced to the barest minimum that would be  
necessary,

SCSL - TRIAL CHAMBER I

1 for us to look at the intricacies of this motion. That is  
what I 2 thought I should comment.

3 JUDGE BOUTET: I want to reassure you, Mr Jordash, that  
I, 4 too, am committed to see the end of this trial as soon as  
10:23:20 5 possible. So, I mean, you can trust the Bench, that we will  
do 6 our utmost to try to move ahead but, as you have pointed out,  
7 this is a very serious matter, that came sort of unexpected at  
8 this particular time, so we were not prepared for that. I  
mean, 9 there was no notices prior to that it was coming or  
forthcoming.

10:23:45 10 So, having -- and I am not saying this with any negative  
11 view -- I mean, this is in the exercise of your advice to your  
12 client, as such, you felt this is the best course of action to  
13 take in those circumstances, that is fine, but we still have  
to 14 deal with it.

10:24:04 15 MR JORDASH: Yes.

16 JUDGE BOUTET: And, as you know no, the rules and  
17 regulations would allow us to sit as we do today for a maximum  
of 18 five days, that's it, as two Judges, so that is why we came in  
19 today to try to complete the evidence of this particular  
witness

10:24:19 20 and, after that, we feel that, as we are supposed to get the  
21 response of the Prosecution today, that we might be able, as  
of 22 today, to try to move ahead and see where we go but, today, at  
23 this particular moment, I don't think we are in a position to  
24 give you any indication as to where it is because -- and  
10:24:38 25 depending on the outcome of that -- every possible scenario is  
in 26 existence so --  
27 MR JORDASH: Yes. And I intentionally do not ask for an  
28 indication. I recognise that it may well be impossible today  
to 29 give that indication, but simply to ask for any indication as

1 soon as Your Honours feel able to give it would assist me, and  
my 2 team, with witness preparation. That is all I can say at this  
3 stage. Thank you.

4 PRESIDING JUDGE: We have taken note of that.

10:25:14 5 Mr Cammegh, would you have something to say?

6 MR CAMMEGH: First, I think it's right that we should  
7 express our gratitude to Your Honours for the pre-emptory  
manner 8 in which this motion was dealt with by Your Honour's order  
last 9 week. We are very grateful for that.

10:25:44 10 Secondly, I don't think there is anything else that I  
need 11 to add to what Mr Jordash has just said. I think Your Honours  
12 are both aware of how keen I am to finish these proceedings.  
13 That said, of course I accept that there will be a tremendous  
14 amount to discuss behind the scenes.

10:25:51 15 If at any stage it is possible for us to be given some  
16 indication, amounting to us being able to reconvene before the  
17 recess, we would all be very grateful. I think that is all I  
can 18 say on the matter.

19 PRESIDING JUDGE: Mr Cammegh, you can be assured that we  
10:26:10 20 are going to give an indication as to when we shall reconvene,  
21 but certainly we are reconvening before the recess.

22 MR CAMMEGH: I am very grateful for that.

23 PRESIDING JUDGE: We envisage sitting very hopefully,  
very

24 very hopefully, I mean, this is tentative, at least for one  
week

10:26:22 25 before the recess. At least, I say. You know, at least.

26 MR CAMMEGH: Well, that is very reassuring and it's very  
27 reassuring to know that rather than to fly back to London,  
which

28 is now very cold, we can stay here in the warm. Thank you.

29 PRESIDING JUDGE: It's because we want to keep you here  
in

you 1 Freetown that we are giving this indication. We don't want  
2 to run away. Right.

3 Yes, Mr Ogeto.

really 4 MR OGETO: I don't think, My Lords, I have anything

10:26:54 5 to add other than just associate myself with the remarks by my  
6 colleagues that we are keen to have these proceedings move  
7 forward with dispatch, but we also appreciate that the issue

at 8 hand is weighty and it requires some careful consideration and  
we 9 will leave the matter to -- in the safe hands of the Court.  
We

10:27:18 10 really don't have anything else to add.

