



Case No. SCSL-2003-01-T

THE PROSECUTOR OF
THE SPECIAL COURT
V.
CHARLES GHANKAY TAYLOR

WEDNESDAY, 29 OCTOBER 2008
9:30 A.M.
TRIAL

TRIAL CHAMBER II

Before the Judges:

Justice Teresa Doherty, Presiding
Justice Richard Lussick
Justice Julia Sebutinde
Justice Al Hadji Malick Sow, Alternate

For Chambers:

Mr Simon Meisenberg
Ms Carolyn Buff

For the Registry:

Ms Rachel Irura
Mr Momodu Tarawallie

For the Prosecution:

Mr Christopher Santora
Mr Mohammed A Bangura
Ms Julia Baly
Ms Maja Dimitrova

For the accused Charles Ghankay
Taylor:

Mr Courtenay Griffiths QC
Mr Morris Anyah
Ms Amina Graham

1 Wednesday, 29 October 2008

2 [Open session]

3 [The accused present]

4 [Upon commencing at 9.30 a.m.]

09:20:34 5 PRESIDING JUDGE: Good morning. Mr Santora?

6 MR SANTORA: Good morning, Madam President, your Honours.

7 Good morning, counsel opposite. Your Honours, for the

8 Prosecution this morning is Ms Julia Baly, Maja Dimitrova and

9 myself, Christopher Santora.

09:31:06 10 PRESIDING JUDGE: Thank you, Mr Santora. Mr Griffiths?

11 MR GRIFFITHS: Good morning, Madam President, your Honours,

12 counsel opposite. For the Defence today myself, Courtenay

13 Griffiths, my learned friend Mr Morris Anyah and Ms Amina Graham,

14 barrister, who has been with us before.

09:31:28 15 PRESIDING JUDGE: Thank you. Mr Griffiths. Perhaps I
16 should acknowledge the presence of a new court usher. I regret
17 to say I don't have a name, but we will arrange to have that made
18 public in the course of the proceedings.

19 MS IRURA: Your Honour, the name of our court usher is

09:31:44 20 Mr Momodu Tarawallie.

21 PRESIDING JUDGE: Thank you, Madam Court Officer. Welcome
22 Mr Tarawallie to the Court. If there are no other matters I will
23 remind the witness of his oath.

24 Good morning, Mr Witness.

09:31:58 25 THE WITNESS: Good morning.

26 PRESIDING JUDGE: I want to remind you that yesterday you
27 took the oath to tell the truth. That oath is still binding upon
28 you and you must answer questions truthfully. Do you understand?

29 THE WITNESS: I understand.

1 WITNESS: GIBRIL SESAY [On former oath]

2 CROSS-EXAMINATION BY MR GRIFFITHS: [Continued]

3 Q. Mr Sesay, just to recap where we got to yesterday, we'd
4 established that you have now given evidence on three occasions,
09:32:28 5 haven't you?

6 A. This is the third time that I have not yet completed.

7 Q. The first time was when you gave evidence in the RUF trial,
8 is that right?

9 A. Yes.

09:32:45 10 Q. Then you gave evidence in the AFRC trial, is that right?

11 A. That is true.

12 Q. And now you have given evidence in this trial?

13 A. Yes.

14 Q. And in all three trials you have told the Court, or
09:33:07 15 described to the Court, a terrible experience when your wife was
16 raped by eight men in front of you and your children and how you
17 yourself was amputated in front of your children. That's right,
18 isn't it?

19 A. It is correct.

09:33:24 20 Q. And you will recall that yesterday when we rose for the day
21 I was asking you about a completely contradictory account which
22 you gave on 9 July 2007. Do you remember that?

23 A. Yes. The question you asked me at that time, yes, I recall
24 that.

09:33:51 25 Q. Now you will recall that this statement taken from you, it
26 is said, on 9 July 2007 related to a video which was shown to
27 you. Is that right?

28 A. I recall that at one time, because so many people used to
29 go and obtain statements from us, the amputees, there were many,

1 but that particular statement you are talking about I do not
2 recall who obtained it from me, or whether or not I was the one
3 actually that gave the statement. I do not recall. But I recall
4 at a point in time someone took a video to me at my house in
09:34:41 5 Waterloo, Lumpa, in Sierra Leone. The person took the video to
6 me and showed me the video and at that time I was in the hospital
7 and by then I was imbalanced. By then I was feeling serious
8 pain. And at that time the man who took the video to me he met
9 me sleeping, so he woke me up.

09:35:07 10 Q. Well, I am grateful that you have had overnight to think up
11 an answer. What I am going --

12 JUDGE SEBUTINDE: Mr Griffiths, when the interpreter says
13 he took the video to me, I don't understand. Did he take the
14 video of me, or did he bring the video to me?

09:35:23 15 MR GRIFFITHS:

16 Q. Did he bring a video to you and show you it?

17 A. Yes, he brought me - brought it to my house at Waterloo, a
18 man.

19 Q. Well, I am going to give you another opportunity of looking
09:35:41 20 at that video. I wonder if the video could be shown, please, and
21 Madam President, can we adopt the same procedure so helpfully
22 suggested by Ms Baly yesterday which is to show it first of all
23 without translation and then to show it a second time with the
24 translation. The process shouldn't take more than about ten
09:36:03 25 minutes, because it is about a five minute clip.

26 PRESIDING JUDGE: I will just check if the interpreters -
27 Mr Interpreter, you have heard counsel for the Defence.

28 THE INTERPRETER: Yes, your Honours.

29 PRESIDING JUDGE: You recall how we handled the video

1 yesterday. You will be able to implement that and have it first
2 silent so we listen to what is said and then we will play it
3 again and ask you to interpret.

4 THE INTERPRETER: Okay, your Honours.

09:36:28 5 PRESIDING JUDGE: Thank you.

6 MS IRURA: Your Honours, the Chamber and the parties are
7 kindly requested to press the button PC1 on the panel next to
8 their monitors.

9 PRESIDING JUDGE: Thank you.

09:37:56 10 [Video played to the Court]

11 MR GRIFFITHS: Yes, could we have it played again, please,
12 Madam President, but this time with the translation. I am
13 grateful.

14 PRESIDING JUDGE: Thank you. Mr Interpreter, we are going
09:43:00 15 to have it played again and we would like you to interpret it
16 simultaneously, please.

17 THE INTERPRETER: Okay, your Honours.

18 PRESIDING JUDGE: Mr Interpreter, you hear me?

19 THE INTERPRETER: Yes, your Honours.

09:43:13 20 PRESIDING JUDGE: That is fine. Please arrange to have it
21 played again, Madam Court Officer.

22 THE INTERPRETER: "Q. Please I want you to tell me your
23 name?

24 A. My name is Gibril Sesay.

09:43:28 25 Q. Okay, Gibril. Tell me exactly what happened to you
26 that you have been amputated. Tell me everything.

27 A. Well, when the rebels attacked Koidu Town, when we're
28 in Kono District on Saturday, so we were in the bush hiding
29 away from them. They were disturbing us in the bush,

1 running - chasing us in the bush. They would move
2 from the town and chase us in the bush and at the latter
3 part, when we heard that ECOMOG had come, by then we were
4 encamped in a village called Wendedu in a very thick forest
09:44:12 5 in a village called Wendedu in the forest. That was where
6 we were camped. So we got an information there that the
7 ECOMOG had come and based at Kokui ma. Myself, my children
8 and my wife, we all came out and we took our loads and we
9 went, but when we got to a village called Penduma we
09:44:39 10 decided to rest there. So that was where we were seated
11 when I saw Mr Mohamed, my next friend that you have just
12 interviewed, I saw him amputated. So I accompanied him
13 because he was alone and his children were very small. So
14 I assisted him up to very close to Kokui ma. So I decided
09:45:06 15 to return and I said I was going to collect my own children
16 to take them to the ECOMOG base for us to go and stay
17 there. When I got back I did not see my children. I met
18 all the loads on the veranda. To my surprise I did not
19 know in fact that they had gone back and chased the people
09:45:34 20 in the town and after we just left the town they went and
21 set an ambush at the edge of the town so I decided to
22 collect my pots and dishes. I had some cooked rice in
23 there. So when I got to place where they had set the
24 ambush very close to the bridge made of palm trees all of
09:45:58 25 them came outside. They were 15 in number. The one who
26 was their captain, whom they referred to as the captain, he
27 was somebody I knew. He was Staff Al haji.
28 Q. He was just a soldier or a rebel?
29 A. He was a soldier, Staff Al haji. I knew him very well.

1 Okay. He asked them to rid me of everything I had with me.
2 In fact, I can say they stripped me naked anyway, you see?
3 And they divided all my property amongst themselves. Even
4 my underpants, they took it from me and one particular one
09:46:40 5 amongst them put it into his pocket and he said I should
6 put my hand on the ground and I put my hand on the ground
7 and he told me he was going to chop it off and he took the
8 machete from his back, he chopped my hand ten times and on
9 the 11th time my hand finally was chopped off, and I took a
09:47:05 10 pieces of cloth that I had used as a pad on my head to tote
11 my loads and he decided to wipe the machete of the blood.
12 By then I was not - I had lost my sight so he asked me to
13 go and whilst I was trying to go he chopped me on my back.
14 Oh, oh God, oh God, oh God, oh, I am dying. I am dying, my
09:47:45 15 brother. He chopped me on my back - on my back.
16 So they were kicking me continuously and they kicked
17 me until I found myself in a stream. There was a small
18 stream close by. That was what in fact saved my life, or
19 else I would have died. So I dipped my head into the
09:48:07 20 stream and I drank some water. That helped me to regain my
21 sight. They were sitting there looking at me and I got up
22 and I was trying to manage to go ahead. I was holding my
23 hand so that I prevented it wasting too much of blood, but
24 I couldn't make it because I was bleeding seriously and
09:48:30 25 they were seated there laughing at me and my chopped
26 off hand was lying on the ground on the line, so I
27 managed to go and meet the ECOMOG. They treated me and
28 took me to Makeni.
29 Q. Where is your wife and your children? Did you see them

1 again?

2 A. No, it is only my younger brother who is with me here.

3 Q. Please have my sympathy.

4 A. Yeah, yeah. Oh."

09:49:05 5 PRESIDING JUDGE: Yes, Mr Griffiths? We have heard the
6 translation.

7 MR GRIFFITHS: Madam President, can I invite the Court to
8 order as we did yesterday a transcript to be made of that
9 evidence - of that account, I should say.

09:49:24 10 PRESIDING JUDGE: Yes, I note that Mr Interpreter was able
11 to get most of it very efficiently and I note too most of it has
12 been recorded, so we will have that transcribed, Madam Court
13 Officer, and we will check to make sure everything is included
14 through counsel.

09:49:43 15 MR GRIFFITHS: I am grateful. Now I wonder, Madam Court
16 Manager, if we could have open, please, the interview notes of
17 the 9 July included in the bundle.

18 JUDGE SEBUTINDE: What tab is that again, please?

19 MR GRIFFITHS: I was hoping that Madam Court Manager could
09:50:08 20 remind me, because I don't have a bundle.

21 MR SANTORA: I think it's 6.

22 MR GRIFFITHS: It is divider 6, I'm grateful:

23 Q. Now, whilst I ask you some more questions about the account
24 you gave then, Mr Sesay, I would like those of us who have
09:50:24 25 available to them a record of what you said when you were shown
26 that video available in front of you. Now, question number one:
27 Did you recognise yourself in that video?

28 A. Yes.

29 Q. Was it a video taken of you whilst you were recuperating in

1 Connaught Hospital?

2 A. No.

3 Q. Where was it taken?

09:51:04

4 A. At the Connaught Hospital, but at that time we had just
5 been there. In fact I was sleeping. I was not that sensible
6 enough.

7 Q. So that helps me with my next question. How soon after
8 your hand was chopped off were you being interviewed on
9 videotape?

09:51:28

10 A. Well, you know, even the person who interviewed me I didn't
11 know him, whether he took along a video camera or not. That is I
12 told you I was not to myself at that time. I was not within the
13 right frame of mind. The time that we were taken to Connaught,
14 right at that time, no.

09:51:55

15 Q. Mr Sesay, let's try and put the time together then, shall
16 we. Your hand was cut off and did you manage to get to ECOMOG
17 the same day your hand was cut off?

09:52:21

18 A. They were the ones who took me from where I had fallen down
19 at the roundabout, Penduma Barracks Junction, and my children ran
20 to them. Major Tanko, that was the explanation. He was the one
21 who went there to take me. But this video clip, the time this
22 man went there to do the interview I was not sensible enough. In
23 fact I was sleeping and I was woken up. I was in pain. I didn't
24 actually know what I was saying to them, you know. I was not by
25 myself.

09:52:47

26 Q. I am sorry to interrupt you, Mr Sesay. You have already
27 told us that. My question is very simple. Did you manage to
28 reach ECOMOG on the same day that your hand was chopped off?

29 A. It was on the same day that ECOMOG went there to take me at

1 that Penduma Barracks roundabout where I had fallen down, the
2 same day.

3 Q. And having met with them the same day, how soon after did
4 they take you to Connaught Hospital? Was it the next day?

09:53:25 5 A. No, they attempted treating me, but they could not. The
6 pain was too much.

7 Q. And so was it a couple of days later then that you were
8 taken to Connaught Hospital?

9 A. Yes.

09:53:45 10 Q. And from the look of you in that video it would appear,
11 would it not, that you had only recently been treated at the time
12 when that video was taken?

13 A. Well, I don't know that. That was not a treatment. It was
14 just a piece of cloth that was on top of the amputated hand.

09:54:12 15 That was not the treatment. The time the MSF treated me I had a
16 bandage round the wrist.

17 Q. So it follows then that you hadn't even been treated by MSF
18 then when that video was taken?

19 A. No.

09:54:34 20 Q. Good. So that video must have been taken shortly after you
21 arrived at Connaught Hospital?

22 A. Well, yes, I think so.

23 Q. Thank you. Consequently the events you were being asked
24 about should have been extremely fresh and vivid in your mind?

09:55:00 25 A. Well, I told you that I was sleeping and I was woken up
26 from my sleep when that man woke me up from my sleep. He was
27 with --

28 Q. Mr Sesay, that is the third time you are telling us that.
29 I am not asking you that. My question is very simple. The

1 events would have been fresh and vivid in your mind at the time
2 you were being asked these questions, wouldn't you agree?

3 A. You know, if it was anybody who was feeling pain, I was the
4 one. I was not sensible enough. I was not in my right frame of
09:55:43 5 mind.

6 PRESIDING JUDGE: Mr Witness, please listen to the
7 question. The question is not about how you felt at the time.
8 The question is that when this video was taken it was close to
9 the time of the amputation, events would have been clear in your
09:55:59 10 mind. Please listen to the question again. Mr Griffiths, please
11 put the question again.

12 MR GRIFFITHS: I am grateful, Madam President:

13 Q. Mr Sesay, based on what we have now established, you were
14 being asked these questions by that interviewer within a matter
09:56:15 15 of days at most of when your hand had been amputated and surely
16 the events would have been clear and vivid in your mind?

17 A. How would it be fresh in my mind at that time? I was just
18 explaining.

19 Q. What were you explaining?

09:56:49 20 A. I was not sensible enough at that time. I was not in the
21 right frame of mind, you know. It was only because we were being
22 counselled and at least I came to, that was when I was able to
23 give a clear explanation of what had obtained.

24 Q. Mr Sesay, we have now seen that video and it is quite clear
09:57:14 25 that you were in pain. I am not disputing that. But the fact of
26 the matter is you were perfectly lucid and understood the
27 questions you were being asked, weren't you?

28 A. But I told you that I was not in the right frame of mind.
29 In that state I was feeling serious pain and I was even sleeping.

1 I was woken up from my sleep. I have told you this.

2 Q. Well, we can see the video and I am going to suggest to you
3 that you were wide awake and you understood fully what you were
4 being asked. Isn't that the truth?

09:58:01 5 A. I told you that I was woken up. Yes, indeed, I was woken
6 up.

7 Q. Tell me this then, Mr Sesay: Are you telling us that you
8 did not understand the questions you were being asked by the
9 interviewer?

09:58:20 10 A. I told you I was not in the right frame of mind.

11 Q. Let's try my question again. Are you telling us that you
12 did not understand the questions you were being asked?

13 A. Well, I was just explaining like that --

14 Q. No, try my question.

09:58:41 15 THE INTERPRETER: Your Honours, can counsel kindly wait for
16 the interpretation.

17 MR GRIFFITHS:

18 Q. Mr Sesay, are you telling us that you did not understand
19 the questions you were being asked?

09:58:57 20 A. I told you that I was not in the right frame of mind, so
21 how could someone understand something clearly when I was having
22 that excruciating pain? I was not by myself. I was not in the
23 right frame of mind.

24 Q. So, Mr Sesay, why did you not say to the interviewer,
09:59:18 25 "Look, go away. I cannot understand what you are asking me and I
26 could end up talking a load of rubbish"? Why didn't you say
27 that?

28 A. But I told you that I was not in the right frame of mind.
29 I told you that.

1 Q. Do you recall on that video telling the interviewer that
2 you did not see your children when you returned to Penduma to
3 find them?

4 A. It was only when that man took the video clip to me that I
10:00:05 5 could recall and I explained to him the correct story, but he did
6 not take any statement from me. He did not write anything that I
7 said.

8 Q. He didn't need to. He was recording it on videotape and we
9 have got it for posterity, so help us. Do you recall --

10:00:23 10 PRESIDING JUDGE: Sorry, Mr Griffiths, my understanding of
11 the answer is it was only when that man took the clip to me that
12 I could recall.

13 MR GRIFFITHS: Very well.

14 PRESIDING JUDGE: It seems to be played then.

10:00:34 15 MR GRIFFITHS:

16 Q. Very well. Well, now that you have had an opportunity of
17 listening to the tape yet again for the second time now, well the
18 third time in fact, do you recall saying on that video, "When I
19 returned Penduma I did not see my children"? Did you hear
10:00:52 20 yourself say that on the video?

21 A. I heard myself saying that in that video, but it was when
22 that man took the --

23 THE INTERPRETER: Your Honours, can the witness clarify.
24 He is using a word that can mean video clip or a video camera.
10:01:15 25 He used the word "video" and it could mean both.

26 PRESIDING JUDGE: Mr Witness, the interpreter says that he
27 is not clear when you say "video". Do you mean the video clip,
28 i.e. the finished pictures, or the video camera? So when you
29 give your answer make clear which you are talking about, please.

1 THE WITNESS: It was the video clip itself, the one I have
2 just seen. That was what he took.

3 MR GRIFFITHS:

4 Q. Now, help me with this: You now accept that you said on
10:01:47 5 the video, "I did not see my children". Help me, please. Why
6 didn't you say to the interviewer, "I did not see my children,
7 nor my wife"? Why no mention of the wife?

8 A. Now, why I did not mention my wife, at that time I was in
9 pain and I did not want to talk that much. I knew that I had
10:02:20 10 left my children at Major Tanko's. I told him that I did not
11 know, that I did not see my children, because I did not want to
12 talk that much. I was in pain.

13 Q. Well, if you didn't want to talk that much, how is it that
14 you found time to mention that you had picked up your pots and
10:02:38 15 pans and even your underpants had been taken and put in someone's
16 pocket, yet you forgot your own wife? How is that?

17 MR SANTORA: Objection. The witness did not say he forgot
18 his wife. The witness said he did not want to talk about that.
19 It's a misstatement of the evidence.

10:02:59 20 MR GRIFFITHS: And what I am suggesting, Madam President,
21 is this: If he didn't have the presence of mind, because he
22 didn't want to talk, to mention his wife, why is he mentioning
23 his underpants?

24 PRESIDING JUDGE: Strictly - I get the point you are
10:03:16 25 making, Mr Griffiths. Strictly he didn't forget. Maybe a slight
26 rephrasing is all that is required.

27 MR GRIFFITHS: Very well.

28 PRESIDING JUDGE: You are entitled to put the contrast.

29 MR GRIFFITHS:

1 Q. Why is it that you failed to mention your wife, but you
2 managed to mention your underpants? Which was more important?

3 A. Please listen to me. I have told you that I was not in the
4 right frame of mind. If somebody went through such a terrible
10:03:52 5 experience he would not be in the right frame of mind. He would
6 just say things that he may not even want to say at that time.

7 Q. Did you go back and pick up loads on a veranda in Penduma
8 as you told that interviewer?

9 A. I did not pick up any load. I did not do that.

10:04:15 10 Q. Having picked up the loads, were you met by 15 men led by
11 Staff Alhaji?

12 A. Well, they passed anyway because, you know, but I told you
13 but they actually passed. I told you that at the time this man
14 interviewed me I was not in the right frame of mind, but they
10:04:44 15 passed through.

16 Q. You have told me that about six times now, but let me ask
17 you: How is it that you were able to be so precise, 15 men, and
18 yet you didn't mention your wife? How?

19 A. Listen to me. I said I was not in the right frame of mind.
10:05:07 20 I am saying this. There were more than that even. At that time
21 I was not in the right frame of mind. I was not sensible enough.
22 I am just saying this, but at that time I was not in the right
23 frame of mind. I was not sensible enough. It was when I came
24 to, when I regained my senses, that was when I recalled the exact
10:05:28 25 things that happened to me.

