

THE SPECIAL COURT FOR SIERRA LEONE

CASE NO. SCSL-2004-14-T
TRIAL CHAMBER I

THE PROSECUTOR
OF THE SPECIAL COURT
V.
SAM HINGA NORMAN
MOININA FOFANA
ALLIEU KONDEWA

TUESDAY, 21 SEPTEMBER 2004
10.25 A.M.
TRIAL

Before the Judges:

Benjamin Mutanga Itoe, Presiding
Bankole Thompson
Pierre Boutet

For Chambers:

Ms Sharelle Aitchison
Ms Chiara Galletti

For the Registry:

Ms Maureen Edmonds
Mr Geoff Walker

For the Prosecution:

Mr Mohamed Bangura
Mr Raimund Sauter
Mr Kevin Tavener
Ms Leslie Murray (intern)
Mr Alex El Jundi (intern)

For the Principal Defender:

Ms Haddijatou Kah-Jallow

For the Accused Sam Hinga Norman:

Mr John Wesley Hall

For the Accused Moinina Fofana:

Mr Arrow Bockarie.
Ms Phoebe Knowles

For the Accused Allieu Kondewa:

Mr Charles Margai
Mr Yada Williams
Mr Ansu Lansana

1 Tuesday, 21 September 2004

2 [In the absence of the three accused]

3 [Open session]

4 [Upon commencing at 10.25 a.m.]

10:22:38 5 PRESIDING JUDGE: The Chamber resumes it's session. Learned
6 counsel, I would like to have it on record that the three
7 accused persons are not present. That would be true, of
8 course; isn't it? The three accused persons are not
9 present.

10:23:00 10 MR MARGAI: It is true --

11 PRESIDING JUDGE: We are coming to -- we are coming to that,
12 please.

13 MR MARGAI: Sorry.

14 PRESIDING JUDGE: We are coming to that. Yes, stand-by
10:23:40 15 counsel for the first accused, is there any particular
16 reason this morning?

17 MR JABBI: No particular reason, My Lord, but --

18 PRESIDING JUDGE: We don't want to go back to the reasons
19 we've heard, but he is standing on those reasons to keep
10:23:54 20 out of Court; isn't it?

21 MR JABBI: I suppose that is why he is absent this morning, My
22 Lord.

23 MR HALL: May it please the Court. This morning I filed --

24 PRESIDING JUDGE: Please, just a minute. And it would be
10:24:40 25 right, Dr Jabbi, to say that he is keeping out because of
26 the reasons expressed in Exhibit 13.

27 MR JABBI: My Lord, I would assume so, but we have not had
28 opportunity to be in contact with him this morning.

1 PRESIDING JUDGE: Well, the Court takes it that he is keeping
2 out because of reasons expressed in Exhibit 13, which we
3 have before us.

4 MR JABBI: That is highly probable, My Lord.

10:25:00 5 JUDGE THOMPSON: Well, I think it is safe to assume that
6 evidence -- they have no evidence to the contrary.

7 MR JABBI: As Your Lordship pleases.

8 JUDGE THOMPSON: Yes.

9 PRESIDING JUDGE: Yes, Mr Hall, you had --

10:25:24 10 MR HALL: Yes, Your Honour. This morning I filed, about 9.30,
11 a pleading that was prepared actually on Sunday, finished
12 with the [inaudible] on Sunday night and finished up the
13 typing yesterday. For some reason it wasn't filed
14 yesterday, and this is to raise the points a, b and D in
10:25:40 15 that letter to address those -- that formal filing that
16 was done this morning. We can [inaudible] that up if you
17 get it, and we are working on something that deals with
18 point c in the letter and Defence
19 counsel --

10:25:56 20 PRESIDING JUDGE: Are you saying that you filed a motion?

21 MR HALL: Yes, Your Honour.

22 PRESIDING JUDGE: Yes.

23 MR HALL: We are separately dealing with point c in the
24 letter, Exhibit 13, and Defence counsel -- three Defence
10:26:06 25 counsel are working together, Your Honour, to co-ordinate
26 a response to that. So we will have that done as soon as
27 possible.

28 JUDGE BOUTET: But Mr Hall, this is only one issue. I don't

1 have the exhibit in front of me now, but Mr Norman in
2 that document raised more than one issue. In fact, it
3 was, to my recollection, a restatement of his position
4 about jurisdiction of the Court -- failure of, I think,
10:26:46 5 indictment served and all of these. So it is more than
6 just the question of witnesses.

7 MR HALL: That's true, Your Honour. I felt that a, b and d,
8 he had been addressing over and over again as really one
9 issue. When he wrote his letter, it somehow got
10:27:06 10 separated, and I dealt with a, b and d, I believe, in
11 that pleading and you will see it probably during the
12 lunch hour. (C) is a separate issue entirely, as I see
13 it.

14 JUDGE BOUTET: And the motion deals with c.

10:27:16 15 MR HALL: No, a, b and d.