11 PRESIDING JUDGE: Good. Thank you, Mr Ogeto.

table. 12 I hope there is no other observation from around the

Mr 13 This, I am right, there is no other observation and I invite

14 Fynn to continue with his cross-examination. That is, indeed,  
10:28:57 15 principally why we are here this morning, so that this witness  
16 can be released.

will 17 MR FYNN: Do I take it, My Lord, that the Prosecution  
18 not have an opportunity to comment on the adjournment; the  
19 indicated adjournment, My Lord? And if I may, My Lord, I

would

10:29:14 20 wish to join my learned friends who have already expressed the  
--  
21 how grave the circumstances which has forced this decision  
upon  
22 the Court. And we will wish also to join them in thanking you  
23 for the way you have treated it with expedition.  
24 We would only differ with them in that the Prosecution  
10:29:36 25 would have preferred the five-day rule to have been used for  
the  
26 two, where they are now sitting, to have done some more of the  
27 case but, having decided as you have, My Lord, we do not wish  
to  
28 depart from that and we thank you for what we accept as an  
29 indication of how soon we would return to sittings in at least  
a



1 week before we go on recess. That is all we wish to say  
2 regarding the proposed adjournment after today, My Lord.

position

3 PRESIDING JUDGE: Thank you. We have taken this  
4 very very advisedly, because we want to avoid certain

10:30:28  
may

5 conclusions, or some perceptions, as to what certain issues  
6 be interpreted to mean. That is why we have taken this

position

7 and we would stand by that and just take the evidence of this  
8 witness and then, you know, retire and see how we move from

here.

9 MR FYNN: Thank you, My Lord.

10:30:50

10 PRESIDING JUDGE: So you may proceed, Mr Fynn.

Lord.

11 MR FYNN: I will, My Lord. Thank you very much, My

12 WITNESS: DIS-293 [Continued]

13 [The witness answered through interpreter]

14 CROSS-EXAMINED BY MR FYNN: [Continued]

10:30:57

15 MR FYNN:

16 Q. Good morning, Mr Witness.

17 A. Yes; good morning, Sir.

We

18 Q. I trust you had a restful break, long weekend; not so?

age;

19 left off at the point where we were trying to ascertain your

10:31:11

20 am I correct?

21 A. Yes.

22 PRESIDING JUDGE: Please, Mr Fynn, let me get the  
spelling

23 of your name? Is it F-Y-N-N or F-I-N-N?

24 MR FYNN: That's correct, My Lord. F-Y-N-N, My Lord.

10:31:25 25 PRESIDING JUDGE: Right. Okay. Thank you.

26 JUDGE BOUTET: Mr Fynn, just make sure that, because as  
you

27 know, the witness has a tendency to respond to your question  
in

28 English without an interpretation, and it has caused some

29 confusion in the past, and it would appear to be the same  
again

1 with your very first question, so make sure --

2 MR FYNN: Thank you, My Lord.

3 JUDGE BOUTET: -- that the witness waits for the  
4 interpretation of the question and allow for the translation

as

10:31:54 5 well to be done.

6 MR FYNN: I will caution him immediately, My Lord.

7 Q. Mr Witness, you will recall that you were told on the  
last

8 occasion that somebody is translating to you in Krio;  
remember?

9 A. Yes.

10:32:08 10 Q. You will wait for the translator to speak to you before  
you

11 answer; okay?

12 A. Okay, Sir.

13 Q. Now, Mr Witness, I may have caused some confusion  
regarding

14 your age; I did not intend that. I would wish to clarify that

10:32:27 15 this morning; okay?

16 A. Okay, Sir.

17 Q. Now, could you state, please, when you were born?

18 A. Yes.

19 Q. When was that?

10:32:47 20 A. Born 1979.

21 Q. In what month?

22 A. I cannot recall the month again.

23 Q. And you said, and you would agree with me, that in 1997,

24 whilst you were at Cyborg, you were 18 years old; am I  
correct?

10:33:16 25 A. When I was at Cyborg, yes.