26 Q. Did the 15 men you met strip you of all your luggage and
27 your clothing?

28 A. Listen, there were more than 15 who attacked the town.
29 There were more than 15, those who attacked the town. We were

1 under the mango tree, sitting there. I don't recall them taking
2 any luggage - sorry, anything from me, except my wristwatch that
3 was taken away from me by Staff Alhaji.

10:06:10 4 Q. When on that video tape you say all your luggage including
5 your pots and pans and your underpants were taken, that was
6 untrue, was it?

7 A. I was not in the right frame of mind. I have told you
8 this. I was not sensible enough. Just imagine if somebody is
9 running away from problems, would you go and pick up pots and
10:06:28 10 pans?

11 PRESIDING JUDGE: Mr Witness, please listen to the question
12 and answer the question. The question is - please repeat the
13 question, Mr Griffiths.

14 MR GRIFFITHS:

10:06:37 15 Q. When on that video tape you say that all your luggage,
16 including your clothing, was taken from you, did that happen?
17 Yes or no?

18 A. No. What I know is that it was only my wristwatch that was
19 taken away from me.

10:06:57 20 Q. When it is said on that video that you knew Staff Alhaji
21 "Well, well", was that the truth?

22 A. Staff Alhaji, I knew him.

23 Q. "Well, well"?

24 A. I knew him, yes.

10:07:15 25 Q. "Well, well"?

26 A. I knew him.

27 JUDGE LUSSICK: Look, Mr Witness, will you kindly answer
28 the question please. You are asked whether you knew Staff Alhaji
29 well.

1 THE WITNESS: I knew him very well.

2 MR GRIFFITHS:

3 Q. Thank you. And do you recall saying that on the video?

10:07:44

4 A. Yes, I listened to it and I saw the video and I can recall
5 when I said that.

6 Q. And did you recall saying on the - describing on the video
7 after your hand had been amputated falling into a stream, ducking
8 your head under the water and drinking some water which revived
9 you? Do you remember saying that on the video?

10:08:08

10 A. Well, it was only now that I heard it, but at that time I
11 was not in the right frame of mind. I am repeating it.

12 Q. On the day that your hand was chopped off, did you fall
13 into a stream?

10:08:31

14 A. I did not fall into a stream. I did not fall into any
15 stream.

16 Q. So, help me, and it may be I know the answer already, why
17 did you say on the - give such a description, a vivid description
18 of falling into a stream, ducking your head under water and it
19 reviving you? Why did you give such a description if it was
20 totally false?

10:08:50

21 A. Listen, as you have already said that you know the answer,
22 I told you that, really, I was not in the right frame of mind.
23 Anybody who experienced such a terrible experience - terrible
24 thing will not be sensible enough.

10:09:17

25 Q. And also do you recall saying, right towards the end of
26 that video clip "I do not know where my wife and children are.
27 The only person I know about is my younger brother." Do you
28 remember saying that on the video clip?

29 A. That is what I am telling you that I did not want to talk

1 anything about my wife. In fact, in the first place I did not
2 want to talk that much. I was only coaxed and somehow forced to
3 even speak. I was sleeping. I was woken up. I was feeling the
4 pain. I did not want to say anything about my wife and children,
10:10:04 5 you see, because anybody I saw at that time I just regarded that
6 person as an enemy, and I did not want to say anything at that
7 time really.

8 Q. Listen to the question, please. Did you hear yourself
9 saying on that video clip saying "I do not know where my wife and
10:10:29 10 children are, only my younger brother"? Did you hear yourself
11 saying that?

12 A. I remember. I heard myself saying that, but that younger
13 brother of mine, listen to me please, he was not with me
14 throughout the war. It was in Makeni that my mother went to take
10:10:54 15 my brother to be with me in Freetown, while the ECOMOG were
16 taking me to Freetown, so he would be by me to take care of me,
17 because I was not having - I was not sensible enough so that was
18 why my younger brother was with me at Connaught.

19 Q. Thank you for telling us that you did mention - you recall
10:11:19 20 mentioning your wife on that videotape. Bearing that in mind,
21 and whereas I am not for one minute --

22 PRESIDING JUDGE: Mr Griffiths, please pause. You said
23 thank you for mentioning your wife. Was it not his brother he
24 mentioned?

10:11:37 25 MR GRIFFITHS: No, no, no, he accepted he mentioned his
26 wife and children.

27 PRESIDING JUDGE: Yes, I remember. Thank you, I am clear
28 now.

29 MR GRIFFITHS:

1 Q. Now, Mr Sesay, understand I am not for one instance
2 belittling the fact and the pain you must have suffered when your
3 hand was amputated, but as a husband don't you think that perhaps
4 the worst thing that happened that day was the rape of your wife
10:12:06 5 by eight men in front of your own eyes and your daughter's eyes?
6 So help me. Why didn't you mention that?

7 A. I did not want to mention that. If I continue saying that
8 I would have had more psychological pain on me. In fact I would
9 have likely died because of the psychological problem I would
10:12:36 10 have had, so I did not want to mention that. I did not want to
11 mention that.

12 Q. Mr Sesay, do you agree with me that in many ways what
13 happened to your wife, her gang rape and killing, was worse than
14 what happened to you? Do you agree?

10:12:58 15 A. The two of us suffered, but she suffered the most, but I
16 did not want to mention that because if I had continued talking
17 about that when I was in pain I would have died. That was why I
18 did not even bother mentioning that.

19 Q. What I will suggest to you quite bluntly, Mr Sesay, is
10:13:26 20 this: The evidence you have given before three tribunals,
21 including this one, I suggest is a pack of lies. What do you say
22 to that?

23 A. It was not - I am not telling a lie. I have taken an oath
24 on the Bible and I am a Christian. I have not come here to tell
10:13:51 25 lies.

26 Q. You see, what I am suggesting is that what you said on that
27 video within days of that terrible event was more likely to be
28 the truth. That is right, isn't it?

29 A. I told you that the time that I was in the hospital when

1 this operation had not been performed yet on me I was not by
2 myself. I was not sensible enough.

3 Q. And what I am suggesting is that for whatever reason you
4 have decided after the event to make up a fantastical account as
10:14:34 5 to what happened to you. That is the truth, isn't it?

6 A. It was after I had completed my healing process, that was
7 when I came to my senses and people were going there to counsel
8 us. That was when people like me, for example, took some courage
9 and I gave my correct story.

10:15:03 10 Q. And what I am further suggesting, just so that you have an
11 opportunity of dealing with it, whether you be Christian or not,
12 you have quite deliberately lied on oath on three separate
13 occasions. That is what I am suggesting?

14 A. I will not swear on the Bible and lie afterwards. I am
10:15:36 15 sitting right in front of international personnel. I would not
16 lie to them. I am explaining exactly what happened to me and
17 that is what I have said. Now that I have regained my senses I
18 am explaining exactly what happened to me, the correct story, and
19 I have said it thrice.

10:15:59 20 Q. What I am further suggesting is, again so that you have an
21 opportunity of explaining this to these Judges, is that it is
22 when you saw the video, and what you had said on that video, that
23 you realised that you had been caught out and that is why you are
24 having difficulty answering questions about that video now, isn't
10:16:22 25 it?

26 A. I have no difficulties in answering your questions. I did
27 not find it difficult. You yourself would find that I did not
28 find it difficult to respond to your questions. I am responding
29 to your questions correctly and I am telling you everything that

1 you asked me of. I am not telling you lies.

2 Q. I am going to leave that topic and I want to deal with a
3 couple of final matters. Yes. I wonder if we could have a look
4 at a document, please, Madam Court Manager, I think it should be
10:17:33 5 behind divider 5. It should be a record of interview conducted
6 with Mr Sesay on 15 March 2007, is that right?

7 PRESIDING JUDGE: I think that might be divider 4.

8 MR GRIFFITHS: Oh, divider 4:

9 Q. Now this is a record, or should be a record, of an
10:18:09 10 interview conducted with you on 15 March 2007, and do you see in
11 that first answer on that page:

12 "I am an amputee. The impact that the crimes for which I
13 gave testimony had on me and family is that I work no longer to
14 support me and my family."

10:18:37 15 Is that true?

16 THE INTERPRETER: Your Honours, could counsel please take
17 that slowly.

18 MR GRIFFITHS:

19 Q. The first answer on that page:

10:18:46 20 "I am an amputee. The impact that the crimes for which I
21 gave testimony had on me and family is that I work no longer to
22 support me and my family."

23 Is that true?

24 A. That was true.

10:19:07 25 Q. The last answer on that page:

26 "I am not living a happy life now because I am out of
27 employment. I will never mine diamonds again because I am an
28 amputee and it is very difficult for me to take care of my family
29 (wife and children). No place of work will accept me because I

1 am an amputee".

2 Is that right?

3 A. That is correct.

4 Q. Over the page, the first answer on that page:

10:19:43 5 "Money. I have no means of getting money unless I beg from
6 people. Mining. Mining is where I used to get money but being
7 an amputee with one hand I mine diamonds no more."

8 Is that true?

9 A. That is true.

10:20:03 10 Q. Go two-thirds of the way down the page:

11 "Q. Have there been any employment issues as a result of
12 you being a victim of these crimes?

13 A. I have no employment issues as a result of I being a
14 victim of these crimes. The only thing for sure I know no
10:20:24 15 place work will employ me because of my present status."

16 Is that true?

17 A. That is true.

18 Q. Now, as we can see from the first page, that is what you
19 said to investigators in March 2007. Could we now then, please,
10:20:43 20 go behind divider 7, because it's true, isn't it, Mr Sesay, you
21 haven't worked since your hand was chopped off, have you?

22 A. No. Since my hand was cut off?

23 Q. Now, let's have a look. According to this document, in
24 February 2004 you were being paid for lost wages. Now you would
10:21:17 25 agree with me, wouldn't you, Mr Sesay, that a man who is not
26 working cannot be paid for lost wages, can he?

27 A. What do you mean by "lost wages"? Put the question clear
28 and clarify the words.

29 Q. Look on the second - against the number 2 on that page you

1 will see:

2 "Wednesday, 4 February 2004, made by M Smart. Lost wages
3 and transportation to the Special Court for Sierra Leone for the
4 re-confirmation process. Transport/lost wages, 10,000 Leones."

10:22:10 5 Do you see that?

6 A. That I was paid 10,000 Leones?

7 Q. Yes, do you see that entry?

8 A. Yes, I can see an amount of 10,000 Leones.

9 Q. Now, you will see that according to that entry you were
10:22:29 10 supposed to have been paid that for transport and lost wages.

11 What I want you to help us with is this: If you weren't working,
12 how could you have been paid for lost wages?

13 A. Was I paid any money because I had lost salary?

14 Q. According to this you were.

10:22:58 15 A. Who? Who paid me?

16 Q. Well, somebody called Smart who must be very clever if they
17 paid you for wages which, according to you, you didn't deserve?

18 A. Smart? 10,000 Leones in place of a salary?

19 Q. Part of it was supposed to be for lost wages, Mr Sesay, and
10:23:28 20 I am hoping that you can help us as to how that came about given
21 that you weren't working?

22 A. Who is this Mr Smart who purportedly paid me 10,000 Leones?

23 Q. You are asking the wrong person that question. I am in no
24 position to answer that. I can only deal with what I am
10:23:57 25 presented.

26 A. I did not receive any salary from the Special Court or any
27 other person, 10,000 Leones.

28 Q. Mr Sesay, I am not disputing your answer. So would it
29 follow then that what is recorded on this document is totally

1 incorrect?

2 A. I did not receive any salary. It did not receive money.

3 Q. So this is totally incorrect, isn't it?

4 A. No, it is not correct. I did not receive any salary.

10:24:30 5 Q. Well, let's go over the page then.

6 A. I just don't understand.

7 Q. You see when we go over the page we see, wow, lo and behold
8 in February 2007 again you are being paid 10,000 leones - and
9 there's no dispute here, this 10,000 leones is just for lost
10 wages. Can you help me? Last year?

10:24:56

11 A. I don't really understand. If somebody went to me and
12 maybe gave me some token or maybe that was just a gift or charity
13 and maybe the person never mentioned that I was given a salary,
14 because I was not working with them, I am not aware of that. You
15 were just sitting down, and say, "Okay, you just be sitting down,
16 don't be working we will be giving you 10,000 leones every month"
17 and the 10,000 leones - even the food that I use for my family
18 and I, 10,000 leones would not be sufficient for that. How could
19 somebody give me 10,000 leones per month which I did not receive?

10:25:29

20 It was not specified to me that this was the reason why we were
21 giving you that money. That is not to my knowledge.

10:25:54

22 Q. So again you would agree with me that's totally inaccurate,
23 isn't it?

24 A. No, because if they had told me that this 10,000 leones
25 that we are giving to you is for this reason or that reason, that
26 would have been better, but I did not receive any money with that
27 tag. If they had told me that I would have said it here that
28 they gave me 10,000 leones monthly, but that did not occur.

10:26:15

29 Q. Well, look at the second entry on that page, Mr Sesay. 15

1 March 2007. Another 10,000 Leones for lost wages. Do you see
2 that?

3 A. Salary that I had lost.

10:26:55

4 Q. And if you look at the next entry below that, 23 May 2007,
5 5,000 Leones lost wages. Do you see that?

10:27:22

6 A. I have seen it, but that is not to my knowledge. If they
7 had told me that - because a lot of people used to go to us and
8 give us was some kindness, some gave us money, some gave us
9 clothing, some people gave us food items. But this particular
10 thing that you have mentioned here, that it is salary that I am
11 seeing here reading, if those people had told me that this was
12 your lost salary that we are giving you this money for I would
13 have said it here in court, but they never mentioned that to me.
14 They never did that. The only thing was that whenever I would

10:27:47

15 leave Kono and go to Freetown the Court was responsible for my
16 transportation cost.

17 Q. I totally agree with that. Why should you pay for that?

10:28:09

18 But the point is - and again when we look at the last entry on
19 that page for July again we see 20,000 Leones for transport and
20 lost wages. The fact of the matter is, Mr Sesay, at no stage
21 were you given money in lieu of wages, were you?

10:28:42

22 A. If you mention transportation, yes, the Special Court used
23 to give me transportation fare to return. Yes, they did. But
24 that they gave me money saying that that was for the salary that
25 I had lost? If they had mentioned that I would have said it
26 here, but nobody ever mentioned that to me.

27 Q. So you would agree with me that whoever has put this
28 document together has written down something which is totally
29 false? Would you agree?

1 A. Well, I wouldn't say it is wrong, because they used to give
2 me money, but they never tagged it that way, as salary. You know
3 salary means somebody who is working for you. That is the person
4 you can pay salary to. If they had said, "This is salary to you"
10:29:20 5 I would have accepted - I would have said it here that they gave
6 me salary. If it was transportation, yes, they used to give me
7 transportation fare to and fro, the Special Court gave me that.
8 Indeed, yes, they did. But salary, no.

9 Q. The final matters that I want to deal with you, Mr Sesay,
10:29:42 10 are these. Do you remember yesterday I showed you a statement
11 from September 2003 according to which you had said that you had
12 been a soldier in the Sierra Leonean army? Do you remember me
13 showing you that?

14 A. Yes.

10:30:10 15 Q. Now, is it possible, Mr Sesay, that you were in fact a
16 soldier?

17 A. I was not a soldier.

18 Q. And that perhaps you were part of Staff Alhaji's group and
19 you did something wrong and, because of that, they chopped your
10:30:32 20 hand off. Is that possible?

21 A. Well, I never did anything wrong to that man and I was not
22 part of that man's group. Neither was I part of the military or
23 a soldier or anybody related to that, no.

24 Q. And is it possible that it is precisely because that was
10:31:00 25 your role why you decided to make up an account about your wife
26 being raped in front of your children in order to disguise the
27 truth of what actually occurred? Is that possible?

28 A. What true story? Put the question directly. Put it
29 properly to me so I can answer the question.

1 Q. Let me put it in this way then: Is it possible that the
2 only truth you have told any court is the fact that your hand was
3 chopped off, but all the rest of the story is a complete
4 embellishment to mask the fact that you were in fact a soldier?

10:32:02 5 A. That is why I told the Court yesterday if they conduct an
6 investigation in Sierra Leone, they search any computer and they
7 see my name or photo relating to any of the military barracks
8 then I am guilty. But I am not a soldier. I would not hide my
9 identity if I were a soldier. If I were a soldier I would have
10:32:28 10 said so.

11 MR GRIFFITHS: That is all I ask this witness, Madam
12 President. Madam President, can I ask that the record of
13 disbursements be marked for identification, please, and also I
14 think I omitted to ask for the video clip to be marked for
10:32:53 15 identification.

16 PRESIDING JUDGE: The video was not marked for
17 identification. You did ask for the transcript.

18 MR GRIFFITHS: Madam President, my difficulty with the
19 videotape is this: It is extracted from a longer series of
10:33:09 20 interviews, one of which was shown by Mr Anyah yesterday, and I
21 think it is a CD made by Open Society. Now I had extracted just
22 the particular clip which refers to this witness and put it on my
23 memory stick and I am wondering whether technical facilities are
24 available to transfer it from my memory stick to another mode of
10:33:37 25 recording so that it can be preserved as an exhibit by this
26 Court.

27 PRESIDING JUDGE: I will have to direct that question to
28 those who are better equipped to answer it than me, Mr Griffiths.
29 I will ask that first and then I will ask counsel for the

1 Prosecution if they have any comment on the procedure you propose
2 in view of the fact it is something that emanates --

3 MR GRIFFITHS: From them.

10:34:08

4 PRESIDING JUDGE: From actually your memory stick, but let
5 us see if it can be done first.

10:34:33

6 MS IRURA: Your Honour, in response to that, the clip that
7 we just played is actually part of a whole clip and so I think
8 Mr Griffiths is slightly mistaken. It is actually the whole clip
9 is there, but we were able to show a few minutes of that. So in
10 actual fact it is the same full clip Mr Anyah played yesterday of
11 which we also showed only a part. Now, having liaised with CITS
12 they stated yesterday that they would be able to copy the whole
13 clip, including both of the clips onto a CD, but they are not
14 able to extract a few minutes and put those individually. So it
15 would be the whole clip, but it could be specified that the
16 exhibit actually runs from a certain number of minutes, the
17 length which shows to another - some other minutes, your Honours.
18 I hope that helps clarify.

10:35:00

10:35:22

19 MR GRIFFITHS: Madam President, I am grateful for that,
20 because I in fact gave the Court Manager the times of this
21 particular clip yesterday, and if she could hand it back to me I
22 could specify that now and we could for the record indicate that
23 MFI-1, Defence MFI-1 for this witness, would be a video clip from
24 11:42 until 12:24 on exhibit EV0146.

10:36:09

25 PRESIDING JUDGE: Now, Mr Griffiths, one thing I noted when
26 it was being played, and it is borne out in your
27 cross-examination, is that there seems to be no date on that
28 video clip. I couldn't see one on the screen.

29 MR GRIFFITHS: Well, Madam President, it may be that what

1 we need to do is to go - I didn't record it, but from memory I
2 think there was a date right at the beginning.

3 JUDGE SEBUTINDE: Mr Griffiths, is this the same exhibit or
4 clip that we admitted yesterday as exhibit D-72?

10:36:45 5 MR GRIFFITHS: No, that is a further clip from the same
6 CD-ROM from the same recording. Basically what happened was an
7 interviewer went to Connaught Hospital and on that particular day
8 interviewed I think, if memory serves, about five individuals
9 sequentially and the clip which Mr Anyah showed yesterday is one
10 of those individuals who was interviewed and then Mr Sesay was
11 also interviewed during that sequence. So we are talking about
12 the same CD-ROM.

13 JUSTICE SEBUTINDE: So would this interview appear on the
14 same CD-ROM as the one we admitted yesterday?

10:37:26 15 MR GRIFFITHS: Yes, it does.

16 JUDGE SEBUTINDE: And therefore, is it necessary to admit
17 it again, or simply to specify the minutes that you just told us?

18 MR GRIFFITHS: Well, perhaps it might be neater for us just
19 to specify the minutes and perhaps refer to it as clip between
10:37:46 20 these minutes on exhibit D-72 or whatever it was. So then I
21 would only mark for identification the disbursements form. Would
22 that be correct?

23 PRESIDING JUDGE: Well, I think we might have to deal with
24 the video clip differently. What I will do at the moment is I
10:38:07 25 will mark those minutes 11:42 to 12:24 for identification, and
26 when it comes to a tender we will deal with - we will hear the
27 Prosecution's comments and we will deal finally with it, because
28 there are two different - they are being tendered through two
29 different witnesses.

1 MR GRIFFITHS: Yes.

2 PRESIDING JUDGE: So, for the moment I will mark it as
3 MFI-1, that is part of a video clip, being the minutes 11:42 to
4 12:24 on exhibit EV0146. Again, I am not sure that EV0146 is a
10:38:41 5 formal notification. Again, we will deal with that when the time
6 comes. And MFI-5 is a three page document headed "Special Court
7 for Sierra Leone all disbursements for witnesses" and it becomes
8 MFI-5.

9 MR GRIFFITHS: I am grateful.

10 PRESIDING JUDGE: Now, Mr Santora. You have heard the
11 cross-examination. Questions or re-examination?

12 MR SANTORA: There is a little bit of re-examination. Just
13 maybe to assist the Court too, I have actually asked to see
14 perhaps when we do deal with the tendering of exhibits if these
10:39:20 15 cannot - I am not sure why they can't be separated out and just
16 associated with each witnesses. We are checking on that if there
17 is a way that would perhaps make this whole thing a lot neater
18 and just have each clip as associated with each witness be
19 admitted vis-a-vis that witness. So, if that is possible, we are
10:39:36 20 checking on it and we can deal with that when we come to
21 tendering.