16 JUDGE BOUTET: A, b and d?

17 MR HALL: C is being dealt with by other Defence counsel
18 together.

19 JUDGE BOUTET: Okay.

10:27:28 20 MR HALL: Because of [inaudible]

21 JUDGE BOUTET: Thank you.

22 PRESIDING JUDGE: Right. Mr Bockarie, please.

23 MR BOCKARIE: Yes, Your Honour. There has been a change of
24 mind in respect of the second accused, Your Honour.
10:27:42 25 I called on him this morning. He is quite willing to
26 continue attending Court. Unfortunately, Your Honour, he
27 reported to me that for the whole of last night, he was
28 not feeling too well. I got in touch with the Chief of

1 Detention. He, too, confirmed to me that Moinina
2 reported sick, and Your Honour I'm speaking from the Bar,
3 from his look, though I'm not a doctor, I can tell that
4 that was not the Moinina I used to know. I'm sure after
10:28:30 5 yesterday afternoon's development right up to what must
6 have transpired, I'm not really surprised that he has not
7 been feeling too well, sir. Now we were waiting for the
8 doctor to determine whether he is fit to attend Court.
9 As long as we get that clarification from the doctor, my
10:28:52 10 client is quite willing to be in Court, sir.

11 PRESIDING JUDGE: Yes, Mr Margai, please.

12 MR MARGAI: May it please you, My Lords. I'm informed that my
13 client is waiting to see a doctor, and if I might add,
14 I'm only here today out of respect, because as I said
10:31:08 15 yesterday, I'm not in the best of health. I do hope that
16 in the afternoon I will be able to get Your Lordships'
17 permission to go and see my doctor.

18 JUDGE BOUTET: Mr Margai, can I ask you a question in addition
19 to what you've just submitted? Is it your representation
10:32:00 20 that we can still proceed this morning, given what your
21 client has said himself in Court yesterday?

22 MR MARGAI: Well, based on what my client told this Chamber
23 yesterday, whether he is here or not he has confidence in
24 his team and the Chamber can proceed. Even if I'm not
10:32:22 25 here, Mr Yada Williams will be here to proceed.

26 JUDGE BOUTET: Thank you.

27 PRESIDING JUDGE: Yesterday, the Chamber delivered -- made an
28 oral ruling on the absence of the three defendants, and

1 the Chamber did indicate that the accused persons who
2 were absent had forfeited their right to have the hearing
3 in their presence, and that briefly that we were to
4 proceed under Rule 60. This morning, of course we did
10:33:26 5 say that there would be a written ruling that will come
6 to confirm what we ruled upon briefly yesterday, and
7 which permitted us to continue with the proceedings. For
8 us to continue this morning, the Chamber, as a follow-up
9 to this ruling, and after a further deliberation, rules
10:33:54 10 that the status of counsel -- of stand-by counsel for the
11 first defendant - I mean Dr Jabbi, Mr Hall and Ms Quincy
12 Whitaker - is changed from being a stand-by counsel for
13 the first accused but -- there is a name I omitted here;
14 there is Tim Owen QC. So it is Dr Bu-Bubakei Jabbi, John
10:34:10 15 Wesley Hall, Tim Owen and Quincy Whitaker. They were
16 designated as stand-by counsel when the right to a
17 qualified self-representation was granted to the first
18 accused.

19 Given the developments, the Chamber has decided,
10:35:04 20 after a deliberation, to alter the status of these four
21 counsel and has decided to appoint them -- to designate
22 them as Court-appointed counsel - Court-appointed
23 counsel. They are no longer stand-by counsel; they are
24 Court-appointed counsel, who, of course, are answerable
10:35:26 25 to the Court in the conduct of these proceedings, whilst,
26 of course, for now, the issue of the self-representation
27 of the first accused remain in abeyance and to be
28 determined by this Court depending on the developments as

1 we see them unfold.

2 Counsel for the second accused as well - that is,
3 Mr Pestman, Mr Bockarie and -- I think you have three on
4 the team -- and Mr Koppe - are also, from today,
10:36:14 5 appointed as Court-appointed counsel. In fact, that
6 would be their designation for now in order to enable the
7 Court to take charge of the proceedings, but they can
8 still, you know - I say, you know, they can still take --
9 have their briefing with their client, the second accused
10:36:42 10 just like the Court appointed counsel for the first
11 accused can also take -- be briefed, you know, by the
12 first accused. We note, of course, in Exhibit 13 that
13 the first accused says that they have no right to
14 represent him, and we say that, as Court-appointed
10:37:10 15 counsel, they have a right to represent him whether he
16 likes it or not.

17 We have no comments to make on the representation of
18 the third accused, Mr Allieu Kondewa who was present in
19 Court yesterday, and who was -- who indicated that he was
10:37:32 20 ill, expressed his absolute confidence in his team, and
21 said that even in times of illness he could still ask his
22 team to go on. This has been confirmed this morning by
23 learned counsel, Mr Margai. We only hope, Mr Margai,
24 that the illness will be of a certain duration, and that
10:37:56 25 he will resume his presence in Court; otherwise, it would
26 become disquieting -- it would become disturbing for the
27 Court to be proceeding, you know, in the absence of an
28 accused person. Because, if that is his intention, we

1 would like him to come forward and state very clearly
2 that, as a solidarity move of whatever reason, he too is
3 not attending.

4 In that event, the Chamber will have to take the
10:38:18 5 normal legal steps that are necessary to be taken in
6 those circumstances. And, in any event, there is a
7 medical team that is in charge of the detention, and they
8 will keep the Chamber, you know, through the Chief of
9 Detention, informed on the health situation and status,
10:38:42 10 you know, of the accused persons. So this is --

11 MR BOCKARIE: Yes, Your Honour. Your Honour I do appreciate
12 what you've just said. You see, Your Honour, after
13 conferring with my client this morning, there is
14 certainly a change, and we are not seeking an alteration
10:39:14 15 of the status so far as his representation is concerned
16 and, My Honour, one can understand when one finds himself
17 in a situation like our client, but after meeting him
18 this morning, he has realised and he is quite prepared to
19 let the trial go on unhindered.