I 26 Q. There were younger people than you digging at Cyborg; am

27 correct?

28 A. I did not see those people.

29 Q. Were you the youngest miner at Cyborg?

people.

1 A. I only knew about myself; I don't know about other

2 Q. You were in a gang of five; am I correct?

3 A. Yes.

4 Q. Were you the youngest person in that gang?

10:34:11 5 A. Yes.

6 Q. Now, did you see young boys of about your age with guns?

7 A. No, I did not see any boy of my age holding gun.

8 Q. Did you see boys younger than you in other gangs?

9 A. No, I did not see any boys of my age in other groups.

10:34:59 10 Q. Mr Witness, did you see boys older than you with guns?

11 A. The ones I saw, who were older than myself, were 24, 30,  
12 35, 35 years; those are the ones I saw.

13 Q. Mr Witness, you did not finish school in Freetown; am I  
14 correct?

10:35:29 15 A. Yes.

16 Q. Did you attend school whilst you were in Kono?

17 A. Yes; that was in 1992. I was attending school before  
the  
18 war entered Kono. I was --

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

10:35:58 20 of the Court, could the witness come again?

21 MR FYNN:

went 22 Q. Mr Witness, if I recall your evidence correctly, you  
23 to start mining in 1995; not so?  
24 A. Yes, it was in 1995.  
10:36:17 25 Q. Now I'm asking whether --  
26 THE INTERPRETER: The interpreter is sorry. There is a  
27 problem here. The interpreter is sorry, there is a problem.  
By 28 the time the witness would have ended answering the  
29 question -- the interpreter is getting problems. By the time  
the

SCSL - TRIAL CHAMBER I

will 1 witness would have ended answering the question the attorney  
2 also put his question. It appears as if the witness is not  
3 listening from the translation but listening -- taking the  
4 question direct from the lawyer.

10:36:54 5 JUDGE BOUTET: You have to wait for the translation.  
What 6 would appear is exactly what I have highlighted that, before  
you 7 were to question this witness, the witness appeared to answer  
8 your question before having the translation in Krio, so that  
is 9 causing the confusion, so he answers at a time they are doing  
the 10 translation and everything gets lost. So I suggest that you  
11 maybe may have to go back the last question to make sure and  
12 please warn the witness again.

13 MR FYNN:  
14 Q. Mr Witness, please do not answer to me when I ask the  
10:37:37 15 question in English. Wait for the translator, who speaks  
through 16 your headphones, and then you answer the question; is that all  
17 right?

18 A. It's all right; I can understand. I am listening to the  
19 translation before answering the questions.

10:37:57 20 Q. Now, the last question, Mr Witness, was whether, in  
fact,

21 you rejoined school in Kono?

22 A. In Kono, I started schooling in Kono until the war  
entered

23 there in 1992, and I left there.

24 Q. Yes. The war stopped you from going to school; am I  
10:38:26 25 correct?

26 A. When I came to Freetown, I continued attending,  
attending,

27 but I left schooling in 1995.

28 Q. Did you attend the free school the RUF was running, that  
29 was what I'm asking; did you attend that school?



I

1 A. During 1995, the RUF hadn't a school. During that time  
2 was in Freetown here. In '95 I went to Kono. When I went to  
3 Kono I did not continue schooling. RUF was not in Kono during  
4 that time. It was during the period of the NPRC.

10:39:10 5 Q. The RUF was in Kono; am I correct?

6 MR JORDASH: Sorry, I didn't --

7 THE WITNESS: '97, they were in Kono. I wasn't in Kono.

8 MR JORDASH: I didn't hear the question. I think there  
9 was -- Mr Fynn spoke over the interpreter. Does he mind

10:39:25 10 repeating the question?

11 PRESIDING JUDGE: Mr Fynn, please, you may repeat the  
12 question, please.

13 MR FYNN: I referred the witness to 1997.

14 Q. The RUF was in Kono in 1997; correct?

10:39:43 15 A. They were there but I was not in Kono during that  
period.