22 PRESIDING JUDGE: Very well.

23 MR SANTORA: Counsel, just for reference I just have a few
24 questions and I will give you the LiveNote reference before the
10:39:53 25 question. The first reference is on my page 21, lines 6 through
26 9.

27 RE-EXAMINATION BY MR SANTORA:

28 Q. Mr Witness, I am going to ask you some questions about some
29 of the things that Defence counsel asked you, okay? Now, Defence

1 counsel was asking you about a video that was taken of you after
2 this incident occurred. Do you remember him asking you about
3 that?

4 A. Yes, I remember.

10:40:22 5 Q. And he was asking you why you did not explain on that video
6 what happened to your wife. Do you remember that?

7 A. Yes.

8 Q. And in answering that question you said, in questions about
9 your wife, you said, "The two of us suffered, but she suffered
10:40:42 10 the most, but I did not want to mention that because if I had
11 continued talking about that when I was in pain I would have
12 died. That was why I did not even bother mentioning it." What
13 did you mean when you said, "If I had continued talking about
14 that when I was in pain I would have died"? What did you mean
10:41:06 15 when you said that with regards to your wife - with what happened
16 to your wife?

17 A. Well, the things that the juntas and the rebels did to my
18 wife, and I was in pain, this man who conducted the interview
19 with us at Connaught, if I had spoken to him about that woman
10:41:45 20 that would have caused a serious psychological impact on me. I
21 would have died even as a result. I am saying this again,
22 because what they did to her I did not want to say anything about
23 it. I did not want people to know about it even. You know,
24 yesterday when I was talking and I got to that particular point
10:42:14 25 in the testimony, if you could recall, if you had watched my
26 countenance, my countenance changed. The way I felt was so bad.
27 It was now that I am a little strong enough to say something
28 about that. That is why I even said something about it, but at
29 that time I could not. I was weak. I hadn't even sufficient

1 blood in me, and if to be talking about the psychological impact
2 would have killed me. It was after some counselors had counseled
3 me that was why I was able to say something about it.

4 MR SANTORA: Counsel, the next reference, for your purposes
10:43:00 5 the next reference is page 13 of my LiveNote and just to clarify
6 the correct line numbers. At page 13, lines 18 to 21:

7 Q. Now, Mr Witness, Defence counsel was also asking you about
8 a time when people came and showed you a video - this video that
9 you just saw - when they showed you a video in Waterloo. Do you
10:43:34 10 remember Defence counsel asking you about that?

11 A. Yes.

12 Q. And he was asking you about - with regards to a statement
13 given in 2007 when you were showed this video. Do you remember
14 that?

10:43:50 15 A. Yes.

16 Q. And with regards to that you said, "It was only when that
17 man took the video clip to me that I could recall and I explained
18 to him the correct story, but he did not take any statement from
19 me. He did not write anything that I said ." Do you remember
10:44:17 20 saying that?

21 A. That is true. He showed me the video. He said - he asked
22 me if I was the one in the video. I don't know the man's name
23 and even if he is now amongst me I cannot recognise him. I did
24 not know him and I don't know him. He was a male, that I am
10:44:41 25 sure, I cannot describe him even, but he went there at a time at
26 my house. He showed me the video and asked me if I was in that
27 video and if that was my picture and I - that was my photo in the
28 video and I said yes. He showed the video. It was playing and I
29 saw it and I said yes. I saw Mohamed S Kamara, Momoh Tarawalli.

1 Q. After he showed you the video, did he ask you anything
2 else?

3 A. No. He only asked me if I would be able to explain to the
4 Special Court and I said yes, I would be able to explain to the
10:45:34 5 Special Court what had happened to him - to me. But I told him
6 that where I was in that movie I was not in the right frame of
7 mind. I was not even sensible enough. That was what I told him.

8 Q. Let me - Mr Witness, when you said to him, when you said in
9 your answer, "I explained to him the correct story, but he did
10:45:56 10 not take any statement from me. He did not write anything that I
11 said", what did you mean by that?

12 A. I don't remember him writing anything.

13 Q. What do you mean when you said you explained to him the
14 correct story?

10:46:20 15 A. When I saw myself in the clip I told him that that
16 particular explanation was made when I was not in the right frame
17 of mind, and I told him that I wanted to explain myself and I
18 did, but I did not see him write anything. After I had explained
19 everything, I just saw him take the video and he went. In fact,
10:46:43 20 there were two. Two of them went. He was not alone.

21 Q. And just one final point: In what format did he show you
22 the video, do you remember? I don't know if the word "format"
23 can translate properly. How was the video shown to you? By what
24 means?

10:47:09 25 A. He slotted it into - he put it on the table and he started
26 playing it.

27 Q. On what? On what did he play it on, do you know?

28 A. It was a flat video - a flat device. He opened it up.

29 MR SANTORA: Can I just have a brief moment, Madam

1 President?

2 PRESIDING JUDGE: Yes, certainly.

3 MR SANTORA: There is no further questions and just as a
4 note, Madam President, and for counsel, I did get informed - I
10:47:55 5 was informed that technologically we are able to separate out
6 these clips so we can submit them separately. I am not sure why
7 that was the - I am not sure why that was represented that they
8 couldn't be. I was surprised by that, because it is a fairly I
9 think simple thing, but I thought maybe we could check. So they
10:48:13 10 can be separated out if the court is inclined in a way to keep
11 each video just associated with a particular witness.

12 PRESIDING JUDGE: They are actually Mr Griffiths and
13 Mr Anyah's exhibits, but they are being - if they are being
14 tendered and I will wait to hear any application they relate to
10:48:32 15 two different --

16 MR SANTORA: Perhaps I am premature and I will bring it up
17 when it comes up.

18 PRESIDING JUDGE: Mr Griffiths, that completes the
19 witness's testimony.

10:48:42 20 MR GRIFFITHS: Madam President, it seems to us that given
21 that we already have before the Court a CD containing all of the
22 clips, it seems to us - and that has already been exhibited -
23 that we fail to see why it is necessary now, beyond specifying
24 the particular times which delineate this witness, why we need to
10:49:09 25 create yet another exhibit, but it is matter for the Court.

26 PRESIDING JUDGE: Well, with due respect, Mr Griffiths, you
27 started it.

28 MR GRIFFITHS: Yes, I know, but I am hoping to end it now
29 by saying that perhaps what we ought to do is let's stick with

1 the exhibit we have already and merely name for the purpose of
2 the record and this witness the particular times where his clip
3 is shown.

4 PRESIDING JUDGE: Very well. I will treat that as an
10:49:39 5 application, Mr Santora, to admit only a reference to this
6 witness. So in effect - and I want to make sure I know what you
7 are all doing - the Defence exhibit D-72 will remain as Defence
8 exhibit D-72A.

9 [Exhibit D-72 renamed D-72A]

10:50:05 10 There will not be a new Defence exhibit, but if there is to
11 be a reference in evidence or in submissions, et cetera, it will
12 only be referred to by these times. Is that what you're saying,
13 Mr Griffiths?

14 MR GRIFFITHS: Your Honour, yes, and perhaps we could then
10:50:21 15 label it as D-72C?

16 PRESIDING JUDGE: Well, there appears a logic in that,
17 Mr Santora, so I will refer for purposes of submission,
18 et cetera, to a part of a video clip which in effect is D-72A
19 being the minutes 11:42 to 12:24 will be referred to as D-72C.

10:51:03 20 [Exhibit D-72C admitted]

21 Please continue, Mr Griffiths.

22 MR GRIFFITHS: And then the second application we would
23 necessarily would have to make, Madam President, is for the
24 transcript of that video to become D-72D.

10:51:23 25 PRESIDING JUDGE: The transcript has not been extracted yet
26 and therefore I cannot mark it and of course it will have to be
27 checked. I will do as I did yesterday. I will just defer that
28 part, but I have noted the application and I will invite a reply
29 to the application when the transcript has been prepared. Please

1 proceed.

2 MR GRIFFITHS: The final matter is the disbursement record,
3 MFI-5.

4 PRESIDING JUDGE: Mr Santora?

10:51:56 5 MR SANTORA: No objection.

6 PRESIDING JUDGE: Well, that will become Defence exhibit
7 D-73, a three page document headed "Special Court for Sierra
8 Leone all disbursements for witness".

9 [Exhibit D-73 admitted]

10:52:16 10 JUDGE SEBUTINDE: It is good Mr Anyah is on the Defence
11 bar. Yesterday when we admitted exhibit D-72, or D-72A, there
12 was no delineation of minutes and potentially that means that the
13 entire video clip was taken in evidence. I don't think this is
14 right, but you did not specify minutes as Mr Griffiths has done
10:52:45 15 this morning. Are you able to perhaps clarify for us what it is
16 you want to do? Do you want the whole clip taken note of or were
17 there certain minutes that you wanted us to restrict our
18 attention to?

19 MR ANYAH: Thank you, Justice Sebutinde. May it please
10:53:07 20 your Honours, good morning. Mr Griffiths and I have just been
21 discussing this matter and I think the manner in which we are
22 proceeding might be the most efficient and might be the best
23 course to adopt. Whilst this discussion was going on I did
24 obtain from Madam Court Manager the precise minutes that pertain
10:53:24 25 to the video clip that we displayed and had marked for
26 identification and introduced into evidence yesterday in respect
27 of TF1-216, Ibrahim Fofana, and the precise minutes where the
28 frames in question appear commence at 17:52 of the video through
29 19:32.

1 Now, what I seek to do at this point with leave of the
2 Chamber and considering where we are procedurally that your
3 Honours are still dealing with the current witness, if you grant
4 me permission I could make my applications now in respect of this
10:54:07 5 particular exhibit or I could make it after this witness is
6 discharged, but what I propose to do is to make an application
7 that Madam President's description of the video be modified or
8 amended to include the relevant minutes in question and that
9 would be Defence exhibit D72-A.

10:54:29 10 Defence exhibit D72-B would be the English transcription of
11 the Krio exchange on the video of which we have received a copy
12 and I was going to ask learned counsel opposite if they have seen
13 it and whether they do acquiesce that this is an appropriate
14 reflection of what the video documents and the transcription
10:54:53 15 would then be Defence exhibit D-72B and then the exhibit in
16 respect of this witness, the video played today by Mr Griffiths,
17 would take on Defence exhibit D-72C and thereafter the
18 transcription of the audio into English would then be Defence
19 exhibit D-72D. That is the course we propose to adopt to the
10:55:18 20 extent it pleases your Honours.

21 PRESIDING JUDGE: I have already said that we will deal
22 with the transcripts when they are all dealt with, but there is
23 an application to basically amend the description of D-72A. Have
24 you any comment on - it was Ms Baly's witness and Ms Baly had
10:55:44 25 carriage of that. Have you any comment on that?

26 MS BALY: I have no objection to what Mr Anyah seeks to do.

27 PRESIDING JUDGE: Very well.

28 MS BALY: And I have no objection to the transcript being
29 tendered. I have seen it.

1 PRESIDING JUDGE: Therefore, Madam Court Officer, there
2 will be an amendment to the title of Defence exhibit D-72A to
3 recite the minutes therein which are minutes 17:52 to minute
4 19:32 and by consent the transcript in English of the verbal
10:56:31 5 exchange on that clip becomes confirmed as Defence exhibit D-72B.

6 [Exhibit D-72B admitted]

7 MR ANYAH: Thank you, Madam President.

8 PRESIDING JUDGE: If there are no other matters I will
9 discharge the witness.

10:56:47 10 Mr Witness, thank you very much for coming to court. That
11 is the end of your evidence and we thank you for coming and
12 giving your evidence yesterday and today. We wish you a safe
13 journey back and I will ask Mr Court Usher to assist you to leave
14 the Court.

10:57:58 15 Mr Santora?

16 MR SANTORA: Ms Baly has carriage of the next witness,
17 which is TF1-198.

18 PRESIDING JUDGE: Thank you. Good morning, Ms Baly.

19 MS BALY: Good morning.

10:58:26 20 PRESIDING JUDGE: What language will this next witness
21 speak?

22 MS BALY: The next witness will speak in the Kono language.

23 PRESIDING JUDGE: I will just check if we have a Kono
24 interpreter in position. Mr Interpreter, are the Kono
10:58:41 25 interpreters in position?

26 THE INTERPRETER: Yes, your Honour.

27 MS BALY: There is a brief application to rescind
28 protective measures.

29 PRESIDING JUDGE: Yes, please proceed.

1 MS BALY: This witness has said she is prepared to testify
2 in open session. There is an application to rescind protective
3 measures which were granted to the witness in the 5 July 2004
4 decision, she being a Category A witness and so listed on the
10:59:15 5 annexure to the motion. We are seeking the rescission of the use
6 of a pseudonym while she testifies, which was order (a), and the
7 use of a screen while she testifies, which was order (e), and the
8 use of voice distortion while she testifies, which was order (g).

9 PRESIDING JUDGE: Just again to ensure that the record is
10:59:50 10 clear, that means that (b) is still in position? That is the
11 address, whereabouts and other identifying information.

12 MS BALY: Yes.

13 PRESIDING JUDGE: So in effect when the witness is in court
14 she will give her name, but not her present whereabouts. Is that
11:00:12 15 the correct effect?

16 MS BALY: That is the correct effect, yes.

17 PRESIDING JUDGE: Thank you for that clarification.

18 Mr Griffiths, or Mr Anyah, I am not sure.

19 MR GRIFFITHS: Madam President, our position remains as
11:00:24 20 indicated earlier in similar situations and can I indicate that
21 so far as this witness is concerned there are two very discrete
22 and short topics that I have to deal with with her and I am quite
23 happy for my learned friend to lead her on the formalities of
24 adopting her previous testimony.

11:00:51 25 PRESIDING JUDGE: Is this a Rule 92 witness?

26 MS BALY: Yes, it is. I'm sorry, I should have informed
27 your Honours of that.

28 PRESIDING JUDGE: Well, I want to make sure that we are all
29 ad idem on the effect of rescission of some of the Category A. I

1 will note that the application is to rescind pseudonym, screen
2 and voice distortion, but whereabouts, et cetera, remains as
3 protective measures and we grant that application to rescind
4 measures (a), (e) and (g) of the decision of 5 July 2004.

11:01:36 5 We note that there may be an application to deal with
6 matters in cross-examination. We will deal with it if and when
7 it arises.

8 MR GRIFFITHS: When I say there are two matters, Madam
9 President, I mean that the two topics that I will be
11:01:58 10 cross-examining on are very short and discrete.

11 PRESIDING JUDGE: I understand. I thought you were still
12 talking about protective measures. I am clear now. Ms Baly,
13 please have your witness called.

14 MS BALY: Your Honour, may I just make one thing clear.
11:02:16 15 The witness is prepared to give her name. I will not be asking
16 her her current whereabouts, but she is prepared to give her name
17 to the Court and her --

18 PRESIDING JUDGE: Yes, that is our understanding. I may
19 appear repetitive, but I feel it is important, given the long
11:02:34 20 list of measures, that we are all clear about what we are talking
21 about. (a), (b) and (c) doesn't mean a great deal when it is
22 said out loud.

23 WITNESS: KUMBA BINDI [Sworn]

24 EXAMINATION-IN-CHIEF BY MS BALY:

11:04:50 25 Q. Good morning, Madam Witness.

26 A. Good morning to you.

27 Q. I am just going to ask you today some very few questions
28 and I would like you to wait until the question - until I have
29 asked the question before you answer it. Do you understand that?

1 A. No problem.

2 Q. What is your name?

3 A. My name is Kumba.

4 Q. Do you have any other names, apart from Kumba?

11:05:32 5 A. My husband's name Tamba Bindi has been given to me, but my
6 father's name is Aiah Bona.

7 Q. What is your first name?

8 A. My first name is, they used to call me Kumba Bona, but it's
9 now everywhere, as a result of the war, they call me now Kumba

11:05:58 10 Bindi because my husband's name has been given to me.

11 PRESIDING JUDGE: Ms Baly, a few spellings would be in
12 order and I note that the earlier answer, where the lady gave her
13 father's name is not properly recorded, if that could be
14 repeated.

11:06:16 15 MS BALY: Yes:

16 Q. Your name that they call you now Kumba Bindi, Kumba
17 K-U-M-B-A and Bindi B-I-N-D-I. The father's name, can you repeat
18 your father's name again, please?

19 A. Aiah Bona.

11:06:51 20 Q. Do you know how that is spelt, Madam Witness?

21 A. I did not go to schools, so I wouldn't know.

22 Q. Can I ask you to say the name again, please, very slowly.

23 A. Aiah Bona.

24 MS BALY: Bona, Aiah I am going to leave as it's --

11:07:30 25 PRESIDING JUDGE: I will ask the interpreter who speaks
26 Kono. Mr Kono Interpreter, can you assist us with the spellings
27 please?

28 THE INTERPRETER: Yes, your Honours, A-I-A-H.

29 THE WITNESS: I don't know, but so many people used to

1 write it because people like Bona used to be in Njaiama.

2 PRESIDING JUDGE: Thank you, Madam Witness. We are just
3 getting some help in spelling your father's name. Please
4 continue, Mr Interpreter.

11:07:56 5 THE INTERPRETER: B-O-N-A, Bona.

6 MS BALY:

7 Q. Madam Witness, do you know the date of your birth?

8 A. My mother told me that I was born on Thursday.

9 Q. Do you know approximately how old you are now?

11:08:27 10 A. Because since last year up to now it is 39 years now.

11 Q. Were you born in Tonkoro [phon] in the Kono District of
12 Sierra Leone?

13 A. Yes, in Dewadu.

14 JUDGE SEBUTINDE: Is that Tankoro?

11:09:02 15 MS BALY: Tonkoro.

16 JUDGE SEBUTINDE: Is there such a place?

17 THE WITNESS: Tankoro.

18 MS BALY: Thank you. I just want to see if it is spelt
19 correctly.

11:09:14 20 THE WITNESS: No problem.

21 MS BALY: Okay, that is correct, thank you:

22 Q. Madam Witness, what languages do you speak?

23 A. I only speak Kono because I did not go to school.

24 Q. What languages can you understand?

11:09:43 25 A. There are other languages, all that one develops in one's
26 mind, because when someone is speaking a certain language when
27 you have it in mind you will be able to understand what the
28 person is saying.

29 Q. You only speak the Kono language. What other languages can

1 you understand? Are you able to say?

2 A. Except a little Krio, but I don't speak it very well like
3 my colleagues.

11:10:27

4 Q. I think you said you have not had any schooling. Is that
5 correct, Ms Witness?

6 A. That's true, because if you ask me to write A from here up
7 to that point I don't know.

8 Q. On 28 June 2005 did you testify in the case of the
9 Prosecutor versus Brima, Kamara and Kanu?

11:10:55

10 A. Yes.

11 Q. Recently has the evidence that you gave to the Court been
12 read to you in a language that you understand?

13 A. It was read to me.

14 Q. And did you understand it when it was read to you?

11:11:24

15 A. I understood it very well. I don't say except one made
16 some addition, but what I said even at this moment I can repeat
17 it.

18 Q. Do you adopt the evidence that you gave as your prior
19 testimony?

11:11:52

20 A. Any one, as long as it was my statement I can't deny it. I
21 will say it. That is why I am here to say it.

22 MS BALY: Can I ask that the transcript be shown to
23 Mr Griffiths, please, and the CMS pages for the transcript are
24 pages 19571 through to 19646. There is a closed session portion
25 of the transcript, CMS pages 19626 through to 19644.

11:12:26

26 I don't want that document shown to the witness, please,
27 but I would ask that the document be marked and I am going to ask
28 that it be marked in two portions. The closed session portion
29 given a different MFI identifying number or perhaps marked A and

1 B.

2 PRESIDING JUDGE: I think the witness has not adopted it.

3 MS BALY: Well, she has her answer as recorded. I am not
4 going to show her the transcript.

11:13:45 5 PRESIDING JUDGE: Very well. That is a bundle of a
6 transcript being paged 1957 to 19646.

7 MS BALY: It is 19571, actually.

8 PRESIDING JUDGE: With pages 19571 to 19626 --

9 MS BALY: I'm sorry, your Honour, can I perhaps go through
11:14:18 10 the pages again.

11 PRESIDING JUDGE: I think it would be wise.

12 MS BALY: The transcript - the total transcript - is 19571
13 through to 19646. The closed session portion of the transcript
14 is 19626 through to 19644.

11:15:06 15 PRESIDING JUDGE: So the open session therefore, which will
16 be MFI-1A, will be 19571 to 19626 and 19645 to 19646?

17 MS BALY: 19625 it will be.

18 PRESIDING JUDGE: 19625. And the closed session MFI-1B
19 will be 19626 to 19644.

11:15:41 20 MS BALY: That is correct, your Honour.

21 PRESIDING JUDGE: Please proceed.

22 MS BALY: Madam Witness, I am just going speak to the Court
23 for the moment so if you could just remain there. There were a
24 number of exhibits that were tendered by the Defence when this
11:15:55 25 witness gave her evidence and they actually comprise statements
26 and additional information that the witness had given. Exhibit
27 D-7 comprises statements dated 23 September 2005, the additional
28 information dated 21 March 2005, additional information dated 2
29 May 2005 and additional information dated 21 January 2004. Those

1 documents together now comprise CMS pages 19648 through to 19661
2 and may I ask that those documents be shown to Mr Griffiths.
3 Correction - I am sorry, I have a correction. The first
4 statement was 23 September 2003, not 23 September 2005. Thank
11:17:13 5 you.