10:39:36 20 So, My Lord, it's just the designation; we are not
21 seeking an alteration of our respective status for now.
22 I mean, all what we want, if the doctor can only confirm
23 that he is fit to attend trial, he is willing to come
24 now. It's just a confirmation from the doctor, Your
10:39:52 25 Honour, because as I told you earlier on, I met him and
26 he really looked sick, sir. And, Your Honour, further --
27 sorry, sorry, sir -- and, Your Honour, further, when I
28 met him he said, "Look" - I mean, this one can be

1 confirmed by himself - he said, "I've got confidence in
2 my legal team, and I would like them to continue
3 representation on my behalf."

4 PRESIDING JUDGE: Learned counsel, Mr Bockarie, the Chamber
10:43:40 5 has considered your argument and plea on this matter, and
6 we would only like to observe, you know, that yesterday
7 your client was absent from Court, and this
8 notwithstanding the fact that we had evidence, you know,
9 before us from the Chief of Detention that he was in
10:44:14 10 solid health. I would like you to distinguish, you know,
11 his case -- the case of your client and that of the third
12 accused, who made an effort. He, too, was not looking
13 fine, but he made an effort, you know, to be here
14 yesterday to explain his position. In fact, you were
10:44:36 15 here when he talked to the Chamber. This said, the
16 Chamber would stand by its decision on your designation,
17 but the situation may well be reassessed after we must
18 have received some medical evidence on your client, and
19 this if the Court is convinced that your client has
10:45:16 20 really effected a U-turn from what happened yesterday,
21 and that he is prepared to participate in these
22 proceedings. It is only then that we might be minded to
23 revisit our position -- our ruling of this morning, which
24 is made in order to enable this Tribunal to proceed with
10:45:38 25 the cases before it.

26 With this said, our ruling stands, and the
27 proceedings will continue on your designation as we have
28 ruled today. The issue could be revisited in due course.

1 MR BOCKARIE: As My Lord pleases. Thank you.

2 MR MARGAI: Sorry, My Lords. Since this is an oral ruling, I
3 wonder if I could must respectfully request -- you see,
4 because it's the change of status to one appointed by the
10:46:22 5 Court --

6 JUDGE BOUTET: That is only for the first accused. There were
7 no stand-by yet for the second accused.

8 MR MARGAI: I appreciate that. What my concern is the
9 nomenclature; stand-by to counsel appointed by the
10:46:34 10 Court -- Court-appointed counsel.

11 JUDGE BOUTET: One major difference is you have stand-by when
12 you have, in the scenario we used here, the first accused
13 had made an application for self-representation. That
14 self-representation was granted subject to being assisted
10:46:40 15 by Court-appointed counsel. Now, if you have an accused
16 who does not show up in Court, he cannot then comply with
17 self-representation because he is not in Court and,
18 therefore, Court-appointed counsel is those scenarios --
19 situations where an accused refuses to appear in Court,
10:47:10 20 and the Statute says, "Counsel [inaudible] of Court
21 appointed becomes counsel appointed by the Court," and
22 therefore, may make representation. And their duty is to
23 make every effort to do proper representation of the
24 accused, even though the accused says, "I don't want them
10:47:28 25 to represent me."

26 MR MARGAI: I appreciate that, My Lords, and I take it that
27 the original order was pursuant to Rule 60 in the case of
28 the first accused.

1 JUDGE BOUTET: 60, and his request for self-representation,
2 yes.

3 JUDGE THOMPSON: In other words, the concept of
4 self-representation triggered off the notion of stand-by
10:47:42 5 counsel --

6 MR MARGAI: As My Lords please.

7 JUDGE THOMPSON: -- but the scenario has changed.

8 PRESIDING JUDGE: And, as I mentioned, you know, we may well
9 have to, if necessity arises in due course, revisit the
10:48:04 10 status of the first accused and his qualified right to
11 self-representation that was granted to him by this
12 Court.

13 MR MARGAI: As My Lords please.

14 PRESIDING JUDGE: Right.

10:48:16 15 MR BOCKARIE: Your Honour, I -- may I crave the indulgence of
16 the Court if I can have audience with my client for the
17 next 30 minutes, please.

18 JUDGE THOMPSON: I think I -- much as I sympathise with the
19 position in which learned counsel Bockarie finds himself,
10:49:08 20 but I think I need to remind the Court that the interest

21 of justice also includes pre-eminently the interest of
22 the Prosecution presenting their case, and making sure
23 that they present the case in a manner which is
24 consistent with the interest of the international
10:49:38 25 community. And the doctrine of equality of arms requires
26 that we take that interest into consideration.

27 It would seem to me that a lot of time has been lost
28 having to sort out the question of representation,

1 because certain accused persons - who have been
2 constantly reminded that they are presumed innocent until
3 their guilt is proved; that they will enjoy the benefit
4 of the panoply of rights and guarantees to ensure that
10:50:14 5 their trial is fair - decide to engage in conduct which,
6 in my submission, is disrespectful of the rule of law. I
7 think it's time to move on so that we give the
8 Prosecution a chance of proving their case. They have
9 brought the charges against the accused persons, and they
10:50:38 10 should not be inhibited in presenting the case for the
11 determination of this Tribunal. And I understand the
12 position in which learned counsel finds himself, but I
13 think that our ruling is reasonable in the circumstances.
14 My learned brother the presiding judge has even indicated
10:51:02 15 that we may revisit it, even though some of us may take
16 even a different view, but we accede to his position. So
17 I think we should really go on with the trial.