16 Q. You were not in Kono in 1997?

17 A. Not at all.

18 Q. Now, let's talk about the Cyborg Pit for a moment. You  
19 said there was a two-pile mining system in place; am I  
correct?

10:40:26 20 A. Yes.

21 Q. And you got one pile, and the RUF got the other pile; am  
I

22 correct?

23 A. Yes.

24 Q. You will share the one pile which was yours amongst  
10:40:45 25 yourself and your gang members; am I correct?

26 A. Yes.

27 Q. How many of you were in your gang?

28 A. We were five in our own group.

29 Q. You shared the pile into five?

SCSL - TRIAL CHAMBER I

We 1 A. No. We wouldn't share it amongst ourselves into five.  
2 would all, we would work everything together; five of us. We  
3 worked everything. If we had money there, we would share the  
4 money but not the pile.

10:41:25 5 Q. You would not share the pile?

6 A. Not at all.

7 Q. You will [indiscernible] on the pile?

8 A. Yes.

9 Q. So, would I be correct that your supporter, Mr Mohamed,  
did  
10:41:40 10 not get any pile?

11 A. It was to him we used to sell the diamonds. It was he -

12 THE INTERPRETER: The interpreter is sorry. Again, it  
13 appears to the interpreter that the attorney understands Krio,  
so  
14 he reacts immediately to the answers given by the witness  
without  
10:42:07 15 waiting for the interpretation given by the interpreter.

16 MR FYNN: I apologise, My Lord. Somehow I don't get the  
17 interpreter.

18 Q. Now, you are still answering to me when I -- maybe you  
hear  
19 English too well.

10:42:25 20 PRESIDING JUDGE: He knows; he understands English.

21 MR FYNN:

22 Q. You are still answering the questions when I put them in  
23 English. Don't answer the English; answer the Krio.

24 THE INTERPRETER: The interpreter is sorry. The problem  
10:42:40 25 the interpreter is getting is that it appears as if the  
attorney  
26 understands Krio. So he wouldn't wait for the interpretation  
to  
27 be given by the interpreter but takes the answers given by the  
28 witness, who speaks in Krio; that is the problem.

29 JUDGE BOUTET: The caution applies to you as well, Mr  
Fynn.

Krio

1 MR FYNN: I don't hear what they say.

2 JUDGE BOUTET: Well, it's because you must be on the  
3 channel and that is why.

me

4 MR FYNN: No, I am hearing -- okay, let me hear if this  
10:43:12 5 works. Thank you, My Lord. Let me -- the question now, let  
6 hear.

it

7 THE INTERPRETER: What the interpreter is saying is that  
8 appears as if you were in the Krio channel and that when you

put

9 the question you wouldn't wait for the interpretation from the  
10:43:28 10 interpretation booth but you get the answer directly from the  
11 witness and, therefore, without waiting for the interpreter,

you

12 put other questions and this gives problems to the

interpreter.

13 MR FYNN: I am sorry, My Lord, I apologise.

14 PRESIDING JUDGE: Are you on the right channel now?

10:43:44 15 MR FYNN: I apologise, I am.

16 PRESIDING JUDGE: You are on the right channel now?

17 MR FYNN: I am, My Lord.

18 PRESIDING JUDGE: Right. Okay.

19 MR FYNN: I apologise to the interpreters.

10:43:52 20  
Mohamed,

Q. Now, Mr Witness, my question was that, in fact, Mr

21 your supporter, did not get anything when you mined?

22 A. No, he used to get something. When we had a diamond he  
23 was -- he used to buy it from us.

24 Q. Mr Witness, before the RUF came to Kono, you would agree  
10:44:26 25 with me that when you mined it was one pile for the gang, and  
one  
26 pile for the supporter; am I correct?