6 JUDGE SEBUTINDE: Ms Baly, were all these documents that
7 you are showing to counsel opposite - were they all exhibits in
8 the AFRC case?

9 MS BALY: Yes, they were tendered by the Defence. It was
11:17:28 10 exhibit D-7. Collectively these statements were exhibit D-7.

11 PRESIDING JUDGE: Are you making an application in relation
12 to this bundle?

13 MS BALY: I will be. When I tender this bundle I will be
14 asking that it be marked confidential, because it was --

11:18:10 15 PRESIDING JUDGE: But at the moment you are asking for it
16 to be marked for identification?

17 MS BALY: Yes.

18 PRESIDING JUDGE: And it is four statements, but it is one
19 bundle. Is that correct?

11:18:19 20 MS BALY: That's correct. It is one bundle because it was
21 one exhibit.

22 PRESIDING JUDGE: So that will be MFI-5. It is a bundle of
23 statements with pages 19648 to 19661.

24 MS BALY: And then there was another exhibit tendered by
11:18:41 25 the Defence which comprised one statement or one document of
26 additional information dated 27 June 2005. It was exhibit D-7.1
27 and it now bears CMS numbers 19655 through to 19656. May I ask
28 that this document be shown, please, to Mr Griffiths.

29 PRESIDING JUDGE: Yes, Ms Baly.

1 MS BALY: May I ask that that document be given an MFI
2 number at this point.

3 PRESIDING JUDGE: That will be MFI-6 and it is a two page
4 typewritten document bearing the numbers 19655 to 19656.

11:20:08 5 MS BALY:

6 Q. Now, Madam Witness, I would like to ask you some questions
7 now.

8 A. It is good.

9 Q. On 20 March 2007 did you make an additional statement to
11:20:23 10 the investigators - the Prosecution investigators?

11 A. Yes.

12 Q. Then on 5 September 2008 did you make a statement adopting
13 the statement that you had made on 20 March 2007?

14 A. Yes.

11:20:50 15 Q. And have those statements been recently read to you in a
16 language that you understood?

17 A. Yes.

18 Q. I am just going to show you copies of those documents,
19 please. Thank you.

11:21:07 20 A. I can see it.

21 MS BALY: Can you just show it to the witness, please:

22 Q. If you could just look at the first page that you are
23 shown, can you see a fingerprint on the bottom - towards the
24 bottom of that page?

11:21:41 25 A. I signed it myself.

26 Q. Can you also see your name written next to the fingerprint?

27 A. I know the mark. I know my fingerprint, but I do not know
28 if that is my name written close to it.

29 Q. Do you remember when you actually put your fingerprint on

1 that document or a copy - the original of that document?

2 A. I can't remember because it's a long time now.

3 Q. Do you remember a time when - that is this year, on 5
4 September, when you were asked to adopt the statement that you

11:22:39 5 had made on 20 March 2007 and the investigator, or the person who
6 asked you to do that, asked you to put your fingerprint on the
7 document? Do you remember that?

8 A. Yes, at the time it was there in town.

9 Q. All right. And back in March 2007 when you actually made
11:23:09 10 the statement, do you remember the investigator asking you to put
11 your fingerprint at the bottom of every page of the statement?

12 A. I did it at the bottom.

13 MS BALY: Thank you. May I ask, please, that those
14 documents be marked for identification. They bear CMS numbers
11:23:36 15 19658 to 19661.

16 PRESIDING JUDGE: Are they to be marked together, because
17 there are two separate dates and two separate documents, Ms Baly?

18 MS BALY: Together, thank you, your Honour.

19 PRESIDING JUDGE: Then I think I should separate them into
11:23:54 20 an A and B because they are different. So I will mark as MFI-7A
21 a three page document headed "Special Court for Sierra Leone" and
22 there under "Witness statement" bearing the numbers 19659 to
23 19661. That is MFI-7A. Then 7B will be a one page document
24 headed "Special Court for Sierra Leone Office of the Prosecutor"
11:24:30 25 bearing the number 19658.

26 MS BALY: I have no further questions of the witness at
27 this time.

28 PRESIDING JUDGE: Thank you. Please proceed, Mr Griffiths.

29 MR GRIFFITHS: I am grateful, Madam President.

1 CROSS-EXAMINATION BY MR GRIFFITHS:

2 Q. Madam Witness, you first saw the rebels in Dewadu which is
3 about 15 miles from Tombodu in Tankoro Chiefdom, is that right?

11:25:18

4 A. That is true. If there is someone there I can go with I
5 will go with him and tell the total from there to Tombodu.

6 Q. And that was at the beginning of the rainy season in 1998,
7 wasn't it?

8 A. Towards the end of the dry season when some people were
9 felling trees and some burning the grass on the farms.

11:25:42

10 Q. And you were unaware whether they were AFRC or RUF, is that
11 right?

12 A. I do not know the distinction. I cannot tell the
13 distinction, because they all had on those clothes.

14 Q. And they spoke Krio with a Liberian accent, didn't they?

11:26:14

15 A. Those who met us, those who we met on the way, they started
16 speaking Krio, but when we got to town and they took the
17 belongings from the people it was the time that they changed
18 their language. At the time they were getting ready to go, that
19 was when they changed the languages.

11:26:37

20 Q. And changed to what language?

21 A. What I heard - I did not hear anybody in Kono who speak
22 that Krio. When they took those things from the people they said
23 we should go. Those which they took, they went towards
24 Gandorhun. They say, "My meh, let's go". I didn't know what "my
25 meh, let's go" was. It was on that day that I heard that.

11:27:01

26 Q. Is this fair to say: They appeared to be faking the
27 Liberian accent because they wanted to fool the civilians and
28 make them believe they were foreigners?

29 A. Yes.

1 Q. But you knew that they weren't really Liberians. You knew
2 they were actually Sierra Leoneans, didn't you?

3 A. Because at first the language that they started speaking
4 was Krio, then later when they took the things and they were
11:27:44 5 going towards Gandorhun it was at that time that they spoke that.

6 PRESIDING JUDGE: Mr Griffiths, have you many questions in
7 this line of questioning because we have about 30 seconds left on
8 the tape?

9 MR GRIFFITHS: I have probably got another three minutes to
11:28:00 10 go, Madam President, and can I ask in advance that once I have
11 concluded with this witness if I could be excused from court for
12 good reason?

13 PRESIDING JUDGE: Yes, that should not be a problem as long
14 as the Defence of course is adequately covered. I am sure
11:28:14 15 Mr Anyah will do a fine job. Madam Witness, we are going to take
16 our mid-morning break now. We are going to come back and start
17 court again at 12 o'clock. Please adjourn court until 12
18 o'clock.

19 THE WITNESS: Can I go?

11:28:37 20 JUDGE SEBUTINDE: No, Madam Witness, please stay seated.
21 We are just going to have a small break. You haven't finished
22 yet.

23 THE WITNESS: Okay, that is no problem.

24 [Break taken at 11.30 a.m.]

11:58:00 25 [Upon resuming at 12.00 p.m.]

26 PRESIDING JUDGE: Please proceed.

27 MR GRIFFITHS: Madam President, can I indicate the
28 following before I start. Firstly, the transcript is now
29 available of the video of TF1-217 and I wondered whether it might

1 be appropriate to deal with that now and clear the decks?

2 PRESIDING JUDGE: I personally have no problem with dealing
3 with that now. Mr Santora, this was your witness. I presume
4 when you say deal with it, we are marking it as an exhibit?

12:01:42 5 Taking it as an exhibit?

6 MR GRIFFITHS: Tendering it as an exhibit.

7 MR SANTORA: I just received the transcript. I am almost
8 done reviewing it and I think it can be dealt with.

9 PRESIDING JUDGE: Maybe we can allow Mr Santora to read it
10 properly and, as soon as we finish with this witness, we will
11 continue.

12 MR GRIFFITHS: Very well.

13 PRESIDING JUDGE: I also note a change of -- when I say at
14 the end of this witness, that is immediately at the end of this
12:02:15 15 witness before you leave.

16 MR GRIFFITHS: Very well. Can I make an observation, Madam
17 President. Happily I will be leaving soon, but it feels rather
18 hot in here. Is it just me?

19 PRESIDING JUDGE: No, we had noticed it as well. You know,
12:02:28 20 I am always reluctant to comment because we seem to go from one
21 extreme to another and so I tend to hold my tongue. I am glad of
22 your observation and we will have it adjusted if possible.

23 Ms Baly, before I continue I note a change of appearance.

24 MS BALY: Yes, Mr Bangura has joined the Prosecution.

12:02:51 25 PRESIDING JUDGE: Thank you.

26 MR GRIFFITHS:

27 Q. Madam Witness, before we adjourned I was asking you about a
28 comment you had made in a statement. I think for clarity's sake
29 it might be helpful if we can place on the screen for everybody's

1 assistance the witness statement or the notes of interview of the
2 witness, MFI-5, dated 23 September 2003. I think it might
3 simplify matters if we do it this way.

12:03:35 4 PRESIDING JUDGE: Madam Court Officer, if you could assist
5 us please. Thank you.

6 MS BALY: Your Honour, may I just make an observation.
7 That was a confidential exhibit in a previous trial and I will be
8 asking that that become a confidential exhibit in this trial and
9 I am concerned about it being placed on the screen.

12:03:50 10 PRESIDING JUDGE: I will ask then that it not be broadcast
11 to the public, but because we do not all have a copy we will all
12 have to see it. Can that be implemented, please. That will not
13 be on the public display. I notice there is one member of the
14 public in the gallery and I am sure that gentleman will have
12:04:29 15 trouble reading it from where he is sitting, but the next thing
16 that is going to be on the screen is a confidential document and
17 you must avoid disseminating it in any way.

18 MR GRIFFITHS: Can we put the first page up, please:

19 Q. Madam Witness, just to assist you - and I say this because
12:04:57 20 I appreciate your testimony that you cannot read, but just for
21 the assistance of the judges I've asked to be put up a record of
22 what you told investigators on 23 September 2003. Do you
23 understand me?

24 A. I understand you.

12:05:13 25 Q. Now, we can see that according to this record looking four
26 lines from the bottom of the first paragraph are these words:

27 "The rebels spoke Krio with a Liberian accent. Witness
28 said that they were faking the Liberian accent as she said that
29 they wanted to fool the civilians and make them believe they were

1 foreigners."

2 Now, can I ask a simple question. Do you remember saying
3 that to an investigator back in 2003?

4 A. You want me to answer it, or to explain?

12:06:02 5 Q. No, just to answer it. Do you remember saying that on a
6 previous occasion?

7 A. I can remember that I saw these people, whether they were
8 rebels or they were imitating.

9 Q. They were imitating Liberian accents though, weren't they?

12:06:22 10 A. Yes. If it's a language that you can speak, it's not
11 difficult to know because he can speak it to such a great extent.

12 Q. And let's go over the page, please, just to reinforce that.
13 Six lines from the top of that page:

14 "The rebels spoke Krio and pretended to be ECOMOG. They
12:06:55 15 pretended to speak Nigerian language."

16 Do you remember saying that as well?

17 A. I said it, but they had on the same clothes, the same
18 traditional - the same combat, so if they took your property from
19 you that was what they said just so that you wouldn't know.

12:07:21 20 Q. And the final matter I want to deal with, Madam Witness, is
21 this. Something happened to you - and I'm not interested in
22 asking you about the details of what happened to you, do you
23 understand?

24 A. Yes.

12:07:37 25 Q. But after that happened to you can we go to the bottom of
26 that second page, please.

27 A. Yes.

28 Q. And if we look two lines from the bottom of the page we can
29 see what it was that happened to you and then it continues, "The

1 rebel commander was clearly not happy when he learned what had
2 happened." We know from the previous page that the rebel
3 commander slapped the rebel who did that to you and the rebel who
4 did that to you ran away afterwards, didn't he?

12:08:23 5 A. That was what happened.

6 Q. And the final matter I want to ask you about is this. Have
7 you come across the name Staff Alhaji?

8 A. Even now I know him. Even now, if you put him in front of
9 me I will know him.

12:09:00 10 Q. And you have seen him on more than one occasion, have you?

11 A. Many occasions. He had people working for him at Number 11
12 at NDMC. That was where he had a place to work. He had one of
13 his boys called Lansana. He limps as he walks.

14 Q. I am sorry, it's my fault, but what is 11 NDMC? Madam
12:09:39 15 Witness, can you help me? What is 11 --

16 A. NDMC, Number 11. When you are going towards Tombodu, that
17 is where the plant was. That's the place. That's how we call it
18 in Kono.

19 Q. And what kind of a plant was it, please?

12:09:59 20 A. Number 11 plant, from Yardu Road when you are going towards
21 Tombodu.

22 PRESIDING JUDGE: We understand where it was, Madam
23 Witness. Counsel is asking what work did that plant do?

24 THE WITNESS: There is a huge pile of sand there. They
12:10:22 25 used to mine diamond there. I used to go there to sell my wares,
26 like groundnut and banana, and his boys used to buy from me.
27 When they take those things from me, he was the one who paid for
28 them.

29 Q. But Staff Alhaji was a wicked man, wasn't he?

1 A. Initially, when he had these boys there, he knew - he spoke
2 to people amicably, but he changed suddenly. You never looked to
3 see his face properly.

4 Q. Do you know what caused him to change?

12:11:14 5 A. I did not know. The man just changed all of a sudden. How
6 would you know? At the time we were worried. I did not ask why
7 he had changed towards us. He changed and, you know, at that
8 time we were running into the bush. We were not able to ask him.

9 Q. Did he change at about the time when that terrible thing
12:11:35 10 happened to you?

11 A. When this thing happened to me - when this thing happened
12 to me - that week I did not see him any longer, but when we were
13 coming if you said you were going to him they would allow you to
14 go.

12:12:00 15 Q. But this change with Staff Alhaji, when he started becoming
16 wicked, did that happen around the same time that that terrible
17 thing happened to you?

18 A. The checkpoint was at Maima. [Indiscernible].

19 MR GRIFFITHS: I don't know if there is a problem in the
12:12:28 20 translation, but I think the witness is answering a different
21 question.

22 PRESIDING JUDGE: Yes. Madam Witness, the question is not
23 about where he was or where a checkpoint was. The question is
24 about why or when - when Staff Alhaji changed. I'm going to ask
12:12:49 25 Mr Griffiths to say the question again and please listen to the
26 translation.

27 MR GRIFFITHS:

28 Q. Madam Witness, there came a time, did there not, when
29 Staff Alhaji became quite wicked towards the people in Tombodu?

1 A. Yes.

2 Q. Did that happen about the same time that something terrible
3 happened to you?

12:13:25

4 A. The week in which he changed towards people, it was in that
5 week that we went into the bush at Baima.

6 Q. And was it after that that something terrible happened to
7 you, after you ran into the bush?

12:13:58

8 A. In that week that he changed, we went into the bush and it
9 was at that time that he chased us there again and did that bad
10 thing to me.

11 Q. Thank you. And amongst the things - the wicked things that
12 that man Staff Alhaji did, he burnt a man and woman alive, didn't
13 he?

12:14:22

14 A. Yes, he burnt their bodies, but one of them did not die.
15 The other one, even now, where he is now is a very far place, but
16 he is there, but he is not able to work now.

17 Q. And these terrible things that happened, they all happened
18 around the time of the ECOMOG intervention in Freetown, didn't
19 they?

12:14:46

20 A. No. At the time that that thing happened, at the time the
21 highway was attacked nobody could enter, nor come out. It was at
22 that time that this thing happened.

23 Q. Was that before or after the ECOMOG intervention, can you
24 tell us?

12:15:13

25 A. It was at the beginning when the ECOMOG went to Kokuima.
26 Those who came out running were going to Kokuima, to ECOMOG.
27 That was how people were saved.

28 MR GRIFFITHS: I don't think I need ask any more, Madam
29 President. That is all I ask.

1 PRESIDING JUDGE: Thank you, Griffiths. Re-examination, Ms
2 Baly?

3 MS BALY: Just one matter thank you.

4 RE-EXAMINATION BY MS BALY:

12:15:49 5 Q. Now, Madam Witness, the Defence counsel asked you some
6 questions about having heard rebels speaking Krio with what you
7 said was an imitation Liberian accent. Do you remember being
8 asked those questions a short time ago?

9 A. I can remember.

12:16:17 10 Q. At the time you heard these rebels speaking could you
11 yourself speak Krio?

12 A. I speak it, but I am not fluent in it like others.

13 Q. Could you speak Liberian at that time?

14 A. I cannot speak it, but my mother's younger brother came
12:16:49 15 from Liberia. When he is speaking it, he used to speak it, so
16 whoever spoke it, I would know that that person was speaking
17 Liberian.

18 Q. Had you yourself ever been to Liberia?

19 A. I did not go there.

12:17:11 20 Q. Can I just ask you this, Madam Witness --

21 A. Yes.

22 Q. Just wait until I have finished asking the question before
23 you answer it.

24 A. No problem.

12:17:31 25 Q. What was it about the way these people were speaking that
26 made you think they were imitating the Liberian accent?

27 A. The reason I said so, because my uncle speaks it and I hear
28 it so, just like I am, if you are speaking Kono and I am Kono, if
29 you are speaking it, whatever it is, if you cannot speak Mende

1 and I am close to you, if it is Mende and not Kono, I can
2 recognise that you are speaking Mende and not Kono.

3 Q. Could you understand what it was that these people were
4 saying?

12:18:24 5 A. I did not know. I just heard them say, "My meh, let's go.
6 My meh, let's go." So I did not know what that was. I just saw
7 them going. So to my thinking I concluded that they were going.

8 Q. So all you heard them say was one sentence. Is that right?

9 A. Yes.

12:19:04 10 MS BALY: Thank you, nothing further.

11 PRESIDING JUDGE: Thank you, Ms Baly. We have no questions
12 of the witness, Ms Baly.

13 MS BALY: I need to tender some exhibits and they are
14 MFI-1A, that is the transcript --

12:19:35 15 PRESIDING JUDGE: I am going to follow this list prepared
16 by Madam Court Officer very helpfully.

17 MR GRIFFITHS: I am not going to object to any of them.

18 PRESIDING JUDGE: I will go through the list as Ms Baly
19 calls them without referring to you, Mr Griffiths.

12:19:54 20 MS BALY: MFI-1A.

21 PRESIDING JUDGE: That is a bundle, transcript in the
22 matter of Prosecutor v Brima and others, pages 19571 to 19625.
23 It becomes Prosecution exhibit P-218A.

24 [Exhibit P-218A admitted]

12:20:21 25 MS BALY: MFI-1B. I ask that be marked as a confidential
26 exhibit.

27 PRESIDING JUDGE: I don't recall that at the original
28 marking stage. Mr Griffiths, have you any objection to it being
29 confidential?

1 MR GRIFFITHS: None whatsoever.

2 PRESIDING JUDGE: Thank you. That is a bundle of
3 transcript documents in the matter of the Prosecutor v Brima and
4 others being closed session pages 19626 to 19646. It becomes
12:20:55 5 Prosecution exhibit P-218B and is confidential.

6 [Exhibit P-218B admitted]

7 JUDGE SEBUTINDE: Sorry to interject, but my record of the
8 public and closed transcript differs from what appears on this
9 list. The public session has a few more pages at the end.

12:21:16 10 MS BALY: Yes.

11 PRESIDING JUDGE: I just looked at my own notes. My
12 learned sister is correct. My own notes are as follows, A is
13 19571 to 19625 and 19645 to 19646. I will go back to my own
14 notes. You agree with A?

12:21:47 15 MS BALY: Yes, I agree with A.

16 PRESIDING JUDGE: Then B according to my notes is pages
17 19626 to 19644.

18 MS BALY: Correct.

19 PRESIDING JUDGE: Very well. That will be exhibit 218B.

12:22:07 20 MS BALY: Marked confidentially.

21 PRESIDING JUDGE: A confidential document. I will proceed
22 on with the list.

23 MS BALY: Yes.

24 PRESIDING JUDGE: MFI-5 is a bundle of statements,
12:22:20 25 variously dated 23 September 2003, 21 March 2005, 2 May 2005 and
26 21 January 2004, being pages 19648 to 19661.

27 MS BALY: We are asking that be marked confidential.

28 PRESIDING JUDGE: Yes. They become Prosecution exhibit
29 P-219 and are marked confidential.

1 [Exhibit P-219 admitted]

2 MFI-6 again is a statement of the witness dated 27 June
3 2005, being pages 19655 to 19656.

12:23:16

4 MS BALY: Again, we are seeking that be marked
5 confidential.

6 PRESIDING JUDGE: Again, Mr Griffiths, I don't have that in
7 the original application.

8 MR GRIFFITHS: No difficulty with that.

12:23:26

9 PRESIDING JUDGE: Very well. That also will be a
10 confidential exhibit and it will be Prosecution exhibit P-220 and
11 it is confidential.

12 [Exhibit P-220 admitted]

13 MFI-7A is a statement of the witness dated 20 March 2007,
14 three pages being pages 19659 to 19661, and it becomes
15 Prosecution exhibit P-221A.