18 PRESIDING JUDGE: Mr Bockarie, to re-echo what my learned
19 brother has said, I think we should go on with the trial,
10:51:24 20 because after all, your client has expressed the same
21 confidence that the third accused expressed on his legal
22 team and that is that, you know, we could go on with the
23 trials, you know, without him, because of his ill health.
24 So maybe, when we do rise today, you would have all the
10:51:50 25 time to talk to your client. So may we proceed, please.

26 MR BOCKARIE: Yes.

27 PRESIDING JUDGE: Thank you. Can the Prosecution call its
28 next witness, please.

1 MR SAUTER: Your Honours, the Prosecution calls witness
2 TF2-040. He is a Muslim and will testify in Mende.

3 PRESIDING JUDGE: TF2?

4 MR SAUTER: TF2-040.

10:52:10 5 MR HALL: May it please the Court. Before you call this
6 witness and in the light of your ruling that we are now
7 an adjunct for the Court - not a stand-by counsel - I
8 would like to withdraw so that Mr Bockarie is going to
9 conduct his cross, and I would like to add something to
10:52:34 10 this motion now. You could ignore the first one and the
11 second one [inaudible] as soon as possible that might
12 facilitate your dealing with that issue.

13 PRESIDING JUDGE: That what?

14 MR HALL: I could add something to that motion in the light of
15 our changed status that might facilitate the Court
16 dealing with that issue. Now I would like to do that as
17 soon as possible. [Microphones not activated].

18 JUDGE BOUTET: When you say "Withdraw"; in other words, you
19 will not be present in Court, but will not withdraw from
10:53:10 20 the case?

21 MR HALL: Correct. I will be back as soon as possible. I may
22 only be gone as little as ten minutes.

23 JUDGE BOUTET: That's fine.

24 PRESIDING JUDGE: That's all right; that's okay. Dr Jabbi is
10:53:30 25 there, he can take care of -- Mr Margai.

26 MR MARGAI: Yes, Your Honour.

27 PRESIDING JUDGE: We were disturbed about your health.

28 Please, if you feel -- if you really feel indisposed, you

1 may feel free, if you so desire, to leave as well. You
2 could leave immediately and have a rest.

3 MR MARGAI: I will sit in for a while, and depending on how I
4 feel, I shall just [inaudible] out.

10:54:10 5 JUDGE THOMPSON: We want to see you in the best of health.

6 MR MARGAI: Thank you.

7 PRESIDING JUDGE: This should be the 12th witness.

8 MR SAUTER: Yes, Your Honour.

9 PRESIDING JUDGE: The 12, yes.

10:55:48 10 [Witness entered Court]

11 WITNESS: TF2-040 sworn

12 [The witness answered through interpretation]

13 PRESIDING JUDGE: Yes, Mr Sauter, you can go on, please.

14 EXAMINED BY MR SAUTER:

10:56:48 15 Q. Mr Witness, you are here to testify. Please speak
16 slowly. Everything of what you are saying has to be
17 translated and has to be recorded, so please give the
18 translators and the recorders the opportunity to do so
19 properly.

10:57:14 20 A. Okay.

21 Q. Mr Witness, how old are you?

22 A. I am 45 years old.

23 Q. Are you married?

24 A. Yes.

10:57:28 25 PRESIDING JUDGE: He says he is how old?

26 THE WITNESS: 45 years old.

27 JUDGE THOMPSON: He said he is married.

28 THE INTERPRETER: Yes, he said he is married.

- 1 MR SAUTER:
- 2 Q. You said you are married?
- 3 A. Yes.
- 4 Q. Do you have children?
- 10:58:10 5 A. Yes.
- 6 Q. How many, please?
- 7 A. Five children.
- 8 Q. Did you attend school?
- 9 A. No, I only learnt Arabic; Koran as such.
- 10:58:32 10 Q. What languages are you speaking?
- 11 A. I speak Mende and Krio, but the Mende is what I am good
- 12 at speaking.
- 13 Q. And, Mr Witness, what is your profession?
- 14 A. I am a policeman.
- 10:58:58 15 Q. When did you take up your office as a policeman?
- 16 A. 1985; that's when I joined the police.
- 17 Q. And did you do police work uninterruptedly since 1985?
- 18 A. No. Since I joined the police I have been working; I've
- 19 never left.
- 10:59:38 20 Q. I'm sorry, I did not understand your answer. Could you
- 21 please repeat it?
- 22 A. Yes. I said I am a policeman and I'm still a policeman.
- 23 Q. Okay. So far to your personal data, Mr Witness, as you
- 24 can see, there are some measures in place to protect you
- 11:00:14 25 from being identified by the public, as, for example, the
- 26 shield behind you. Did you ask the Prosecution or
- 27 whomsoever for those measure?
- 28 A. Yes, yes.

1 Q. And is it still your --

2 JUDGE THOMPSON: Counsel, let's get that.

3 MR SAUTER:

4 Q. And are you still interested in not being identified by
11:01:18 5 the public?

6 A. Yes, very well.

7 Q. Am I correct saying that this means you want to continue
8 this protective measures?

9 PRESIDING JUDGE: No, this man is a policeman, please.

11:01:42 10 Don't --

11 JUDGE THOMPSON: Yes, quite. I mean, why do you ask him that?

12 PRESIDING JUDGE: You know, he is a policeman. Let him tell
13 us. You know, he says he asked for the protection. He
14 should tell us why he asked for the protection

11:01:46 15 JUDGE THOMPSON: And he says also, "I'm very much interested
16 in not being identified by the public."