27 A. No. We would only work -- I don't understand the  
question.

28 Ask the question so that I can understand it.

29 Q. Before the RUF came to Kono, you mined under the two-  
pile

for 1 system. One pile was for your supporter, the other pile was  
2 the gang; am I correct?

the 3 A. No. The condition under which we were working before  
4 RUF entered Kono, the condition was: If you worked in  
somebody's

10:45:18 5 plot there was a pile for the plot owner and a pile for you  
and 6 your boss. You the workers, with your boss, had the one pile.  
7 That was the way we were operating during that period.

8 PRESIDING JUDGE: You said the plot owner owned one  
pile, 9 and who owned the other pile?

10:45:49 10 THE WITNESS: The one pile, we, the workers, and our  
11 supporters had the one pile.

12 JUDGE BOUTET: So, in that system, the supporter is  
13 different than the plot owner?

14 THE WITNESS: Yes. We, the workers, and the supporter  
were 15 in one group and the plot owner had his own group.

16 MR FYNN:

17 Q. Mr Witness, I would put it to you that this is not the  
18 system you described in Blama when you worked for Mr Amadu; do  
19 you remember when you worked for Mr Amadu?

10:46:39 20 A. Yes.

Amadu 21 Q. The two-pile system you described to this Court, Mr  
22 had one pile and you the gang had the other pile?  
23 A. No, I did not say so.  
your 24 Q. Mr Witness, we will return to Cyborg. So you now --  
10:47:11 25 evidence at this stage is that the one pile was for you and  
the  
26 rest of your gang; not so? And the other pile for the RUF.  
So  
27 Mr Mohamed, your supporter, got nothing of the piles; am I  
28 correct?  
29 A. Mr Mohamed was our supporter. We wouldn't be giving a  
pile



1 to him. We only sell diamonds to him.

2 Q. You would agree, Mr Witness, that this is different from  
3 what you just explained; that Mr Mohamed, your supporter,  
would  
4 join you in the one pile?

10:47:58 5 A. Yes, he will join us in the one pile, because when we  
got a  
6 diamond, we will sell to him. We would not give him the  
gravel.  
7 He would only buy a diamond from us.

8 Q. Mr witness, I would suggest to you that there was no  
9 two-pile system operating in the Cyborg Pit? Mr Witness --

10:48:37 10 A. Yes, Sir.  
11 Q. -- I suggest the Cyborg Pit did not have a two-pile  
system  
12 in operation?

13 A. We were operating on a two-pile system.

14 Q. I would put it to you that whilst the RUF were in Kono,  
you  
10:49:02 15 mined for them and for them alone?

16 A. No.

17 MR JORDASH: Your Honour --

18 PRESIDING JUDGE: Mr Jordash, yes.

19 MR JORDASH: I think there may be a confusion. We are  
10:49:21 20 talking about Tongo, I think, and Mr Fynn has put Kono. That  
may

is

21 be the confusion the witness is under. We are talking about  
22 Cyborg and then we are talking about Kono and obviously Cyborg  
23 in Tongo.

24 PRESIDING JUDGE: Yes, Mr Fynn, can you clarify that,  
10:49:40 25 please? I think Mr Jordash --

26 MR FYNN: I thank my learned friend.

27 Q. Now, whilst the RUF was in charge of the Cyborg Pit,  
there  
28 was no two-pile system in operation?

29 A. We operated on a two-pile system.

1 Q. Whilst at the Cyborg Pit you did not have a supporter  
2 because you were working for the RUF?

3 A. No, we were not working for the RUF and I have never  
seen

4 somebody working for the RUF. All the groups that were  
working

10:50:25 5 there had supporters. We were not working for the RUF. We  
were

6 working for ourselves and our bosses, those who were  
supporting

7 us.

8 Q. Mr Witness, you had to give the RUF --

9 PRESIDING JUDGE: Mr Witness, did you say -- you said  
you

10:50:53 10 never saw anybody working for the RUF?

11 THE WITNESS: Yes.

12 PRESIDING JUDGE: Thank you.

13 MR FYNN:

14 Q. You had to give the RUF some of the gravel because you  
10:51:06 15 were, in fact, working for them?

16 A. Well, we were not working for them; we were working --  
we

17 were following the working conditions but we are not working  
for

18 them. That when we had a diamond they owned it, no. That's  
why

19 I said we were not working for them; we were working for

10:51:27 20 ourselves.