12:23:57

16 [Exhibit P-221A admitted]

17 Travelling with it is an adoption of statement by the
18 witness, a one page document, dated 5 September 2008. It is page
19 19658 and it becomes Prosecution exhibit 221B.

12:24:32

20 [Exhibit P-221B admitted]

21 MS BALY: That's all, thank you.

22 PRESIDING JUDGE: Thank you, Ms Baly. If there are no
23 other matters I will release the witness.

12:24:47

24 Madam Witness, we thank you for your evidence. That is all
25 your evidence here in the Court today and we thank you for coming
26 and giving it and we wish you a safe journey home. I will ask
27 the Court Usher to assist you to leave.

28 If it's appropriate now, Mr Santora, I will deal with
29 Mr Griffiths's other tender in relation to the witness prior to

1 the witness before the Court.

12:25:19 2 MR SANTORA: Thank you, Madam President. Madam President,
3 your Honours, I have looked at the translation. I did actually
4 note something that in my submission is incorrect. I don't know
5 if counsel has a copy of the translation available, or if your
6 Honours do.

7 PRESIDING JUDGE: We do not have a copy and it would be
8 helpful if one can be run for us.

12:25:33 9 MR SANTORA: Perhaps I can point it out and I think it is
10 something that can be addressed fairly simply. If counsel looks
11 at the second page of that translation. On the top of the page
12 there is the phrase, "He was just a soldier or a rebel."

13 I was not able to view the video during the time I was
14 reading this, but my recollection was that this was a question
12:25:53 15 put to the witness and the witness himself answered, "He was a
16 soldier". It appears in this translation that this is all part
17 of the witness's statement, when in reality there was a question
18 in here. He was asking whether he was a soldier or a rebel. I
19 don't know if Defence counsel's recollection is the same as mine,
12:26:16 20 but I'm certain that that question was put to him while he was
21 lying on the bed and the answer was, "He was a soldier".

22 I know your Honour don't have the benefit of --

23 JUDGE SEBUTINDE: Mr Santora, without us having a copy of
24 the statement you are talking to the wall.

12:26:33 25 MR SANTORA: I do not want to talk to the wall, so I will
26 wait until you get a copy to make the submission.

27 JUDGE LUSSICK: I am just wondering whether the fact that
28 we are going to get a copy of the statement will solve the
29 problem. We may have to look at the video again on your

1 submission, Mr Santora.

12:27:38 2 MR SANTORA: I am basing it on my recollection. I could be
3 wrong, but I am confident enough to make the submission that my
4 recollection was that there was a question to him. Just so your
5 Honours are clear I will wait until you - I am informed from
6 somebody watching the video that I actually am correct. It is
7 the second page - the top of the second page. Your Honours will
8 note where they are speaking of Staff Alhaji and there is a line,
9 "... he was just a soldier or a rebel. He was a soldier,
10 Staff Alhaji." My submission is that there was a question in
11 there put to the witness and the witness responded "He was a
12 soldier". According to this translation, this all looks like one
13 response. That is why I am taking issue with this translation.

12:28:19 14 PRESIDING JUDGE: Mr Griffiths, have you had an opportunity
15 to review and note the --

16 MR GRIFFITHS: I have had an opportunity to review it and I
17 think Mr Santora is correct.

12:28:34 18 PRESIDING JUDGE: Yes. Well, in that case I will use my
19 copy just to - let me see where I start it. I want to be sure I
20 am starting the question at the right place and putting the
21 question mark at the right place. Is it the first - the bottom
22 of page 1, or the beginning of page 2?

23 MR GRIFFITHS: It's the beginning of page 2.

12:28:52 24 PRESIDING JUDGE: And it starts with after the word
25 "Staff Alhaji" on the first line should it be "He was a soldier
26 or a rebel?"

27 MR SANTORA: That's my submission, your Honour.

28 PRESIDING JUDGE: And it would appear that Mr Griffiths
29 agrees with you.

1 MR GRIFFITHS: I do.

2 PRESIDING JUDGE: Very well. Then the transcript will be
3 amended slightly to have a question at what is the top of page 2
4 now and it will become in that amended form Defence exhibit
12:29:27 5 D-72D. It is a two-page transcript.

6 [Exhibit D-72D admitted]

7 MR GRIFFITHS: Thank you, Madam President.

8 PRESIDING JUDGE: I think that is the only outstanding
9 matter you had to deal with, Mr Griffiths.

12:29:40 10 MR GRIFFITHS: That is so, Madam President.

11 PRESIDING JUDGE: Very well. We note that you will be
12 excused. Ms Baly, the next witness please.

13 MS BALY: The next witness is TF1-024 and may I swap places
14 with Mr Santora? He is taking this witness.

12:30:35 15 PRESIDING JUDGE: I will record there is a change of
16 appearance on the Defence Bar.

17 MR ANYAH: Yes, that's correct, Madam President. The
18 Defence is represented by myself, Morris Anyah, and Ms Amina
19 Graham. Thank you.

12:30:51 20 PRESIDING JUDGE: Thank you. Mr Santora?

21 MR SANTORA: If it's an appropriate time, Madam President,
22 I was just going to make a preliminary application with regards
23 to the next witness's protective measures.

24 PRESIDING JUDGE: Yes, please proceed.

12:31:13 25 MR SANTORA: The next witness is TF1-024. The Prosecution
26 has consulted with this witness and he has expressed his desire
27 to testify openly today. This witness is being provided pursuant
28 to your Honours' decision of 20 October 2008 as a 92 bis witness
29 available for cross-examination. In terms of protective measures

1 this witness falls into a category that the previous witnesses
2 have fallen into, which was the 5 July 2004 decision by Trial
3 Chamber I of the Special Court for Sierra Leone in Freetown in
4 the case of Prosecutor v Sesay and others. This was a Category 1
12:31:54 5 witness and, therefore, to whatever extent that witness is
6 covered by that protective measures decision the Prosecution is
7 applying to rescind those measures now so the witness can testify
8 openly.

9 PRESIDING JUDGE: Thank you, Mr Santora. Mr Anyah?

12:32:14 10 MR ANYAH: Yes, Madam President. As we've indicated
11 previously, we do not have in principle any objection to the
12 application for rescission. We do nonetheless maintain our
13 position in respect of each and every one of these applications
14 by the Prosecution and that 5 July 2004 decision as being
12:32:33 15 redundant. Thank you.

16 MR SANTORA: I have to correct the record, Madam President.
17 I realise that the - I was told that actually this witness was
18 originally listed as a Category B witness in that decision.
19 However, he did not testify pursuant to the protection provided
12:32:51 20 by Category B. He actually testified as a Category 1 witness, but
21 he was listed on the Annex B in relation to that 5 July 2004
22 decision by Trial Chamber I.

23 PRESIDING JUDGE: And there was no amendment to that
24 decision?

12:33:07 25 MR SANTORA: There was no amendment to that decision, so in
26 that situation the Prosecution is rescinding measures applicable
27 to Category B witnesses from that decision of 5 July 2004.

28 PRESIDING JUDGE: Thank you for that record. Mr Anyah, may
29 I take it that you continue to have no objection?

1 MR ANYAH: We do not have an objection, but just to be more
2 specific Category B deals with child witnesses. An issue arose
3 before your Honours on 21 October in respect of TF1-158.

4 PRESIDING JUDGE: I remember it well and it was left --

12:33:48 5 MR ANYAH: So we do not have an objection in principle to
6 this application for recision, but I would incorporate and adopt
7 arguments and submissions made by my learned friend, Mr Terry
8 Munyard, before your Honours in respect of that witness TF1-158
9 in what our position is vis-a-vis child witnesses that may or may
10 not at this point remain under the age of minority.

11 PRESIDING JUDGE: I was going to say that I recall that and
12 there was also some suggestion of a motion, but to the best of my
13 knowledge none has been filed. Is that correct?

14 MR ANYAH: That is correct, Madam President.

12:34:27 15 PRESIDING JUDGE: Thank you.

16 [Trial Chamber conferred]

17 We have considered the application and we note that it is
18 not opposed. We grant the recision of the protective measures.
19 For purposes of record and clarity I note that the witness will
12:35:02 20 give evidence openly, will not be referred to by a pseudonym and
21 will not seek to keep his address and whereabouts and other
22 identifying information under seal, or out of the public record.

23 Can we have the witness brought in, please. Mr Santora, I
24 did not ask what language the witness will speak.

12:36:14 25 MR SANTORA: He is going to testify in English, as I
26 understand it, and actually I will ask about - well, in terms of
27 swearing in I am not sure.

28 WITNESS: ABU BAKARR MANSARAY [Sworn]

29 THE INTERPRETER: Your Honours, the list shows this witness

1 is testifying in English and so we have been surprised that now
2 he is speaking in Krio. Which is the position?

12:37:13 3 PRESIDING JUDGE: Please let the witness - ask the witness
4 to sit down and counsel for the Prosecution will clarify that,
5 Mr Interpreter.

6 MR SANTORA: My understanding was English also and so I am
7 not sure why it went into translation.

8 MS IRURA: Your Honour, the witness is set to the English
9 channel.

12:37:26 10 JUDGE SEBUTINDE: Yes, but the witness clearly spoke Krio
11 when swearing.

12 MR SANTORA: That is why I am going to clarify that now. I
13 am going to ask the witness if he prefers - which language he
14 would prefer himself for the record.

12:37:40 15 EXAMINATION-IN-CHIEF BY MR SANTORA:

16 Q. Mr Witness, would you rather testify in English, or Krio?

17 A. Krio.

18 PRESIDING JUDGE: Now, Mr Interpreter, since you had a list
19 for English are you ready to interpret?

12:37:55 20 THE INTERPRETER: Yes, we are.

21 PRESIDING JUDGE: Please proceed.

22 MR SANTORA:

23 Q. Good afternoon, Mr Witness. I am going to ask you some
24 questions and I want you to listen to my questions carefully.

12:38:16 25 A. Okay.

26 Q. I am also going to ask you to speak slowly. Since now you
27 are being translated, it's important that you speak very slowly
28 so the translators can understand what you are saying. Do you
29 understand that?

- 1 A. Yes.
- 2 Q. Can you state your name for the Court?
- 3 A. My name is Abu Bakarr Mansaray.
- 4 Q. Okay, just go ahead and say your first name again slowly.
- 12:38:47 5 A. Abu Bakarr.
- 6 Q. And can you spell your first name?
- 7 A. A-B-U, Abu, B-A-K-A-R-R. Abu Bakarr.
- 8 Q. And your last name is Mansaray?
- 9 A. Yes.
- 12:39:11 10 Q. Can you spell that for the record?
- 11 A. M-A-N-S-A-R-A-Y, Mansaray.
- 12 Q. Mr Witness, where were you born?
- 13 A. I was born in Freetown.
- 14 Q. In Sierra Leone?
- 12:39:35 15 A. Yes, I was born in Sierra Leone.
- 16 Q. And when were you born? Do you know your birthday?
- 17 A. Yes.
- 18 Q. What is your birthday?
- 19 A. I was born on 1 January 1976.
- 12:39:59 20 Q. Have you ever had the opportunity, Mr Witness, to go to
21 school?
- 22 A. Yes, I had the opportunity to go to school.
- 23 Q. How far did you attain in your schooling? What level did
24 you attain in your schooling?
- 12:40:17 25 A. I stopped at Form Five, but I didn't have enough money to
26 further my education.
- 27 Q. Is that Form Five primary or secondary schooling?
- 28 A. Secondary school.
- 29 Q. And you speak Krio. What other languages do you speak?

1 A. I speak some Susu.

2 Q. Can you speak English?

3 A. Yes, I speak it, but not well.

4 Q. The language you said I just want to make sure. You said
12:40:55 5 Susu? What was the language you said before?

6 A. Susu. That's Susu.

7 Q. And what city are you currently residing in?

8 A. I do not understand that.

9 Q. Where do you currently live?

12:41:31 10 A. I'm still living in Freetown.

11 Q. Are you doing anything for work?

12 A. Yes, I am a mechanic.

13 Q. Mr Witness, do you recall testifying in the case of the
14 Prosecutor v Brima and others on 7 and 8 March of 2005 at the
12:41:56 15 Special Court for Sierra Leone in Freetown?

16 A. Yes, I testified there.

17 MR SANTORA: Okay, I'm going to ask that this transcript be
18 shown to Defence counsel at this point.

19 THE WITNESS: What?

12:42:17 20 MR SANTORA: It's okay, Mr Witness. I'm not asking you a
21 question at this point. For your Honours' reference this is 99
22 pages, transcript from 7 and 8 March 2005 in the case of the
23 Prosecutor versus Brima and others. The CMS pages here are -
24 there is a little bit of confusion here so just - it was mistake
12:42:41 25 by Court Management. There is 99 pages. The pages run from
26 20425 to 20444. For a reason - a mistake by Court Management or
27 somebody there was a problem with sequencing. So there was
28 apparently a confidentiality issue that was no longer applicable
29 so the pagination doesn't actually run in exact sequence and page

1 20527 comes after 20444. Then the pagination returns again to
2 20446 onward to 20525. I hope that makes sense, Madam President.

3 PRESIDING JUDGE: So in effect 20445 is missing out of that
4 sequence.

12:43:40 5 MR SANTORA: There is no 20445. Exactly. In lieu of 20445
6 is page 20527 which of course is not sequentially placed within
7 that larger page number sequence.

8 PRESIDING JUDGE: Was it shown to the witness?

9 MR SANTORA: Was it shown to the witness? I apologise.

12:44:17 10 PRESIDING JUDGE: I don't recall that being asked.

11 MR SANTORA: I had not asked. It has been shown to Defence
12 counsel, I assume. Can you please show that to the witness:

13 Q. Mr Witness, do you see that document in front of you?

14 A. Yes, I've seen one document, but the one that I was talking
15 about, I didn't talk about Brima at all. So I am surprised that
16 you are talking about Brima now.

17 Q. No, I am not asking - I didn't ask you about Brima,
18 Mr Witness. Do you recall testifying in Freetown on 7 and 8
19 March 2005 at the Special Court?

12:44:53 20 A. Yes, I testified there, yes.

21 JUDGE SEBUTINDE: Mr Santora, you did mention in the case
22 of the Prosecutor versus Brima. Is this a transcript out of the
23 Brima case?

24 MR SANTORA: Yes, it is. I apologise for that. I did
12:45:11 25 actually made a reference to it and I shouldn't have. I will
26 just make a reference to the date and the location of his
27 testimony.

28 JUDGE SEBUTINDE: Why? What is the problem?

29 MR SANTORA: If he doesn't recognise - in my submission,

1 the name of the case is not relevant for him to adopt the actual
2 testimony he gave in Freetown.

3 JUDGE SEBUTINDE: Yes, it is. If he is refuting now on the
4 record that he doesn't know anything about Brima it is relevant.

12:45:39 5 So please clarify what it is that you were showing to the witness
6 and what is his reaction, what it is he is adopting.

7 MR SANTORA:

8 Q. Mr Witness, do you see the document in front of you?

9 A. Yes, I've seen a document in front of me.

12:45:56 10 Q. Do you recognise that document? Look at the document.

11 Just don't look at the first page. Look at it briefly.

12 A. I've seen someone's name here that I did not testify
13 against. That is Tamba Brima. I did not testify against him.

14 Q. Who did you --

12:46:31 15 A. I testified against Gullit, because he was one of them who
16 captured me.

17 Q. Okay. The time you testified against Gullit, okay - let me
18 go back and say do you remember testifying in the case against
19 who you remember as Gullit?

12:47:02 20 A. I didn't get that question clearly.

21 Q. Do you remember testifying against Gullit?

22 A. Yes, yes, I testified against Gullit.

23 Q. Do you recall that testimony - testifying in Freetown
24 against Gullit on 7 and 8 March 2005?

12:47:20 25 A. Well, I cannot recall the date any longer, but I testified
26 against Gullit at the Special Court.

27 Q. Can you please look - inspect the document front of you.
28 Just don't look at the first document. Look at the document,
29 okay. Skim through it okay.

1 MR ANYAH: But, Madam President, why can't the witness not
2 look at the first page?

3 MR SANTORA: I said not only the first page.

12:47:52

4 MR ANYAH: Why is he being instructed not to look at the
5 first page?

6 MR SANTORA: I didn't. I said not only the first page. I
7 didn't instruct him not to look at the first page. I said not
8 only the first page and I apologise if it didn't come out:

9 Q. Do you recognise this document?

12:48:34

10 A. Well, this first page on top of it, I do not recognise it
11 at all. But the other I have seen on the inside, I can recognise
12 them. But this person's name Tamba Brima, I don't know it.

13 Q. What do you recognise those other pages to be?

12:48:58

14 A. Well, the name that I've seen here, it makes me to
15 recognise that I gave these statements. I can see --

16 THE INTERPRETER: Your Honours, can he repeat his last
17 answer.

12:49:16

18 PRESIDING JUDGE: Mr Witness, everything that you say is
19 interpreted and written down, so the interpreters are trying to
20 keep up with you. Could you please repeat your answer, speak
21 more loudly and speak slowly and pick up from where you said, "I
22 can see --" Continue from there.

12:49:44

23 THE WITNESS: The first page, the cover page, I did not
24 testify against that name, that Tamba Brima. I testified against
25 Gullit.

26 MR SANTORA:

27 Q. I understand that. The rest of the document, Mr Witness,
28 what do you recognise it as?

29 A. Those that I have seen underneath, I think they are the

1 ones. But this first one, this first page, I am not convinced it
2 is.

3 Q. In terms of the rest of the pages underneath, what do you
4 recognise those to be?

12:51:31 5 A. What I said, I have seen some of the things I have said in
6 there.

7 Q. Recently, while you were --

8 PRESIDING JUDGE: Just a moment, please, Mr Santora.

9 Mr Anyah, you were on your feet but you --

12:51:49 10 MR ANYAH: I kind of anticipated the next line of
11 questioning counsel might be pursuing. So perhaps I should wait
12 before interpose any objections.

13 PRESIDING JUDGE: Thank you. Proceed, Mr Santora.

14 MR SANTORA:

12:52:03 15 Q. Recently, when you came to The Hague, when you came to
16 Holland, did you have a chance to have your prior testimony that
17 you gave in Freetown at the Special Court read to you in a
18 language that you could understand?

19 A. No.

12:52:21 20 Q. Okay. Recently --

21 A. Yes.

22 Q. Since you have been in The Hague has anyone reviewed your
23 testimony with you - your prior testimony at the Special Court
24 for Sierra Leone in Freetown with you?

12:52:41 25 A. No.

26 Q. Did you meet with anybody since you have been in The Hague?

27 A. I didn't meet with anybody.

28 Q. Did you meet with me since you've been in The Hague?

29 A. I did not meet with my lawyer.

1 Q. Mr Witness, look at me for a moment. Did you meet with me
2 since you have been up here in The Hague?

3 A. My lawyer, I tried to meet him. They said he was not
4 there. One other person met me, who was explaining to me.

12:53:26 5 PRESIDING JUDGE: Mr Witness, the question counsel is
6 asking is - would you look at the gentleman who is on his feet.

7 THE WITNESS: I've seen him.

8 PRESIDING JUDGE: He says did you meet him since you've
9 come to The Hague?

12:53:41 10 THE WITNESS: I met with - somebody went who represented my
11 lawyer. I believe he sent him.

12 PRESIDING JUDGE: And this is the gentleman you met, is it?

13 THE WITNESS: Yes, okay. That's him.

14 MR SANTORA:

12:54:00 15 Q. So you did meet with me in The Hague?

16 A. No, we met somewhere else. He called me to meet him.

17 Q. Okay. Mr Witness, I want you to pay attention to this
18 question, okay. Since you've come to Holland, okay, have you met
19 with anybody from the Special Court?

12:54:27 20 A. No, I have not met with anybody from the Special Court.

21 Q. Who did you meet with since you have been up here?

22 A. I met with a woman only.

23 Q. Okay. Who was that woman?

24 A. Well, I don't know her.

12:54:44 25 Q. When you met with that woman - Mr Witness, are you
26 listening to me carefully?

27 A. Yes.

28 Q. When you met with that woman, did she review with you the
29 statement you gave, the testimony you gave in Freetown at the

1 Special Court?

2 A. Yes. We went over it together with that woman.

3 Q. After you went through that testimony with that woman, did
4 you then meet with me, after you were finished reviewing it?

12:55:23 5 A. We did not meet. It was later that you came, but we did
6 not speak that much.

7 Q. Okay. I am not asking you how long we met for. I am just
8 asking you whether or not we met briefly?

9 A. We did not meet at all.

12:55:42 10 PRESIDING JUDGE: Mr Santora, obviously I don't want to
11 tell you how to deal with your cross-examination, but this word
12 "meet" in Krio has a meaning. Perhaps if a different word could
13 be used.

14 MR SANTORA:

12:55:54 15 Q. After you went through your prior testimony with the woman
16 that you've described, did you speak with me briefly after you
17 were finished reviewing the testimony?

18 A. We did not speak.

19 Q. Did you see me after you were finished with this woman?

12:56:23 20 A. Yes, I saw you.

21 Q. Okay. The document you have now, was this the document -
22 all the document that was reviewed with you by the woman that you
23 referred to, your prior testimony? And don't worry about the
24 first page.

12:57:04 25 A. Yes. There are some in there that I can say she reviewed
26 with me.