17 MR SAUTER:

18 Q. Thank you, Mr Witness. I would like to come now to the
19 year of 1998. Can you recall where you have been in the
11:02:20 20 first month of 1998?

21 A. Yes.

22 Q. Where?

23 THE INTERPRETER: My Lord, can the Prosecutor please speak
24 into the microphone?

11:02:38 25 MR SAUTER: I will.

26 Q. I will repeat my question. Can you recall where you have
27 been in the first months of the year 1998?

28 A. I was in the police barracks.

1 Q. Police barracks of which town?

2 A. Kenema.

3 Q. Did you live with your family in the police barracks of
4 Kenema?

11:03:18 5 A. Yes, we were in our house -- my house.

6 Q. And am I right that at this time you performed police
7 duties?

8 A. Yes.

9 Q. Is there any specific police unit you belong to at this
11:03:50 10 time - 1998?

11 A. We were on beach patrol.

12 Q. I did not understand.

13 PRESIDING JUDGE: Mr Witness, which unit?

14 A. General duty.

11:04:20 15 MR SAUTER:

16 Q. Thank you. Have you been armed as a policeman at this
17 time; did you carry a weapon?

18 A. No, I had nothing. We were just on patrol. I had
19 nothing. General duty policemen do not carry guns.

11:04:42 20 Q. Mr Witness, 1998, what was the situation in Kenema?

21 Could you describe who was in control over Kenema?

22 MR BOCKARIE: Objection to that question.

23 JUDGE THOMPSON: Double-barrel.

24 PRESIDING JUDGE: Double-barrel. Sustained.

11:05:06 25 MR SAUTER: Thank you.

26 Q. Mr Witness, who in 1998 was in control of Kenema?

27 A. The Kamajors.

28 Q. The whole time of the year 1998?

1 A. No, the juntas were there - the juntas were there, and
2 the soldiers.

3 Q. Until what time -- or let me ask first. What do you mean
4 if you say, "The juntas were there"?

11:05:48 5 A. RUF and the soldiers; RUF and the soldiers.

6 Q. RUF and the soldiers?

7 A. Yes.

8 Q. Until --

9 PRESIDING JUDGE: So to him the junta is the RUF and the
11:06:20 10 soldiers?

11 THE WITNESS: Yes. They were initially in control of Kenema.

12 MR SAUTER:

13 Q. When you say "initially," what do you mean by
14 "initially"?

11:06:40 15 A. The soldiers and RUF were in Kenema. The soldiers were
16 in Kenema and the RUF came from the bush and joined them
17 and they were in the town together.

18 Q. Have the RUF and soldiers been in control over Kenema all
19 year 1998?

11:07:16 20 A. No, sir.

21 Q. Did they leave?

22 A. No, they left and the Kamajors took over.

23 Q. Can you recall when they left Kenema - the juntas, RUF
24 and soldiers?

11:07:38 25 A. It looks like -- I can't remember the date, but it's
26 quite a long time now.

27 Q. If you can't tell us a date, would you be able to tell us
28 a month?

1 MR WILLIAMS: My Lord, I think there should be a finality.

2 My Lord, the witness has said he cannot remember. I
3 don't know what my learned friend is now seeking from
4 him.

11:08:14 5 PRESIDING JUDGE: Mr Witness, please. We have it on record
6 that you are a policeman and we want you to be very
7 precise in your evidence. Of course, if you know, say
8 you do not know. If you know, give us precise answers.
9 Please, don't be moving forward and backwards; try to be
11:08:36 10 very precise. Do you understand?

11 THE WITNESS: Yes, I understand.

12 JUDGE THOMPSON: And if you can't remember, say you can't
13 remember. I got you down as saying that they left
14 initially --

11:08:50 15 THE WITNESS: That's what I said, that I can't remember the
16 date; I have forgotten the date.

17 JUDGE BOUTET: But we would allow the question as to what
18 month. The objection is overruled.

19 MR SAUTER:

11:09:16 20 Q. Mr Witness, once again --

21 PRESIDING JUDGE: Because the date is different from the
22 month.

23 MR SAUTER: So, Mr Witness, once again, my question -- you
24 said you cannot remember the date when the soldiers and
11:09:22 25 RUF left Kenema. Can you remember the month when this
26 happened?

27 A. No, I have forgotten that. I gave that statement quite a
28 long time ago. I have not been reading the statement

1 JUDGE THOMPSON: He cannot remember the month; is that what he
2 is saying?

3 THE INTERPRETER: That's what he said. He cannot remember the
4 month.

11:10:02 5 THE WITNESS: That's what I said, that I have forgotten the
6 date because I didn't put it on paper. I gave the
7 statement quite a long time ago.

8 MR WILLIAMS: Perhaps we can be magnanimous and allow the
9 Prosecutor to lead on this.

11:10:20 10 PRESIDING JUDGE: It is not for you to determine whether you
11 are magnanimous or not; it is for us to determine whether
12 the question should be taken or not. If you have raised
13 the objection, you stand by the objection. If you want
14 to withdraw your objection, withdraw it. Don't say
11:10:32 15 magnanimity; that's not part of the rules of the game.

16 JUDGE THOMPSON: I agree with my learned brother; the rules
17 here are not going to be a basis for negotiation between
18 both sides.