21 Q. Is it correct that it was Mr Mohamed who bought the  
22 implements you used to mine?

23 A. He was our supporter; he bought them. When we had a  
24 diamond we'd sell it to him. That's why he was the one

10:51:52 25 responsible for buying all the implements that we worked with.

26 Q. Is it your evidence that even though it was Mr Mohamed  
who  
27 bought all the implements, it was the RUF to whom you had to  
give  
28 a pile every time you mined?

29 A. We would give a pile to the RUF; we and our boss had a

1 pile.

2 Q. Now, I put it to you that it is because you were not  
3 working for yourselves, that's why you had to give a pile to  
the  
4 RUF?

10:52:52 5 A. That was the condition, the laid down condition, at that  
6 time.

7 Q. Mr Witness, did you spend only two weeks at the Cyborg  
Pit?

8 A. No, I worked more than two weeks there.

9 Q. Mr Witness, is it correct that you had to fend for  
yourself

10:53:44 10 by way of -- you had to find your own food for yourself whilst  
11 you worked at the Cyborg Pit?

12 A. Finding food for myself was not my responsibility. It  
was  
13 the supporter who would find the food that I eat.

14 Q. Would it be correct that, in fact, the RUF did not  
provide

10:54:14 15 any food for those who worked at the Cyborg Pit?

16 A. No. The day we would work for them, they would provide  
17 food for us. They would provide a lot of food for us. All of  
us  
18 that would work for them, that day would eat enough food.

19 Q. And it's your evidence that you worked for them for two  
10:55:09 20 days?

the  
21 A. Yes, it was only two days we would work for them. All  
22 remaining days we would work for ourselves.  
going  
23 Q. On Thursdays, you would take the gravel to where it's  
24 to be washed; am I correct?  
10:55:09 25 A. Yes. Thursday we would take the gravel to where we  
would  
26 wash it. On Friday we would wash it.  
27 Q. And when would you actually dig the gravel?  
28 A. We would pack it. After packing it, we will divide it.  
29 After some time, except on Thursdays, that was the time we  
would

times

we

the

be

10:55:53 wash

Friday,

other

10:56:14

please.

gravel

10:56:39

1 not work for ourselves, we would transport that. There are  
2 when we would only transport some. We would wash the one that  
3 had transported on Friday. So Friday, after washing that, on  
4 following day we continue to work ourselves. We would never  
5 threatened. On Friday we would not be forced to go there to  
6 it. That somebody would force you to go there to work on  
7 no.

8 Q. Mr Witness, you will agree with me that you spent the  
9 days piling the gravel?

10 A. No. It was only advised that we would pile the gravel.

11 PRESIDING JUDGE: Take your hand from your mouth,

12 MR FYNN:

13 Q. Now, you have said that on Thursdays you moved the  
14 to the place where it's going to be washed and on Friday you  
15 would wash it; am I correct?

16 A. Yes, it was on Fridays that we used to wash the gravel.

17 Q. I'm suggesting to you that on Monday, Tuesday and  
18 Wednesday, you would be busy, in fact, digging the gravel?

19 A. Not on all Mondays that we used to dig gravel. Some

10:57:05 20 Mondays we will wash the gravel for ourselves. After we  
washed  
all 21 our gravel, we will start mining again. If we had not washed  
22 the gravel we had, we would not continue mining.  
both 23 Q. So you agree with me that you have to have had mined  
24 the gravel and packed it for you to be able to move it on  
10:57:46 25 Thursday, not so?  
26 A. Yes, we would pack it. If we had already dug it up --  
leave 27 THE INTERPRETER: The interpreter is sorry; with the  
28 of the Court, would the witness come again?  
29 MR FYNN:



question

1 Q. Yes. You will have to say your answer again. My  
2 was that, in fact, you will agree with me that you would have  
3 to have mined the gravel, packed the gravel before Thursday  
4 on Monday, Tuesday and Wednesday, you would be busy digging  
5 gravel; am I correct?