27 Q. Do you now adopt this as your prior testimony that you gave
28 before the Special Court in Sierra Leone in Freetown on 7 and 8
29 March 2005. Do you adopt this as your prior testimony?

1 MR ANYAH: Madam President, I am in the hands of the Court.
2 Of course the witness can answer, but I think the question is
3 unfair given the previous responses the witness has given, in
4 this sense: The witness has been given a transcript that
12:57:38 5 consists of 99 pages. I have marked on the record the several
6 portions when he has been asked about the content of the
7 transcript. He has wrestled with trying to flip through the
8 pages. Repeatedly his answer has been some of what I have seen
9 here is consistent with what he recalls saying. He has not said
12:58:01 10 all of it.

11 Now the question is being posed to him to say, "Do you
12 adopt to it in its entirety?" I just want to point to the record
13 and his responses given to this particular issue where he
14 hesitates in saying all of it is his evidence. The relevance of
12:58:14 15 that of course is that the particular exhibit that is being
16 sought to be introduced in its totality, all of it must be root
17 and branch adopted by the witness.

18 To be fair to the witness he would have to have the
19 opportunity to review each and every page. At page 81 of the
12:58:33 20 LiveNote transcript, line 1, the question is posed by learned
21 counsel opposite:

22 "Q. I understand that. The rest of the document,
23 Mr Witness, what do you recognise it as?

24 A. Those that I have seen underneath, I think they are the
12:58:53 25 ones. But the first one, this first page, I am not
26 convinced it is.

27 Q. In terms of the rest of the pages underneath, what do
28 you recognise those to be?

29 A. What I said, I have seen some of the things I have said

1 in there."

2 Then we go down to lines 17 through 20, also of page 81.

3 That's where counsel asks whether the witness has reviewed the
4 transcript in The Hague and he answers no. Then lines 23 through
12:59:28 5 25, and then on to page 82, line 1, the question is repeated
6 again:

7 "Q. Since you have been in The Hague has anyone reviewed
8 your testimony with you, your prior testimony at the
9 Special Court for Sierra Leone in Freetown with you?

12:59:45 10 A. No."

11 Then we get to the last set of responses now where the
12 witness again was quite equivocal in whether or not he adopts it
13 in its entirety and I am trying to find the last bit of
14 transcript.

13:00:01 15 JUDGE SEBUTINDE: Page 84, I think the first five lines.

16 MR ANYAH: Yes, thank you, Justice Sebutinde. Page 84,
17 starting at line 2 the question is posed:

18 "Q. Did you see me after you were finished with this
19 woman?

13:00:17 20 A. Yes, I saw you.

21 Q. Okay. The document you have now, was this the
22 document - all the document that was reviewed with you by
23 the woman that you referred to, your prior testimony?
24 Don't worry about the first page.

13:00:31 25 A. Yes."

26 Then I believe his response is part of the question because
27 it is there said, "There are some in there that I can say she
28 reviewed with me." That's his last response to this issue and
29 now he is being asked, "Do you adopt it in its entirety?" I do

1 not think this is fair, given the context in which this question
2 is being posed.

3 JUDGE SEBUTINDE: Plus additionally we have not established
4 how the interview was conducted, whether it was done in a
13:01:01 5 language he understands or if it was done in English.

6 MR SANTORA: I am going to first address Justice
7 Sebutinde's point because then I think there is a way - I am
8 going to proceed with it in a different manner given the
9 circumstances of this situation. First of all:

13:01:17 10 Q. Mr Witness, when you were meeting with the woman you've
11 earlier described, here in Holland, did you review your prior
12 testimony in a language that you understand?

13 A. No, I was unable to understand.

14 Q. What were you unable to understand?

13:01:46 15 A. The language that they used, I was not able to understand
16 it.

17 Q. When you say the language they used, who are you talking
18 about?

19 A. The woman. She had that deep English and I did not
13:02:05 20 understand that deep English. I was only able to understand a
21 few things.

22 MR SANTORA: Okay. One moment, Madam President. Madam
23 President, at this point the Prosecution would apply to start
24 with the next witness and proceed to have this witness review
13:02:34 25 this prior testimony in a language he understands. At this point
26 he says he didn't understand what was reviewed with him before.
27 So at this point we are not prepared to proceed with this
28 witness. We are asking for an adjournment to have this
29 witness review the --

1 PRESIDING JUDGE: To stand him down?

2 MR SANTORA: Exactly. Thank you, Madam President.

3 PRESIDING JUDGE: It is an application, Mr Anyah, and you
4 are entitled to reply of course.

13:03:04 5 MR ANYAH: We are in the Court's hands, Madam President.

6 [Trial Chamber conferred]

7 I apologise, Madam President. There is one issue I just
8 wish to raise very briefly before your Honours pronounce on this.
9 That is the fact that the witness I believe has been sworn in.

13:06:40 10 PRESIDING JUDGE: We have been discussing that and we have
11 in mind a procedure, Mr Anyah.

12 MR ANYAH: Thank you.

13 PRESIDING JUDGE: First, we will stand the witness down,
14 but the witness has been sworn and counsel are aware of the

13:06:53 15 warning that witnesses are always given once they are under oath.
16 I therefore bear that in mind and, Mr Santora, have you any other
17 applications?

18 MR SANTORA: Well, Madam President, in terms of the issue
19 with regards to contact with the witness once he has been sworn
13:07:15 20 down, I would make an application that a member of the Office of
21 the Prosecution have the chance to go through the witness's prior
22 testimony with a translator there so the witness can review this
23 prior testimony in a language he understands. That does not have
24 to involve myself to any extent, but one member of the Office of
13:07:39 25 the Prosecution office be given permission, at this point, to go
26 through this witness's prior testimony in a language that he
27 understands, along with a translator.

28 PRESIDING JUDGE: Whilst he remains under oath?

29 MR SANTORA: Yes, I am asking that - I am making that

1 application, Madam President.

2 PRESIDING JUDGE: Right. So we have dealt with the first
3 part which is the standing down, Mr Anyah. There is now a
4 corollary.

13:08:12 5 MR ANYAH: We object to that for a variety of reasons. The
6 witness has been sworn. At this point the witness is before your
7 Honours. The witness is no longer an out of Court, shall we say,
8 Prosecution witness. The witness is now before your Honours
9 under oath. The Chamber now has some obligations, we would say,
10 to the witness to protect the witness now from us, the lawyers.

11 To say that the witness is to be allowed out of Court to
12 meet with members of the Prosecution, that in and of itself would
13 immediately trigger the fact that the Defence ought to be
14 present, since he is under oath, and even if that were still to
13:09:04 15 be provided for and we were made present, there is the additional
16 fact that the witness may now be under pressure, given what has
17 unfolded in Court to adopt something that he previously was
18 either not shown or perhaps his memory fails him as to whether or
19 not he was shown.

13:09:26 20 So there is some obligation I propose that the Chamber has
21 to the witness. I don't think the situation is remedied by
22 having the Prosecution meet with the witness with or without the
23 Defence present.

24 The backdrop of all of this is that the Prosecution called
13:09:42 25 this witness. They flew him to The Hague. They knew he was a 92
26 bis witness. They had an obligation before he was sworn in to go
27 over the evidence with the witness, the prior transcripts. The
28 witness, from what he said under oath, does not seem to recall
29 this having been done. So I don't think the Prosecution should

1 be granted leave, if you will, to now have the opportunity to
2 meet with the witness after the witness has been sworn and
3 brought all the way here. They should have done this previously.

13:10:30 4 MR SANTORA: The scope - okay, I will not respond, but
5 there were a lot of issues raised.

6 JUDGE SEBUTINDE: Mr Anyah, are you suggesting that the
7 Prosecution not be permitted to review the prior transcript at
8 this stage? Or to speak to the witness at all? Is that what
9 what you are suggesting?

13:10:49 10 MR ANYAH: Justice Sebutinde, both issues are clearly
11 within the discretion of your Honours. Your Honours may very
12 well decide they are allowed to meet with the witness right now
13 and they should be allowed to review the prior transcripts right
14 now.

13:11:04 15 We are just of the view that that would be inappropriate,
16 given that they have had all this time to have reviewed the
17 transcript with the witness, that they filed the 92 bis notice in
18 respect of this witness and in particular it complicates matters
19 further the fact that the witness has been sworn in. So they are
13:11:29 20 asking your Honours to go behind generally applicable principles
21 that procedurally are there for a reason.

22 There is a reason witnesses are not to be spoken to after
23 they have been sworn in and that is to protect the integrity of
24 the proceedings. Now for the application to be that a member of
13:11:46 25 the Office of the Prosecutor, though not learned counsel
26 opposite, be allowed to meet him - well, the member of the Office
27 of the Prosecution is the same as any counsel seated across from
28 us. It's the entire Office of the Prosecutor.

29 [Trial Chamber conferred]

1 JUDGE SEBUTINDE: Mr Anyah, I want to ask - we are trying
2 to find a quick solution to this impasse. If this witness were
3 to be interviewed with a view to ascertaining the status of his
4 prior transcript in the presence of one of the Defence team would
13:18:26 5 that solve your fears?

6 MR ANYAH: Your Honours, with respect, and I didn't mean
7 for my comments previously made to suggest in any way that any
8 kind of inappropriate conduct would ensue should any of the
9 counsel on either side have exposure to this witness.

13:18:47 10 Our preference would be, to the extent your Honours decide
11 the witness should be interviewed, the exhibit that the
12 Prosecution wishes to have introduced should be accorded to an
13 independent party, chosen by your Honours, who simply reads it
14 and reports back to your Honours whether this witness wishes to
13:19:05 15 adopt it or not. I don't think either side, either the
16 Prosecution or the Defence, should be permitted - at least in the
17 jurisdiction where I practice, once a witness is sworn we are not
18 allowed at any point in time to have contact with the witness and
19 I don't think it is appropriate, subject to what your Honours
13:19:23 20 decide, to allow either side to have contact with the witness at
21 this point.

22 I just make two other points. One is the provision of Rule
23 26 bis, which does say that despite your imperative to ensure a
24 fair and expeditious trial you have to do so with due regard to
13:19:48 25 the witnesses as well and the victims. That is a general
26 provision, but it does suggest there is some obligation the
27 Chamber owes to the witness.

28 The second point is this: A witness has been sworn in.
29 They are trying to move in a document as an exhibit. The

1 witness, or the process, is not going as the Prosecution has
2 anticipated. This is a trial. We are in the middle of trial.
3 It is no different than if this was a regular crime base witness
4 and they could not get an exhibit in through the witness.

13:20:20 5 We should not now pretend or revert back to a posture that
6 we are not in the thrust of the trial process, because the 92 bis
7 process should be no different than the process that should
8 obtain if you had an otherwise regular viva voce crime base
9 witness. They have not succeeded in laying foundation in getting
13:20:41 10 the document in. Why should your Honours now adopt a course to
11 accommodate this failure to moving their document.

12 MR SANTORA: Madam President, I have not addressed either
13 the earlier points or every single point that Mr Anyah has raised
14 but there just needs to be a degree of clarification here. This
13:21:01 15 is already admitted into evidence pursuant to your Honours'
16 decision of 20 October 2008 as long as the witness is made
17 available for cross-examination. This is what the Prosecution is
18 doing; making this witness available for cross-examination.

19 The actual adoption portion which counsel is referring to
13:21:22 20 is a procedure that has been adopted here, but in terms of
21 whether or not - what we have been doing as a procedure is to
22 have the witness review their prior testimony - in some cases it
23 has been one or two or three years out since they have given that
24 testimony - as a matter of fairness to that witness.

13:21:41 25 This witness apparently, from his responses, did not have
26 that opportunity to review his prior testimony in a language he
27 understands. So we are simply asking that that procedure be
28 allowed to take place in fairness to this witness.

29 Now counsel said he didn't mean to suggest any impropriety,

1 but I am not sure what counsel means when he says there should be
2 protection from the lawyers, I think was the word, and I am not
3 sure what counsel means by that. I am stating here on the record
4 what the Prosecution intends to do is to make sure he is able to
13:22:14 5 review his prior testimony in a language he understands. It's a
6 very simple request.

7 JUDGE SEBUTINDE: Mr Santora, sorry to interrupt you, but I
8 think you spoke in error. The decision under 92 bis clearly said
9 the transcript shall be admitted, provided the person is brought
13:22:37 10 in Court. Right? So we have not admitted it yet. This is the
11 procedure under which we admit it now in Court and the practice
12 with all other witnesses has been that the adoption or the - yes,
13 the admission of the exhibit is at the very end of this person's
14 testimony, so we have not already admitted it.

13:23:01 15 MR SANTORA: I apologise for misspeaking on that, Justice
16 Sebutinde. My point was that this will be admitted contingent at
17 the end of - if he is available for cross-examination and at the
18 end of that process then shall be admitted according to your
19 Honours' ruling. The witness is available for cross-examination
13:23:20 20 and the Prosecution has provided this witness for
21 cross-examination pursuant to the Defence's request to bring this
22 witness up here.

23 Now, that being said, we have adopted a procedure where
24 witnesses, in fairness to witnesses, can review their prior
13:23:36 25 testimony in a language they understand. And this witness has
26 not been afforded, according to his responses, that opportunity
27 and that's simply requesting that opportunity. That's why there
28 is the application to stand this witness down, allow that
29 opportunity for simply that purpose and then recall the witness.

1 And he can be resworn, Madam President, your Honours, if
2 there is an issue about the fact that he has already - he can be
3 resworn when he is recalled if your Honours are inclined to do
4 that as well.

13:26:43

5 [Trial Chamber conferred]

6 PRESIDING JUDGE: We note the time is very close to
7 lunchtime. We are still, as counsel can see, conferring. I have
8 in mind to take the lunchtime adjournment to deal with this.

13:27:00

9 Unfortunately, I have a Council of Judges meeting over the
10 lunch break and therefore I cannot meet and confer with my
11 colleagues, it will take the entire time. In the light of that I
12 am going to take a little extra time to confer properly and we
13 will resume at 3.00 to allow all those contingencies.

13:27:20

14 Mr Witness, we are going to take a lunchtime adjournment
15 now and we are going to resume Court a little later than usual
16 because I have to attend a meeting and we have to confer with the
17 judges. We are going to resume at 3.00. Please adjourn Court
18 until 3.

19 [Lunch break taken at 1.28 p.m.]

14:58:09

20 [Upon resuming at 3.10 p.m.]

21 PRESIDING JUDGE: My apologies for being a little late.
22 That meeting I had to attend took me right up to after 2.30, so
23 I'm a little later than expected.

15:11:49

24 We have reviewed the evidence of this witness, as already
25 adduced, and in our view the witness has already adopted the
26 transcript. I refer in particular to pages 79 and 80 of the
27 transcript in which he said inter alia, "Yes, yes, I testified
28 against Gullit", and then when asked about the dates he said, "I
29 cannot recall the date any longer, but I testified against Gullit

1 in the Special Court." Further on at page 80 he said, or he was
2 asked:

3 "Q. Do you recognise these other pages?

15:12:30 4 A. Well, the name I've seen here, it makes me to recognise
5 that I gave these statements I can see."

6 In view of this we accordingly rule that the application to
7 stand down the witness shall be refused. In our view the Defence
8 is in no way prejudiced by this ruling as they have the right and
9 the opportunity to cross-examine the witness.

15:12:56 10 Mr Santora, in the light of that ruling do you wish to have
11 the transcript marked?

12 MR SANTORA: Yes, Madam President. The Prosecution would
13 ask that this be marked for identification, the transcript.

14 PRESIDING JUDGE: Thank you. That is a bundle of documents
15:13:09 15 being a transcript of evidence adduced before the Trial Chamber
16 in the matter of the Prosecutor v Brima on 7 and 8 March 2005.
17 It's marked MFI-1 and let me consult my notebook to get the
18 relevant page numbers.

19 MR SANTORA: I can repeat the page numbers, Madam
15:13:41 20 President, for your assistance. It's 99 pages, running from CMS
21 page number 20425 to 20444 and then one page out of sequence,
22 20527 and then continuing from 20446 to 20525.

23 PRESIDING JUDGE: Thank you, as recited by counsel for the
24 Prosecution.

15:14:08 25 MR SANTORA: And if it's marked at this point the
26 Prosecution would tender the witness.

27 PRESIDING JUDGE: Thank you, Mr Santora. Mr Anyah.

28 MR ANYAH: Yes. Thank you, Madam President.

29 CROSS-EXAMINATION BY MR ANYAH:

1 Q. Good afternoon, Mr Witness.

2 A. Yes, afternoon, sir.

3 Q. Mr Witness, you were present in court before we took the
4 lunch break and you heard some of the discussion that went on
15:14:55 5 about your prior evidence before the Special Court. Do you
6 recall that discussion?

7 A. Yes.

8 Q. Do you recall counsel for the Prosecution - learned counsel
9 Chris Santora sitting over there - asking you questions about
15:15:15 10 whether or not you stand by the evidence you gave in the prior
11 proceeding?

12 MR SANTORA: Objection. I mean, it can be reworded but
13 there was never a question of do you stand by the evidence.

14 PRESIDING JUDGE: I don't think counsel for the Prosecution
15:15:37 15 put that question and it does have a meaning. I think it is not
16 a proper question. Please reword that.

17 MR ANYAH: I'll be happy to do so. I appreciate the
18 distinction:

19 Q. Mr Witness, you were asked questions to the effect whether
15:15:53 20 you adopted the transcript or document that was put before you
21 said to be the transcript of your prior testimony. Do you recall
22 being asked that?

23 A. Repeat that. I did not get it clearly.

24 Q. Yes. In court a few hours ago, before we broke for lunch,
15:16:17 25 a document was presented to you and you recall looking at the
26 first page and making some references to the name Tamba Brima.
27 Do you recall that, Mr Witness?

28 A. Yes.

29 Q. And then at around the time when that document was put

1 before you questions were asked of you to the effect of whether
2 or not the transcript that was put before you, you adopted it as
3 your evidence that was given to the prior Trial Chamber, yes?

15:17:04

4 A. I did say that the first page was not mine. The one that
5 was on top of the others.

6 Q. But apart from the first page, with respect to the
7 remaining pages you said, and correct me if I'm mistaken, that
8 you recognised some of it as being what you told the Court during
9 the prior proceeding, yes?

15:17:21

10 A. Yes, I saw one there which I recognised as mine.

11 Q. Mr Witness, let me ask you a few questions about languages.
12 You are testifying today in Krio, right?

13 A. Yes.

15:17:51

14 Q. Your first interview with the Prosecution was in 2003, 20
15 February, and in that interview you spoke English with them, yes?

16 A. It was Krio that I spoke.

17 Q. Are you sure of that, Mr Witness?

18 A. It was Krio that I spoke to them.

15:18:12

19 Q. Well, I will in due course produce records of that
20 interview. Do you recall what language you gave your testimony
21 in when you testified before this Chamber in 2005 in the AFRC
22 case, the Gullit case as you know it?

23 A. I believe that I spoke Krio, because it is Krio that I
24 understand properly.

15:18:40

25 Q. Mr Witness, you were asked certain questions in that trial
26 by one of the attorneys, and for counsel's benefit this is from
27 the transcript of 8 March 2005 from the Brima et al case. The
28 relevant page is page 17. It was in open session. Mr Witness,
29 the question you were asked was, the question was:

1 "Q. You went to the investigators and spoke in English, is
2 that right?

3 A. Yes. I spoke English to them.

4 Q. You understood them and they understood you?

15:19:42 5 A. Yes. I understood the English that they spoke.

6 Q. Then you went again on 11 February of this year just a
7 couple of weeks ago, is that right?

8 A. I do not understand what you said."

9 Then a few lines down:

15:20:03 10 "Q. And you spoke to them in English?

11 A. Yes, it was English but mine was not clear. Theirs and
12 mine was different."

13 Do you recall being asked those questions in 2005?

14 A. I do not recall any more. I do not recall, because it has
15:20:21 15 been a long time ago now.

16 Q. Now the first day of that trial, 7 March 2005, when you
17 were introduced to the Court by a Ms Lesley Taylor, I learned
18 counsel for the Prosecutor, at page 42 of the transcript of 7
19 March 2005, it is said that you were the first witness and that
15:20:48 20 you would give your evidence in English. Do you recall that
21 being said, Mr Witness?

22 A. I did not say that. I told the person that I was going to
23 speak Krio.

24 Q. Do you recall that while you were being questioned you
15:21:03 25 started out testifying in English and somewhere during the
26 proceedings you did not understand questions posed by one of the
27 attorneys and then an interpreter was brought in to assist you in
28 Krio? Do you recall that happening, Mr Witness?

29 A. They told me to speak English, but I told them it would be

1 difficult for me and that I was more fluent in Krio.

2 MR ANYAH: For counsel's benefit the page in question is
3 page 54, the transcript of 7 March 2005. Mr Witness, at that
4 hearing the Presiding Judge, her Honour Justice Doherty asked you
15:21:48 5 this question:

6 "PRESIDING JUDGE: Mr Witness, you said you didn't
7 understand. Do you want the question put in a different
8 language? Would that help you?

9 THE WITNESS: Yeah.

15:22:03 10 PRESIDING JUDGE: Which language do you choose?

11 THE WITNESS: Krio.

12 PRESIDING JUDGE: Can we have a Krio interpretation."

13 From then on the hearing was conducted in Krio. Do you
14 recall that happening, Mr Witness?

15:22:21 15 A. I do not recall now. I do not recall any more.