19 MR WILLIAMS: As my --

11:10:44 20 PRESIDING JUDGE: Because you may say you are magnanimous and
21 we say no, we refuse you magnanimity; we won't allow the
22 question.

23 MR WILLIAMS: I thought my learned friend was struggling, My
24 Lord.

11:10:54 25 JUDGE THOMPSON: Civil proceedings, yes.

26 MR SAUTER: But, anyway, I am grateful for the hint I gave you
27 [inaudible] to raise for the objection.

28 Q. Mr Witness --

1 A. Yes.

2 Q. Could it have been in the month of February when soldiers
3 left Kenema?

4 PRESIDING JUDGE: This man says he doesn't remember anything.

11:11:30 5 I would like him to answer questions which he can
6 remember. I wouldn't want him -- you are leading him
7 in-chief. So this is -- he is police witness. If he
8 cannot remember, we take him on record as not
9 remembering.

11:11:54 10 JUDGE THOMPSON: I think we can also be a little flexible here
11 and allow learned counsel for the Prosecution and the
12 learned counsel for the Defence to jog his memory.

13 MR SAUTER: My Lord, the witness has stated initially that he
14 is almost illiterate. So I think he need some guidance
11:12:10 15 to refresh his memory.

16 JUDGE THOMPSON: As I say, for me, I think you can jog his
17 memory. After all, I do not share your view that because
18 a witness is illiterate they may not remember dates.

19 PRESIDING JUDGE: I don't accept the fact that he is

11:12:32 20 illiterate, otherwise he wouldn't be a member of the
21 Sierra Leonean police force.

22 MR SAUTER: I said "almost illiterate."

23 Q. Okay. So coming to another point, Mr Witness, could you
24 describe how was the relationship between the juntas and
11:12:50 25 the population of Kenema?

26 A. No, it was not very cordial. When the juntas were in
27 Kenema, it was not a very good relationship, because they
28 were doing bad things to people, but they did not kill.

1 Q. Could you tell us what you mean by "bad thing" they were
2 doing to people?

3 A. Yes. They were taking people's property by force. They
4 will take peoples' properties by force and they will take
11:13:50 5 them away. Yes, I did see that happening.

6 Q. Did the fact that the junta had control over Kenema
7 affect you as a policeman in performing your duties?

8 A. Yes. We were working. Sometimes we will go to the
9 station and we will work and we would conduct patrols.
11:14:24 10 Yes, they did allow us to work.

11 Q. Did they allow you to work properly?

12 MR WILLIAMS: Objection, My Lord. I take an objection,
13 My Lord. This is quite leading, whether they allow the
14 witness to work properly --

11:14:46 15 JUDGE BOUTET: Objection maintained.

16 MR WILLIAMS: As My Lord pleases.

17 MR SAUTER:

18 Q. You said at the time you cannot remember the juntas were
19 leaving Kenema. Have you been happy when you learnt that
11:15:10 20 the juntas were leaving Kenema?

21 A. Yes, I was happy; I was very happy.

22 Q. This was you personally. Do you know anything -- what
23 about the general attitude of the population of Kenema?
24 Was there a general feeling of happiness when they left
11:15:52 25 Kenema?

26 A. Yes. They were happy because they opened the shops and
27 looted people's property. So people were very sad and
28 people were happy when they saw them going away. They

1 opened all the shops and took away people's properties as
2 they were going.

3 Q. Mr Witness, you said previously, after the junta had left
4 Kenema the Kamajors came; is that right?

11:16:30 5 A. Oh, yes.

6 Q. Can you recall the day - not the date - when the Kamajors
7 came?

8 A. Yes. Can I explain?

9 Q. Yes, please.

11:16:56 10 A. January 15th, on Sunday, that's when we saw them in
11 Kenema in the morning.

12 Q. You said, "We saw them in the morning." Who is "we"?

13 A. We saw Kamajors. We were many, we were many. I was in
14 my house after I had left my work place, and we saw them
11:17:30 15 coming; they were more than 100. Others were coming from
16 Sannoh Street, others from Suppui Street, and they came
17 to the barracks. I was laundering my clothes.

18 Q. Where exactly have you been when you saw the Kamajors
19 coming?

11:17:54 20 A. After I had left my work place, I had gone to my house, I
21 was laundering my clothes by the tap that was opposite my
22 house when I saw them coming by Sannoh Street and Suppui
23 Street and they came into the barracks. They were many,
24 and they were saying that, "We are in control of the
11:18:16 25 barracks. There are no policemen, there are no soldiers.
26 We are the soldiers and we are the police." But they
27 didn't say anything to me. I was laundering my clothes.

28 Q. Before interrupting you, let's go step by step, please.

1 So you said you were at the pump laundering your clothes?

2 A. Yes, I was laundering my clothes at the tap when I saw
3 them coming into the barracks.

4 Q. How did you recognise that they were Kamajors who were
11:18:48 5 coming?

6 A. Some of them had that traditional dress and they had
7 something smeared on their faces and the cap on their
8 heads. They were very fearful; they had guns, they had
9 bows -- cutlasses, but they didn't say anything to me,
11:19:02 10 but they said, "Today, we are in control of the barracks.

11 There are no policemen and there are no soldiers," and
12 they went past me, and I was there laundering my clothes.

13 Q. To whom did they say, "Today we are in control of the
14 barracks"?

11:19:24 15 A. I was laundering my clothes and they passed by - a large
16 crowd. They were in two groups - one from Sannoh Street
17 and one from Suppui Street. They came into the barracks
18 and they said, "Today we are in control of the barracks.
19 There are no policemen and there are no soldiers." They
11:19:38 20 passed me, but they didn't say anything to me. They were
21 Kamajors.