10:58:12

had

so,

the

try

10:58:40

6 A. Not all the Mondays that we will dig the gravel. Some  
7 Mondays we would be working for ourselves. While working for  
8 ourselves, at times it would be washing our gravel, that  
9 particular Monday. It was only on some Mondays when we will  
10 to obtain the gravel. During the tripping we would spend two  
11 days.

days

12 Q. Mr Witness, it is not correct that you only worked two  
13 for the government, for the RUF?

10:59:05

14 A. It was only two days that we worked for the RUF. That's  
15 what I knew.

to

16 Q. On what day was the gravel packed, not when you moved it  
17 where you wash it, on what day was it packed for moving on  
18 Thursday?

were

19 A. Well, we don't have a definite time. At any time we

10:59:35 20  
definite

able to pack it, we will pack it. To say that we have a  
21 time, say Monday or Wednesday, no. If it were on Thursday, we  
22 will pack it on Thursday.

to

23 Q. Mr Witness, I would suggest to you that because you had

duty

24 move the gravel every Thursday, you were similarly under a

10:59:59 25

to the RUF, to ensure that it was there for Thursday?

on

26 A. No. It was -- it was not forceful that we should work

your

27 every Thursday to pile the gravel, except if you have packed

if

28 own gravel, then you will have to transport the gravel. But

29 you hadn't gravel, you wouldn't be forced to obtain gravel

1 forcefully to give them. That was not the way it operated.

2 Q. Mr Witness, my suggestion to you is that, in fact, there  
3 was no two-day and five-day mining policy in place?

4 A. No. The one I knew of, we worked two days for them.

The

11:00:53  
other

5 five days we worked for ourselves. I don't know about any

day,

6 thing saying that you will work for them for the rest of the

knew

7 for the rest of the month, no. That you were working for them

8 first, no, you were working for yourself. Only two days I

9 of.

11:01:12  
stay

10 Q. Is it your evidence, Mr Witness, that throughout your

11 in the Cyborg Pit, at Tongo, no civilian was killed?

never

12 A. I did not see any civilian being killed there and I

of

13 heard that RUF had killed any civilian there. I never heard

14 it, I never saw it.

11:01:43

15 Q. But you did hear of shooting incident?

16 A. To say somebody was shot, if I heard of that? No.

17 Q. But did anybody die whilst you were at Cyborg?

18 A. No, I never saw somebody dying there, in Cyborg.

My

19 MR FYNN: Thank you very much, Mr witness. Thank you,

11:02:23 20 Lords.

21 PRESIDING JUDGE: Yes, Mr Jordash, any re-examination?

22 MR JORDASH: No, thank you.

23 PRESIDING JUDGE: Mr Witness, we have finished with you.

24 We thank you for coming to testify before us and to assist us  
in

11:03:46 25 determining the issues before us. We thank you and we wish  
you a

26 safe journey back to your place of abode. Once more, thank  
you.

27 You are discharged; you can go back home now. Can the unit

28 please assist the witness out of the Court.

29 [The witness withdrew]

1           PRESIDING JUDGE: Learned counsel, having coming to the  
end  
2           of the testimony of this witness, as we have indicated, we  
would  
3           be adjourning and we would reconvene on a date that will be  
4           communicated to the parties in due course.

11:06:35 5           So, this said, I don't know if there is any other thing  
point  
6           that we need to address but I think that it is a convenient  
7           for us to rise and to reconvene on the date that we will set  
in a  
8           scheduling order. Thank you. The Court will rise, please.

9                               [Whereupon the hearing adjourned at 11.00  
a.m.

10                              sine die]

11

12

13

14

15

16

17

18

19

20

21

22

23

24

25

26

27

28

29

SCSL - TRIAL CHAMBER I

WITNESSES FOR THE DEFENCE:

WITNESS: DIS-293

13

CROSS-EXAMINED BY MR FYNN

13