16 Q. Mr Witness, at any time before this hearing did you review
17 your entire testimony that was given on both 7 and 8 March 2005
18 before these very Judges in the other proceeding? Did you review
19 it with somebody?

15:22:51 20 A. What did you say? Repeat that. I did not understand that
21 question.

22 Q. Did you sit down with somebody and either yourself read a
23 transcript or someone else read it to you concerning all that you
24 said before the Trial Chamber when you testified in Freetown
15:23:08 25 between 7 and 8 March 2005?

26 A. I did not have the opportunity to sit down and read it
27 because by then I was working.

28 Q. Can you tell us when you arrived in this country we're in,
29 Holland, which day and which month?

1 A. I came in October, on a Friday, on the 24th, on the Friday,
2 2008.

3 Q. So you arrived here last Friday, 24 October 2008, yes? Is
4 that correct, Mr Witness?

15:24:02 5 A. Yes, sir.

6 Q. Now since that time have you sat down with anybody and
7 either you read the entire evidence you gave to the former Trial
8 Chamber or have someone read it to you from beginning to end,
9 since Friday of last week?

15:24:22 10 A. No. It was just one woman who read it out to me, but in
11 fact she did not finish it and I did not even understand her
12 English that well.

13 Q. And she read it to you in English, yes?

14 A. Yes, but I did not understand the English she read.

15:24:48 15 JUDGE SEBUTINDE: Mr Anyah, I'm sorry to interrupt.
16 Mr Witness, did you explain to this lady that you didn't
17 understand what she was reading to you?

18 THE WITNESS: Well, she was going very fast. I tried to
19 stop her to at least be checking in between, but I think she did
15:25:09 20 not understand my Krio too.

21 JUDGE SEBUTINDE: So you were speaking to her in Krio and
22 she was speaking to you in English?

23 THE WITNESS: I was managing to speak the English to her,
24 because in fact it was a mixed kind of language I was speaking.

15:25:27 25 I was speaking some Krio and some English at the same time. But
26 maybe she did not actually understand what I was telling her.

27 JUDGE LUSSICK: Just following up from what my colleague
28 said, do you mean to say you were speaking to her in English and
29 in Krio and this lady continued to read this statement to you in

1 English? Is that what happened?

2 THE WITNESS: Well, I was speaking the broken Krio English,
3 little by little, but I think she was managing to understand me,
4 but I did not actually understand what she was saying to me, the
15:26:16 5 English she spoke.

6 JUDGE LUSSICK: And did you tell her you didn't understand
7 what she was saying?

8 THE WITNESS: Yes, I told her that I did not understand her
9 very well. I told her that. But I thought I was going to meet
15:26:38 10 her another time, but she did not call on me any more.

11 JUDGE LUSSICK: Yes, I'm sorry, Mr Anyah, go ahead.

12 MR ANYAH: Thank you, your Honours:

13 Q. Mr Witness, do you know to which office or part of the
14 Special Court this woman belonged?

15:27:03 15 A. I do not know her, not at all. That was my first time
16 seeing her.

17 Q. Have you seen her since that time, Mr Witness?

18 A. I have not seen her up to this moment.

19 Q. Mr Witness, you told us that you were born in 1976, yes?

15:27:28 20 A. Yes, I was born in 1976.

21 Q. And today it would be fair to say you are about 32 years
22 age, yes?

23 A. Yes, sir.

24 Q. Now the time you gave evidence was in 2005 - March 2005 -
15:27:50 25 yes?

26 A. I do not recall that day. I do not recall that date.

27 Q. But it was a few years ago? Would you agree with that,
28 Mr Witness?

29 A. It has taken some time anyway.

1 Q. And as you sit there now, Mr Witness, you will agree with
2 me that you cannot remember everything you said when you
3 testified in March 2005, yes?

4 A. I cannot recall everything, but there are some that I
15:28:35 5 recall.

6 Q. Are you aware that a document has been given to this Court
7 that is said to be your entire evidence given in March 2005?

8 A. Save for the one that has been shown to me.

9 Q. What I'm trying to ask you is this, Mr Witness. Before
15:29:06 10 somebody gives this Court a document and says that it is your
11 evidence from 2005, would you like the opportunity to review it
12 completely, Mr Witness?

13 A. No, I would not be able to read all of it. I will not be
14 able to read all the parts in it.

15:29:25 15 Q. If someone were made available to read it to you in Krio,
16 would you prefer to have heard it read to you in Krio before it
17 was received by this Court, Mr Witness?

18 A. Well, I would not be able to understand everything.

19 Q. I'm not asking you if you would be able to understand
15:29:51 20 everything. I'm just asking you if you would prefer - if you
21 would like - to have had the chance to go over all that you said
22 in the prior trial before it's received by these Justices. If
23 that opportunity were given to you and somebody were to read it
24 to you in Krio, would you prefer that that be done?

15:30:14 25 A. No, I wouldn't want that because the things that happened
26 to me at any time I recall them I shed tears.

27 Q. Mr Witness, is it possible that there are parts of your
28 evidence that you gave in 2005 that you may wish to correct?

29 A. I do not recall that statement any more.

1 Q. No, I'm not saying you made a statement. I'm asking you
2 that as if you say in Krio you're a mortal man, somebody who can
3 make mistakes, is it possible that some of what you told the
4 Court when you testified in 2005 contained errors or mistakes?

15:31:09 5 A. Yes, there was a mistake that I spoke about.

6 Q. Can you tell us what that mistake was?

7 A. Well, that was the date; the date that I did not recall.

8 The dates that I had put there, that was 1998, it was supposed to
9 be 1999. That is the mistake that I recall.

15:31:32 10 Q. Besides that are there any other mistakes that you recall,
11 Mr Witness?

12 A. I do not recall any more. I do not recall.

13 Q. Do you remember saying that the young men who came to your
14 door and forced you to leave your home on Waterloo Street had

15:32:00 15 AK-47s?

16 A. Yes, three men went to my house who forced me out of my
17 door. They had those guns with them.

18 Q. Yes, I'm trying to see if you also recall saying that the
19 type of guns they had were G3s. Do you recall saying that,

15:32:29 20 Mr Witness?

21 A. Yes, I recall that.

22 Q. The two are not the same, AK-47 and G3s, correct?

23 A. Yes, the two are not the same.

24 Q. Was that a mistake when you said AK-47, Mr Witness?

15:32:56 25 A. It was not a mistake. There is AK-47 and there is G3.

26 Q. No, I'm asking you about the particular type of weapon the
27 men who came to your door were armed with. Was it AK-47, or was
28 it G3s?

29 A. Well I do not recall the type of guns they had because at

1 that particular time I gave my testimony my memory was fresh, but
2 for now I do not recall when those guys went to my house the
3 types of guns they had.

4 Q. If you were to be shown statements or documents that
15:33:42 5 contained statements you made to the Prosecutor or the
6 Prosecution in previous interviews, would that help clarify or
7 refresh your memory as to what you said about the type of guns?

8 A. Yes.

9 Q. We will come to that, Mr Witness. I want to ask you about
15:34:12 10 a meeting you had with the Prosecution on 2 October 2008. Do you
11 recall meeting with the Office of the Prosecutor in Freetown this
12 month in 2008?

13 A. Well, they called me there to inform me that I was going to
14 travel. That was the only reason why I went there.

15:34:45 15 Q. Earlier this month, 2 October, you went to the Special
16 Court premises in Freetown, yes?

17 A. Yes, I went there.

18 Q. When you went did you review any statements with them;
19 statements that you had given to them previously?

15:35:05 20 A. No, I did not review any statement there.

21 MR ANYAH: Your Honours, may I have the assistance of Madam
22 Court Officer please. Yes, this is a disbursement record from
23 the Office of the Prosecutor, the second page in tab 7. Your
24 Honours, I only have one set of documents for the Court Officer.

15:36:11 25 It is entry number 7:

26 Q. Mr Witness, the Office of the Prosecutor keeps records of
27 disbursements - payments made or spent on your behalf - and
28 there's an entry here for Thursday 2 October that says the sum of
29 15,000 Leones was either given to you or spent on your behalf for

1 transportation and lost wages and the reason given is,
2 "Transportation to and from SCSL to review statements". Did you
3 hear what I just read, Mr Witness?

4 A. Yes, I heard it.

15:36:53 5 Q. On the 2nd of this month in Freetown, when you went to the
6 Special Court premises, did you go over all of your prior
7 statements given to the Office of the Prosecutor?

8 A. Well, no. They told me they were going to read it out to
9 me, but they did not read over it to me.

15:37:17 10 Q. And what again was your purpose in being present at the
11 Special Court on that day?

12 A. Well they informed me that I was going to travel and so
13 they asked me for my passport, but I told them I did not have a
14 passport.

15:37:39 15 Q. And how long did you spend at the Special Court on that
16 day?

17 A. Well, I did not have a watch with me and so I did not check
18 time.

19 Q. Did you know where you were supposed to be travelling to,
15:37:59 20 Mr Witness?

21 A. No, I did not know.

22 Q. Did you ask them where it was they were supposed to have
23 you travel to?

24 A. Yes, I asked them, but they told me that they were going to
15:38:19 25 tell me very soon. It was not until the day that I was
26 travelling that the man with whom I travelled, he was the one who
27 informed me that we were travelling to Holland.

28 Q. Did you know which case you were coming to Holland for?

29 A. Yes, I knew that I was coming to testify here again like I

1 did in Freetown.

2 Q. And did you know against whom you were coming to testify,
3 Mr Witness?

4 A. Well, the ones I had testified against were the ones I knew
15:39:03 5 that I was coming here to testify against again.

6 Q. And can you tell us which ones you testified against
7 previously?

8 A. The rebels and their boss, Gullit, that I saw. Those were
9 the ones I testified against.

15:39:23 10 Q. Did you find it strange that three years after you
11 testified you were being brought to Holland to testify against
12 the same people?

13 A. Yes, I saw it strange. Yes.

14 Q. Did you ask them any questions about that, Mr Witness?

15:39:49 15 A. No, I did not ask them questions.

16 Q. Have you at all followed the case in which you testified;
17 the case against Gullit? Have you followed it in the news media
18 in Freetown?

19 A. Yes, sometimes I make - I follow up. Sometimes when I
15:40:14 20 listen to television - I mean radio.

21 Q. Do you know what the outcome of that case was, Mr Witness?

22 A. No, I do not know now.

23 Q. When you were shown the transcript from your prior evidence
24 you said you did not know the name Tamba Brima. Do you recall
15:40:37 25 saying that, Mr Witness?

26 A. No, I do not know that name.

27 Q. Have you heard the name Alex Tamba Brima, Mr Witness,
28 before?

29 A. Well I used to hear of that name, but I do not actually

1 know the person.

2 Q. Do you know what Gullit's real name is, Mr Witness?

3 A. No, I do not know his real name.

4 Q. Since you were captured in January of 1999 have you ever
15:41:12 5 seen Gullit again, Mr Witness?

6 A. No, I have never seen him up to this moment and even now,
7 should he appear before me here now, I would not be able to
8 identify him.

9 Q. Do you recall that the day you testified in Freetown, the
15:41:31 10 very first day, 7 March 2005, that was the opening day of the
11 trial of Alex Tamba Brima, Brima Bazzy Kamara and Santigie
12 Borbor? Do you remember that was the first day - the opening day
13 - of that trial?

14 A. I do not recall whether that was the first day the case
15:42:00 15 started. I do not recall.

16 Q. Do you recall whether or not you were the very first
17 witness called by the Prosecution in that trial?

18 A. No, I do not recall whether or not I was the first.

19 Q. But you certainly did not see this person Gullit in that
15:42:24 20 trial, did you?

21 A. No, I did not see him.

22 Q. He wasn't in the courtroom when you testified?

23 A. I did not see him there at all, because I did not look
24 round for him.

15:42:40 25 Q. On either day, the 7th or the 8th, you do not recall seeing
26 somebody that was familiar to you as being Gullit?

27 A. No, I did not see his face. Not at all.

28 Q. Mr Witness, what is your occupation?

29 A. I am a mechanic.

1 Q. Were you a mechanic in January 1999?

2 A. Well, I have started practicing it since I was going to
3 school. I normally go to school in the morning, then after
4 school I go to the garage.

15:43:34 5 Q. In January 1999 it is true you lived at 79 Waterloo Street
6 in Freetown, yes?

7 A. Yes, that was where I was living at the time I was going to
8 school.

9 Q. And you were in Form 5 in school at that time, yes?

15:43:55 10 A. Yes, I was in Form 5 at that time.

11 Q. We have already established that you born in '76, so that
12 would make you about 23 years of age in January 1999, yes?

13 Mr Witness, if you were born on 1 January 1976, in January 1999
14 you would have been 23 years of age. Would you agree with that?

15:44:33 15 A. From '99 to now? From '97 or '96 to now?

16 PRESIDING JUDGE: No, Mr Witness.

17 THE WITNESS: I did not get you clearly.

18 PRESIDING JUDGE: Maybe put the question again Mr Anyah,
19 please.

15:44:50 20 MR ANYAH: Yes, Madam President:

21 Q. Mr Witness, if you were born in 1976, on 1 January you
22 would agree with me that in the year 1999 you were 23 years of
23 age, yes?

24 A. I find it difficult to check it now, but I want to believe
15:45:24 25 that it is so.

26 Q. Certainly. We appreciate that, Mr Witness. You were a
27 young man in January of 1999, would you agree with that,
28 Mr Witness?

29 A. Yes, by then I was a small young man, a small boy.

1 Q. And in this house you were living in on Waterloo Street,
2 who was living there with you on that day?

3 A. I and my uncle. We were the only people living there.

4 Q. Did you have any brothers and sisters, Mr Witness?

15:46:06 5 A. Yes, I have brothers and sisters.

6 Q. Were they living in Freetown in 1999, January?

7 A. Yes, they were in Freetown.

8 Q. How many brothers did you have as of January 1999?

9 A. I had eight brothers.

15:46:35 10 Q. How many of them were older than you, Mr Witness?

11 A. Five of them are older than me.

12 Q. How many sisters did you have in January of 1999?

13 A. At that time I had 15 sisters.

14 Q. Fifteen, you said? One five?

15:47:16 15 A. At that time I had 15 sisters.

16 Q. How many of them were older than you in January of 1999?

17 A. I do not recall, because there are many. My sisters are
18 many.

19 Q. Mr Witness, of your eight brothers and 15 sisters how many
15:47:40 20 lived in Freetown in January of 1999?

21 A. We were all in Freetown.

22 Q. So you and your 15 sisters and your eight brothers all
23 resided or lived in Freetown in January 1999, yes?

24 A. They were all in Freetown.

15:48:09 25 Q. None of them were in the household on Waterloo Street when
26 you were captured, is that fair to say?

27 A. Yes, none of them was there. They were living somewhere
28 else and we were at Waterloo Street.

29 Q. And from the day you were captured until you were released

1 how many days passed, can you tell us?

2 A. I did not get you clearly.

3 Q. You were captured on 8 January 1999, yes?

4 A. Yes, it was on the 8th that I was captured.

15:48:56 5 Q. And do you know the day on which you managed to escape,
6 Mr Witness?

7 A. They captured me for about four days. The fifth day I
8 escaped.

9 Q. And you escaped to the vicinity of Calaba Town, yes?

15:49:26 10 A. Yes, it was at Calaba Town that I escaped from them.

11 Q. Mr Witness, all your 15 sisters, did anything happen to any
12 of them while they were in Freetown in January of 1999?

13 A. Nothing happened to them, praise be to God for that.

14 Q. And all of your eight brothers, did anything happen to them
15:49:57 15 in January of 1999 while you were in Freetown?

16 A. For them too thanks be to God. Nothing happened to them.

17 Q. Indeed, in the last trial they asked you a question
18 whether, except for the fact of you being captured, anything of
19 significance whatsoever happened to you in that month and you
15:50:21 20 said no, except for one of your sisters dying. Do you recall
21 saying that in the last trial?

22 A. I did not tell them about my sister, I told them about my
23 aunt's child. That was what I told them about. I said my aunt's
24 child and I was the one who in fact donated blood to the person
15:50:50 25 whilst the person was in the hospital.

26 Q. And the person that died did not die as a result of what
27 was happening in Freetown, correct?

28 A. The person was shot and later died in the hospital. I
29 donated blood to the person, but the person later died.

1 Q. Well, I'll read to you particular exchanges you had with
2 counsel in that trial. For learned counsel's benefit it's from
3 the transcript of 7 March 2005 at page 83. At line 18,
4 Mr Witness, they asked you a question about your family and what
15:51:52 5 had happened to you, and the question was:

6 "Q. When you managed to escape was there anything that had
7 happened to you at the time of escaping or before you
8 escaped that you can remember significantly?

9 A. No, except my sister that died. That is what was
15:52:10 10 paini ng me.

11 Q. But not as a result of your capture, was it?

12 A. When she died? No."

13 Do you recall being asked those questions and you saying
14 your sister died but not as a result of your capture?

15:52:35 15 A. I told them about my aunt's child that died.

16 Q. But you will confirm for us again that none of your
17 siblings, 15 sisters or eight brothers, was harmed in January of
18 1999 in Freetown as a consequence of the conflict, correct?

19 A. Go over that for me to understand properly.

15:53:18 20 Q. Yes. It is true, Mr Witness, that none of your 15 sisters
21 or your eight brothers were injured or harmed in Freetown in
22 January of 1999 as a result of the fighting, correct?

23 A. I do not recall that. They did not do - they did not do
24 harm to any one of them, except for my aunt's child that died.

15:53:46 25 Q. Thank you, Mr Witness. And you yourself, in the five days
26 that you were captured, except for not being fed, which you say
27 happened when you were at the State House, and except for being
28 asked to carry things, nothing happened to you physically; you
29 did not sustain any injury to your person, correct?

1 A. I did not sustain any injuries nor damages, except for the
2 beat that was given to me.

3 PRESIDING JUDGE: The what, Mr Interpreter?

4 THE INTERPRETER: Except for the beating that was given to
15:54:40 5 me.

6 MR ANYAH:

7 Q. Yes, except for this beating nothing else was done to you
8 while you were in the capture of the rebels, yes?

9 A. They beat me up and they stripped me of all what I had on
15:54:59 10 me. They even took off my trousers from me.

11 Q. But you suffered no physical injuries except for the
12 beating, correct?

13 A. They beat me up and they stripped me of all I had with me.

14 Q. We appreciate that, Mr Witness. We agree that you were
15:55:23 15 beaten. We agree that you were stripped of your personal
16 belongings including your clothes, but I'm saying that you did
17 not suffer or sustain a visible injury of any kind at the hands
18 of the captors, yes?

19 A. I do not recall that I was injured.

15:55:53 20 Q. You do not recall? Do you have any scars on your body that
21 you sustained in January of 1999?

22 A. I had some bruises.

23 Q. You had but you no longer have them, is that fair to say,
24 Mr Witness?

15:56:14 25 A. Yes, I do not have the scars on my body any longer, because
26 they have been wiped off by creams that I use.

27 Q. Nobody shot at you in January of 1999, did they?

28 A. No, they did not shoot at me at all.

29 Q. Nobody cut any part of your person with a cutlass or

1 machete in January of 1999, did they?

2 A. They did not chop me with a machete at all.

3 Q. Nobody gave you drugs to consume in January of 1999, did
4 they?

15:57:04 5 A. No, nobody gave me something to drink. They did not give
6 me any drug.

7 Q. So all that happened to you was that you were captured,
8 held for four days at the State House, asked to carry something
9 and then you were - you managed to escape. In sum and substance
15:57:27 10 is that what happened to you when you were in the hands of the
11 rebels?

12 A. Yes, they captured me for four days and I carried load for
13 them, but later I managed to escape from them.

14 Q. What was the purpose of you being captured? Did the rebels
15:57:57 15 tell you, Mr Witness?

16 A. Well, they captured me and took me to State House. They
17 said they had lost some of their men and so we should join them,
18 but I told them by then that, "I am unable to join you people".

19 Q. And when they took you to State House you saw others who
15:58:26 20 had been captured there, correct?

21 A. Yes, yes, I saw them there, those who were captured.

22 Q. Approximately how many captives were there at the State
23 House in Freetown?

24 A. Well, they were many. Like for those of us who were there,
15:58:51 25 we were about 50 in number.

26 Q. And those were civilians, yes?

27 A. Yes, we were all civilians at that time.

28 Q. You were of fighting age at the time you were captured,
29 correct?

1 PRESIDING JUDGE: What exactly does that mean, Mr Anyah?

2 THE WITNESS: No. No, I did not fight.

3 MR ANYAH: I will be happy to break it into bits and
4 pieces:

15:59:26 5 Q. Mr Witness, you were at an age when you could have fought
6 if you wanted to when you were captured, yes?

7 A. Well, if it was just one - a single rebel - that captured
8 me I would have resisted. I would have fought against the person
9 so that I free myself.

15:59:56 10 Q. And the rebels that --

11 A. But they were three in number.

12 Q. Yes, and when they captured you and took you to State House
13 they captured you because they wanted you to fight along with
14 them, correct?

16:00:12 15 A. Yes, they wanted me to join them to fight, but I refused.

16 Q. Indeed, they did not want only you. They wanted all of the
17 other captives to join them to fight, correct?

18 A. Yes.

19 Q. And the reason they wanted all of you to join them in their
16:00:38 20 revolution, as they said, was because they had lost a number of
21 men at the hands of ECOMOG, correct?