22 Q. When you said, "A large crowd came," what do you
23 understand as a large crowd; could you give us an
24 estimate of how many people, approximately?

11:20:02 25 A. The ones that I saw, they were in two groups. They could
26 be about 100, the ones that I saw with my own eyes.

27 Q. The two groups together about 100, or each group about
28 100?

1 PRESIDING JUDGE: He has said 100; he has said 100. This
2 Witness said 100, you know, before. He said he saw
3 Kamajors, they were many; they were about 100. That is
4 what he said.

11:20:30 5 MR SAUTER: Thank you, My Lord.

6 PRESIDING JUDGE: If you want some other responses, you know,
7 from him, you should think the way you frame your
8 question, because if he had said 100, you know, you
9 wouldn't say was it in two groups, another group, you
11:20:46 10 know -- conceive your questions, you know, in a manner
11 that you would get the sort of response you want without
12 an objection, which may not be accompanied by another act
13 of generosity from the other side.

14 MR SAUTER: Thank you.

11:21:06 15 Q. So, Mr Witness, did you see the Kamajors doing anything
16 after they entered the police barracks compound?

17 A. When they first entered, we were -- they didn't do
18 anything. When they went down, because the barracks was
19 large -- they went down and we were on the other side

11:21:38 20 Suppui Street, but when they came, then one of my
21 brothers called me and said, "Come here." He was in his
22 veranda and he called me. Then I moved in from the tap
23 and I went there.

24 Q. And do you know for what reason your brother, you said,
11:22:10 25 called you?

26 A. Yes.

27 Q. So, please, tell us.

28 A. He was in town; he wasn't in the barracks. He was on the

1 Sannoh Street end. So he said he had heard that there
2 are no more policemen nor soldiers; that they have come
3 and they were coming to kill all of us on this very day,
4 that fellow.

11:22:42 5 Q. Do you know the name of this person you called your
6 brother?

7 A. Yes.

8 Q. Please, tell us.

9 A. Can I show his name to you here? Can I show his name?

11:23:04 10 JUDGE BOUTET: Mr Prosecutor, is that consistent with the
11 protective measures decision?

12 MR SAUTER: I think so, yes.

13 PRESIDING JUDGE: I don't think so until I am convinced. So
14 do -- so do --

11:23:12 15 JUDGE BOUTET: Because the witness has said, "Do I have to
16 give that now?"

17 MR SAUTER: The person he is calling his "brother" is not a
18 relative of his. He is using the term "brother" in a
19 general sense. So --

11:23:32 20 PRESIDING JUDGE: In a general sense, but it could still be an
21 identifying mark around him, whatever it is. That
22 question is overruled. Please, continue elsewhere.

23 MR SAUTER:

24 Q. So what did you do after having met your brother?

11:23:54 25 A. He told me that there are no policemen, and there are no
26 soldiers; that if they had caught me, they would have
27 killed me. That's why I came to you.

28 Q. My question was: What did you do after you had spoken

1 with your brother?

2 A. All those clothes -- I closed the door, and my compound
3 was protected; it had a fence. Then we were all inside
4 and I gathered my uniforms and I dumped them in a toilet.

11:24:28 5 So we were all lying down under the bed; we were lying
6 down inside the house. My wife and my brother, we were
7 lying under the bed.

8 Q. I understood that you were hiding your uniform; am I
9 right? You dumped it to some place, you said. Am I
11:24:50 10 right that you were hiding your uniform?

11 A. Yes, I did hid my uniform - I dumped them in the toilet.

12 [11.27 a.m. HN210904B]

13 Q. In order to hide it from the Kamajors; am I right.

14 A. Yes, because maybe if they come they would enter the
15 house, that's why I took all of them and put them in the
16 toilet.

17 Q. Did anything happen after this?

18 A. As we were -- as we were lying under the bed, we were
19 hearing gunshots. Yes, we were hearing gunshots as we
20 were lying inside the house. Later, after quite some
21 time, the gunshot ceased. Can I proceed?

22 Q. [Inaudible]

23 A. Then the gunshot stopped. Then I saw some civilians
24 passing. And they said, "They've killed police -- some
25 policemen down there." And I peeped through the door and
26 I saw people moving. Then when I asked, they told me
27 that they've killed policemen down there. Then I opened
28 the window and I saw the civilians moving. Then I wore a

1 short trousers and a T-shirt and I came out to go and buy
2 cigarette.

3 Q. For what time about you stayed inside your house before
4 you went out?

5 A. When I moved in from the top and came into the house.

6 Q. You say you entered your house, you were under your bed
7 and you stayed there for some time. Can you tell us for
8 what time, approximately, you stayed in your house?

9 A. I didn't have a watch on me, but was it up to one hour.
10 I didn't have any watch on me.

11 Q. Okay.

12 A. It was not up to one hour, but I didn't have a watch. I
13 didn't have a watch at that time.

14 Q. When you heard people speaking outside and saying that
15 policemen were killed, did you hear the name of any
16 policeman allegedly had been killed?

17 A. No. No. No. I don't know their names. I just saw
18 people passing by. I just peeped through the window. I
19 saw them moving, civilians, but I don't know them. They
20 said, "They've killed policemen down there," but I don't
21 know their names.