22 A. Yes, they had lost so many men.

23 Q. And you said when you testified before this Chamber in
24 March and in your out of court statements that the person you
16:01:00 25 believe to be their commander was somebody named Gullit, right?

26 A. Yes, that was how they used to call him at that time in
27 that place and so that was how I also called him.

28 Q. And Gullit instructed his boys at the State House, or
29 rebels, that you and the other captives were to replace men they

1 had lost at the hands of ECOMOG, correct?

2 A. Yes.

3 Q. Gullit was desperate for fighters at that time, yes?

4 A. Yes, he was desperate. He was searching for people to go
16:01:48 5 and fight.

6 Q. And when you arrived in State House on the first night and
7 the second night came and went and the third night came and went
8 and the fourth day came and went, by that fourth day Gullit had
9 not received any new batch of fighters as reinforcements,

16:02:08 10 correct?

11 A. I did not understand that.

12 Q. Mr Witness, Gullit was looking to the civilians that were
13 housed or locked up in the kitchen to serve as additional troops
14 for he and his men, correct?

16:02:35 15 A. Yes, he locked us up so that we could not escape and that
16 we will fight for him.

17 Q. He did not receive from somewhere else any additional group
18 of fighters. You and the others were going to be his additional
19 fighters, yes?

16:02:54 20 A. No, all of us who were captured and who were put in the
21 kitchen were the ones he wanted to go with, but some of us
22 refused going.

23 Q. Yes, the point I'm making is besides all of you in the
24 kitchen there was no other source he was getting fighters from,
16:03:14 25 or at least you did not see any other group of fighters come to
26 join him, yes?

27 A. It was only us who were in the kitchen that he wanted to go
28 with.

29 Q. And at some point ECOMOG started advancing and ECOMOG came

1 as far at the Cotton Tree in downtown Freetown, yes?

2 A. Yes.

3 Q. The Cotton Tree is about would you say 100 metres from the
4 State House in Freetown, yes?

16:03:53 5 A. Yes, about 100 metres.

6 Q. And when ECOMOG was coming you looked through the kitchen
7 window and you saw Gullit panicking, correct?

8 A. Yes, I saw him panic.

9 Q. He was in the vicinity of a white Toyota Hilux and he was
16:04:13 10 telling his men, "Let's go. Let's go", correct?

11 A. Yes.

12 Q. At one point Gullit was saying, "We've lost the battle.
13 We've lost the battle. Take the civilians and let's go. Let's
14 go", correct?

16:04:30 15 A. Yes, he said that.

16 Q. So at that point the rebels had already been defeated,
17 would you agree, Mr Witness?

18 A. At that time the rebels were what? I did not understand
19 you. Say it again.

16:04:44 20 Q. At that time the rebels had already begun to run from
21 ECOMOG, yes?

22 A. Yes, they were running away.

23 Q. Yes, and this was four days - on the fifth day after 8
24 January 1999, the day of your capture, yes?

16:05:12 25 A. Yes, it was on the fourth day that we were there. That was
26 the last day that I spent there.

27 Q. You said that some of the rebels spoke like Liberians, yes?

28 A. Yes.

29 Q. When you say that they spoke like Liberians, is it the

1 manner in which they spoke that was like Liberians, or were they
2 speaking another language?

3 A. It was the way they spoke. It sounded like Liberian
4 English.

16:06:02 5 Q. Were they speaking Krio, but sounding like Liberians who
6 were speaking Krio?

7 A. Well, it was that Liberian Krio that they spoke. They
8 spoke like Liberians.

9 Q. And what you mean by Liberian Krio is somebody speaking
16:06:24 10 Krio but with a Liberian accent, yes?

11 A. The way he spoke he sounded like a Liberian.

12 Q. So he was speaking Krio, but it's the way it sounds? It
13 sounds more like a Liberian than a Sierra Leonean, correct?

14 A. Even his voice was like a Liberian. He sounded Liberian.

16:06:59 15 Q. But he was speaking Krio?

16 A. It was the Liberian English, Liberian Krio English, just
17 the way the Liberians speak. That was the way he spoke.

18 Q. Are you aware that there was a war in Liberia starting from
19 1989 through elections in 1997, the first part of the conflict in
16:07:24 20 Liberia? Are you aware of that, Mr Witness?

21 A. Yes, there was war in Liberia. I knew that there was war
22 in Liberia.

23 Q. And are you aware of the fact that many Liberians left
24 Liberia and entered Sierra Leone as refugees because of the war
16:07:41 25 in Liberia?

26 A. Yes, refugees came here.

27 Q. When you say "here" you mean Sierra Leone, yes?

28 A. Yes, I meant Sierra Leone, sorry.

29 Q. That is fine, Mr Witness. Indeed in Freetown, when you

1 were growing up, there were Liberians in your community, yes?

2 A. Yes, there were Liberians in Sierra Leone.

3 Q. And that covered all age groups from young to old, would
4 you agree, Mr Witness?

16:08:20 5 A. Where we were we hadn't Liberians in our area, but they
6 were in Freetown.

7 Q. I know you did not have in your particular area, but I'm
8 asking you if the ones in Freetown had ages ranging from young to
9 old?

16:08:44 10 A. They were young adults, men and women. Those were the ones
11 I saw.

12 Q. Some of them were of fighting age, yes?

13 A. Those that I knew I did not detect any fighting on them.

14 Q. Did you understand the question? I'm asking you if some of
16:09:10 15 the Liberians who lived in Freetown were of fighting age as you
16 were growing up?

17 A. Yes, some were of the age - fighting age - but I did not
18 see that.

19 Q. So you don't know whether these people who spoke Liberian
16:09:32 20 English were already in Freetown, or came from somewhere else, do
21 you?

22 A. Those that I had known before were not the ones that I saw;
23 not the ones that I heard speaking the Liberian language.

24 Q. But in the area where you lived there were no Liberians in
16:09:54 25 that general area. That's what you just said, right?

26 A. Not at all. They were not there.

27 Q. And of course you possibly did not know all of the
28 Liberians that were spread around in Freetown during the entire
29 time you were growing up there?

1 A. No, I did not know them.

2 Q. So a Liberian man could have been living in another part of
3 Freetown and you would not know him, yes?

4 A. Yes.

16:10:26 5 Q. Have you ever heard of ULIMO, Mr Witness?

6 A. I used to hear about them, but I never saw them.

7 Q. When did you hear of ULIMO first?

8 A. That was during the Liberian war. That was when I used to
9 hear about them.

16:10:48 10 Q. Did you ever hear of ULIMO fighters coming into Sierra
11 Leone?

12 A. I did not hear that they were to come to Sierra Leone. I
13 only heard that they were in Liberia, but I never saw them.

14 Q. Have you ever heard of STF, Mr Witness?

16:11:16 15 A. No, except today. I never heard that name.

16 Q. Have you ever heard of somebody named General Bropleh,
17 Mr Witness?

18 A. No.

19 Q. Have you ever been to Liberia, Mr Witness?

16:11:35 20 A. I've never been to Liberia.

21 Q. And you did not grow up around Liberians, did you?

22 A. Not at all.

23 MR ANYAH: May I have a moment, Madam President?

24 PRESIDING JUDGE: Yes.

16:13:06 25 MR ANYAH:

26 Q. Mr Witness, one final point: At the time when you were
27 captured you did not know the group to which the men that
28 captured you belonged, correct?

29 A. I really did not know the group to which they belonged,

1 because it was a mixed group. I had never known them.

2 Q. And as you sit there now you do not know, do you, the
3 groups to which those men belonged?

4 A. I don't know. They were a mixed group.

16:13:59 5 Q. Mr Witness, the manner in which you escaped was that you
6 were given something to carry from the State House towards Calaba
7 Town and while you were carrying it you said it was too heavy,
8 you put it down and you asked to be excused to use the toilet,
9 yes?

16:14:29 10 A. Yes.

11 Q. And that's how you escaped, yes?

12 A. Yes, that was how I escaped.

13 Q. The rebels didn't do anything to you when you put down what
14 you were carrying?

16:14:47 15 A. No, I obtained permission from them to use the toilet and I
16 was granted the permission.

17 Q. And what you were carrying you described previously as a
18 bomb, correct?

19 A. Yes, they said it was a bomb, so I also took it to be a
16:15:10 20 bomb and it was heavy.

21 Q. It was big and it was heavy. That's what you told the
22 Court previously, yes?

23 A. It was big and heavy, yes.

24 Q. What is a B-15 bomb, Mr Witness?

16:15:29 25 A. I don't know it. That was how they referred to it, the
26 bomb that I carried for them, that was how they referred to it.
27 They said it was B-15. That was how they referred to it and that
28 is why I too referred to it as such.

29 Q. You started carrying this B-15 bomb from the State House

1 and you started moving towards Calaba Town, correct?

2 A. Yes.

3 Q. And you told the Court previously that it took you about 45
4 minutes to get from the State House to Calaba Town. Do you

16:16:19 5 recall saying that, Mr Witness?

6 A. Yes. We spent about 45 minutes on the way. That was what
7 they said. They said it was 45 minutes that we have spent, so
8 that was why I too just said what they had said.

9 Q. Who said it was 45 minutes you had spent?

16:16:39 10 A. The rebels. They said it was 45 minutes that we had spent
11 to get to Calaba Town, so that was why I too said so.

12 Q. And you said they made you run with this bomb on your head,
13 that you were running with the bomb on your head?

14 A. Yes, we walked and some of the distance we were running.

16:17:03 15 Q. Do you know the distance from the State House to Calaba
16 Town, Mr Witness?

17 A. I don't know. I don't know now. It's long distance
18 anyway.

19 Q. If I told you it was about 12 kilometres would I be
16:17:32 20 mistaken?

21 A. Well, I don't know, because I don't even know distance or
22 kilometres.

23 Q. But you carried this thing on your head for about 45
24 minutes and you were running with it at some point, yes?

16:17:47 25 A. Yes, I carried it on my head.

26 Q. And at no point in time did the bomb go off, did it?

27 A. No, not at all.

28 MR ANYAH: Thank you. Madam President, I have nothing
29 further.

1 PRESIDING JUDGE: Thank you for that, Mr Anyah.

2 Mr Santora, any re-examination of the witness?

3 MR SANTORA: Very brief, Madam President:

4 RE-EXAMINATION BY MR SANTORA:

16:18:17 5 Q. Mr Witness, I just have a few questions for you, okay?

6 A. Okay.

7 Q. Defence counsel was just asking you questions about whether
8 or not you knew what group the people that captured you were
9 with. Do you remember him asking you about that?

16:18:33 10 A. Yes, I remembered him asking me that.

11 Q. And you said it was a mixed group. What did you mean when
12 you said mixed group?

13 A. Those who captured me who went to the State House, the
14 rebels and the soldiers were mixed together, that's why I

16:18:55 15 referred to them as a mixed group.

16 Q. The second question, Mr Witness, Defence counsel was asking
17 you about the time you testified at the Special Court in Freetown
18 and whether or not you saw Gullit when you testified and you said
19 that you did not look for Gullit when you came into the courtroom
16:19:18 20 and you did not see him. Do you remember saying that?

21 A. Yes, I did not look for him.

22 Q. Did anyone ask you to look for him in the courtroom when
23 you testified?

24 A. No, nobody asked me to do so, so I did not do it.

16:19:37 25 MR SANTORA: No further questions, Madam President.

26 PRESIDING JUDGE: Thank you, Mr Santora.

27 JUDGE SEBUTINDE: Mr Witness, you told us earlier that you
28 are educated up to senior 5, senior secondary 5.

29 THE WITNESS: Yes.

1 JUDGE SEBUTINDE: What language of instruction are you
2 taught in up to senior 5?

3 THE WITNESS: I was taught in English language at school.

16:20:17

4 JUDGE SEBUTINDE: And so are you fluent in the English
5 language?

6 THE WITNESS: I am not fluent in it.

7 JUDGE SEBUTINDE: So how are you able to do your studies if
8 you're not fluent in the language of instruction?

16:20:34

9 THE WITNESS: I used to read the books that were given to
10 me. When they gave me notes I read the notes.

11 JUDGE SEBUTINDE: Yes. The question is - the question I'm
12 asking you is this: How were you able to read the notes if you
13 say you are not fluent in English?

16:20:57

14 THE WITNESS: I used to read the notes that were given to
15 me. Whatever notes they gave to me at school I would go home and
16 I would study. During the exams I will write the exams and I
17 passed. I can speak English, I know English, but not very
18 fluently.

16:21:20

19 JUDGE SEBUTINDE: So you would write all your exams in
20 English?

21 THE WITNESS: Yes.

22 JUDGE SEBUTINDE: Thank you.

23 PRESIDING JUDGE: Any questions arising from the Court's
24 questions, Mr Santora?

16:21:29

25 MR SANTORA: No questions, Madam President.

26 PRESIDING JUDGE: Mr Anyah?

27 MR ANYAH: Yes, just one question:

28 FURTHER CROSS-EXAMINATION BY MR ANYAH:

29 Q. Mr Witness, I had asked you before whether during your

1 first interview with the Prosecution that entire interview was
2 conducted in English. Do you recall me asking you that?

3 A. Yes, I remember.

4 Q. And you recall telling us that it was in Krio?

16:21:58 5 A. I spoke Krio.

6 MR ANYAH: Madam Court Officer, can I have your assistance,
7 please.

8 MR SANTORA: Your Honour, I'm going to object. This is out
9 of the scope of Justice Sebutinde's question.

16:22:12 10 PRESIDING JUDGE: Yes, I was going to ask how does this
11 arise from the Court's questions, Mr Anyah? You're limited to
12 questions arising.

13 MR ANYAH: I appreciate that and I do think I'm within the
14 bounds of the question. It has to do with his proficiency with
16:22:25 15 English and I think that's what Justice Sebutinde was getting at,
16 and I stand to be corrected of course, but it has to do with the
17 degree to which he can understand, comprehend and process
18 information in English.

19 PRESIDING JUDGE: I will allow the question, but I'm
16:22:39 20 keeping my eye on it.

21 MR ANYAH: Thank you, Madam President. Madam Court
22 Officer, could we show the witness the document in tab 1 and
23 there are two parts to it; there is a handwritten part and then
24 there is a typed part. I would prefer the first page of the
16:23:09 25 typed part be first shown:

26 Q. Mr Witness, this is record of the interview undertaken by
27 the Prosecution of you on 20 February 2003, and it has the date
28 there, has your name at the top, Abu Bakarr Mansaray and do you
29 see the name of an investigator there by the name of Virginia

1 Chi tanda. Do you see that, Mr Witness?

2 A. Yes, I do see it.

3 Q. And do you see where it says language during interview, it
4 says English, yes?

16:24:01 5 A. I've seen it, yes. The English that I --

6 Q. Yes, go ahead, Mr Witness.

7 A. The English that I spoke to her was not a good English.
8 You know, if somebody had come from overseas and go to African
9 countries that English would be much better.

16:24:25 10 Q. Yes, but it was in Krio, was it?

11 A. I spoke Krio.

12 Q. And you see there it says name of interpreter and that
13 section of the document is blank? Do you see that, Mr Witness?

14 A. Yes.

16:24:51 15 MR ANYAH: Madam Court Officer, could we go to the first
16 page of the handwritten part of that statement:

17 Q. Mr Witness, this is the handwritten version of the same
18 interview of 20 February. At the bottom of that page do you see
19 your signature at the bottom of that page, the bottom right-hand
20 corner?

16:25:09

21 A. Yes, yes.

22 Q. Who wrote this document, Mr Witness?

23 A. I don't know who wrote this document. I have forgotten the
24 person. I don't recall any more.

16:25:23 25 Q. But you signed each and every page of this document, yes?

26 A. Yes.

27 MR ANYAH: Madam Court Officer, shall we go to the
28 signature page, the last page of the handwritten notes:

29 Q. Mr Witness, at the bottom of that page it has something

1 called an affirmation above where it has your name. Do you see
2 that?

3 A. Yes.

16:26:07

4 Q. And that writing there, Abu Bakarr Mansaray, whose writing
5 is that? Is that yours?

6 PRESIDING JUDGE: There's some printing and some writing.

7 THE WITNESS: I'm not sure that it is my handwriting.

8 MR ANYAH:

16:26:24

9 Q. Mr Witness, the part I'm referring to is right below the
10 word affirmation. It says:

11 "I Abu Bakarr Mansaray affirm that I have read or have had
12 this statement read to me in the English language or have had
13 this statement read to me in a language that I understand."

16:26:41

14 The writing there, the print, Abu Bakarr Mansaray, is that
15 your handwriting, Mr Witness?

16 A. Yes, that is my handwriting.

17 Q. And then the signature below, is that your signature,
18 Mr Witness?

19 A. Yes, that is my signature below.

16:26:53

20 Q. Were you able to read this statement as it was written in
21 English at the time you signed it?

22 A. No, it was not given to me to be read over.

23 Q. Are you saying to us that it was read by someone else,
24 Mr Witness?

16:27:15

25 A. It was not even read to me.

26 Q. So you did not read it yourself and they did not read it to
27 you. Is that your evidence?

28 A. I don't recall that it was read to me. I don't recall.

29 Q. But do you remember signing it and saying that you had read

1 it, or someone had read it to you?

2 A. I don't recall any more. You know, it's something that has
3 taken a long time. It's really difficult to recall.

16:27:50

4 Q. But did you understand my question? My question is do you
5 recall signing that page which you've just confirmed for us which
6 says that you either read this statement, or someone read it to
7 you?

8 A. The signature is mine, but I don't recall it. I don't
9 recall the document being read to me.

16:28:10

10 Q. Then why did you sign it, Mr Mansaray?

11 A. I don't recall why I signed it.

12 MR ANYAH: Thank you, Madam President.

13 PRESIDING JUDGE: Thank you, Mr Anyah. Mr Santora, any
14 applications?

16:28:29

15 MR SANTORA: Yes, one application, your Honour. The
16 Prosecution would move to tender what has been previously marked
17 as MFI-1 into evidence.

18 PRESIDING JUDGE: Mr Anyah, you have heard the application.

16:28:47

19 MR ANYAH: We do register an objection. We made our
20 arguments previously. We don't feel that this witness has
21 adopted each and every page of that document and I merely make
22 this objection to perfect the record. Thank you. I'm sorry,
23 that's a phrase in another legal system which essentially means
24 it's my obligation as counsel to make the objection consistent
25 with the position we took before the witness testified thereby
26 not exposing us to a waiver principle that we have waived our
27 objection because we cross-examined him.

16:29:09

28 PRESIDING JUDGE: You've heard the objection, Mr Santora.
29 What is your response?

1 MR SANTORA: Is he objecting to this being tendered at this
2 point?

3 PRESIDING JUDGE: That is the --

16:29:36

4 MR SANTORA: The Prosecution reply that the witness did
5 adopt this as his prior testimony and did acknowledge testifying
6 before the Special Court and, pursuant to 92 bis, there's no
7 formal requirement in the rule or in your Honours' decision that
8 requires a formal adoption of the testimony.

9 [Trial Chamber conferred]

16:30:53

10 PRESIDING JUDGE: We overrule the objection and we admit
11 the document, which as already recited is a 99 page document
12 being a transcript of evidence adduced in the case of the
13 Prosecutor v Brima and others, delineated as pages 20425 to
14 20444, 20527 and 20446 to 20525. It becomes Prosecution exhibit
15 P-222.

16:31:25

16 [Exhibit P-222 admitted]

17 If there are no other matters I will release the witness?
18 No. Mr Witness, that is the end of your evidence here in the
19 Court today. We thank you for coming to give your evidence. You
20 are now going to be free to leave the court and we wish you a
21 safe journey home. Thank you. Please assist the witness.

16:31:45

22 Counsel, I note the time. We're up to our usual time and
23 in the circumstances I intend to adjourn until tomorrow at 9.30.
24 Please adjourn court until 9.30.

16:32:16

25 [Whereupon the hearing adjourned at 4.32 p.m.
26 to be reconvened on Thursday, 30 October 2008
27 at 9.30 a.m.]

28

29

I N D E X

WITNESSES FOR THE PROSECUTION:

GI BRIL SESAY	19454
CROSS-EXAMINATION BY MR GRIFFITHS	19454
RE-EXAMINATION BY MR SANTORA	19481
KUMBA BINDI	19491
EXAMINATION-IN-CHIEF BY MS BALY	19491
CROSS-EXAMINATION BY MR GRIFFITHS	19499
RE-EXAMINATION BY MS BALY	19507
ABU BAKARR MANSARAY	19515
EXAMINATION-IN-CHIEF BY MR SANTORA	19516
CROSS-EXAMINATION BY MR ANYAH	19535
RE-EXAMINATION BY MR SANTORA	19562
FURTHER CROSS-EXAMINATION BY MR ANYAH	19563

EXHIBITS:

Exhibit D-72 renamed D-72A	19486
Exhibit D-72C admitted	19486
Exhibit D-73 admitted	19487
Exhibit D-72B admitted	19489
Exhibit P-218A admitted	19508
Exhibit P-218B admitted	19509
Exhibit P-219 admitted	19510
Exhibit P-220 admitted	19510
Exhibit P-221A admitted	19510

Exhi bi t P-221B admi tted	19510
Exhi bi t D-72D admi tted	19513
Exhi bi t P-222 admi tted	19568