22 Q. You said after this you went out to buy cigarettes.

23 A. [Inaudible]

24 Q. Where were you going in order to buy cigarettes?

25 A. Well, you -- when I heard that the civilians were
26 passing -- the civilians were passing. Then I opened the
27 window and I saw people passing and I opened the door. I
28 came out. Then I took 500 Leones, I said, "Let me go and

1 buy cigarettes." By then people were passing now. They
2 passed one house, OC Brima's house, down there. Then I
3 saw a corpse, say like from here to that wall.

4 Q. Would you repeat the name you have just mentioned,
5 please?

6 A. When I was going to buy the cigarettes, I passed one
7 house, the second -- at the second house, I saw a corpse.
8 Say, like, from here to that wall. Then I saw this
9 corpse. Then I reached the place and I looked at this.
10 We had an OC; his name was Brima. Then I passed there.
11 Then I went and bought the 500 Leones cigarettes and put
12 it in my pocket. I left the place. Then I said -- I
13 said, "Let me reach Sergeant Mason's place." Then I met
14 Sergeant Mason's corpse as well. Then at that other
15 house -- you know, the houses were closer. Then at
16 Momoh's house and Fandai's house, their verandas were
17 closer. They were lying on the floor outside.

18 Q. [Microphone not activated]

19 A. Dead; Momoh Tawol and Fandai were dead. Then I passed
20 them. Then I said, "Let me go back to my house." I
21 said, "This thing is so awful. Let me go back to my
22 house." Then when I was going back I saw Desmond Pratt
23 lying -- lying under the mango tree; dead. Then Sergeant
24 Turay -- again, they were staying in the same block.
25 Then I saw Sergeant Turay's corpse as well at the back of
26 the house; dead. Then I ran and went to my house. I
27 told my wife that they had killed my colleagues. Then I
28 told -- I told her the names of my colleagues. I said

1 they had killed a lot of my colleagues. Then I said,
2 "Let's be here." Then we were there.

3 Q. Mr Witness, to make it clear, could you please repeat the
4 names of those persons of your colleagues you saw dead
5 lying on the ground? It was first, Mr Who? The first
6 one you saw was the one of Mr?

7 A. OC Brima, when I went to buy the cigarettes.

8 JUDGE THOMPSON: He is saying -- he is saying -- I am
9 repeating the names of the -- is that the evidence?

10 MR SAUTER: Yes.

11 JUDGE THOMPSON: I am repeating --

12 MR SAUTER:

13 Q. The second one?

14 JUDGE THOMPSON: The first one you said was what?

15 MR SAUTER:

16 Q. First one, OC Brima.

17 A. I said OC Brima.

18 Q. The second one?

19 A. Sergeant Mason.

20 Q. The third one?

21 A. Momoh Tawol. Momoh Tawol.

22 Q. More? Did you see more corpses?

23 A. Then Fandai. Vandí. Vandí.

24 Q. Any more?

25 A. And Sergeant Turay. May I continue?

26 Q. Yes, please.

27 A. When I was going back to my house I saw Desmond - Desmond
28 Pratt. It is from his house that you will go to my own

1 place. I also met his corpse, Desmond Pratt, in that
2 same barracks. Then I went and told my wife. I said,
3 "They have killed all of my colleagues," those six
4 people.

5 Q. When you say you saw the body of Desmond Pratt, to your
6 impression was Desmond Pratt dead as well?

7 A. Yes, he was dead. He was killed.

8 Q. What did you do after having returned to your house? You
9 said you told your wife, "They have killed our
10 colleagues." What did you do after?

11 A. Then she said, "Let us be here. Stop going about the
12 place. If you've -- lest they will kill you. So let us
13 just stay here. Stop be going about the place."

14 Q. I understood you were staying together with your family
15 in your house. That's correct?

16 JUDGE THOMPSON: "She told me to stop moving around," is it?

17 THE WITNESS: Yes, yes, My Lord. Yes, she said we should stay
18 at home. We closed all the doors in the compound. She
19 said I should stop moving around, we should stay in the
20 house. When I had seen and explained to her all the
21 things that I had saw, she said, "Stop moving about. Let
22 us stay here." And we stayed and we were sitting in the
23 compound.

24 MR SAUTER:

25 Q. For what time, approximately, you stayed inside your
26 house?

27 A. It didn't take up to one hour, but our house is
28 compounded within a fence. I was moving about, coming

1 again. We were there about two or three days, but I
2 would open the door, go out, and would not take a long
3 time - I return. We were up to two or three. On the
4 second -- on the third day, I moved out again to go and
5 buy cigarette.

6 Q. What did you see --

7 JUDGE THOMPSON: [Microphone not activated] so wait, is he
8 saying that even though his wife had told him to stay at
9 home and stop moving around --

10 MR SAUTER: I understood --

11 JUDGE THOMPSON: He did decide to keep moving around and to
12 buy cigarettes; is that the evidence?

13 MR SAUTER: I understood that after four days being in his
14 house he went out to buy cigarettes.

15 JUDGE THOMPSON: Okay. Thanks. All right.

16 THE WITNESS: It took two days while I was in the house and
17 then I was really -- I felt like smoking and I said,
18 "Well, let me go and buy cigarettes."

19 MR SAUTER:

20 Q. So now you are saying you stayed for two days in your
21 house?

22 A. Yes, on the third day then -- it was two days. Then on
23 the third day I said, "I want to move out of the house
24 and go and buy cigarettes," because I was feeling -- I
25 felt like smoking.

26 Q. Okay. And when you went out of your house, what did you
27 see outside?

28 A. I met Sergeant Michael -- sorry, one of my colleagues,

1 one of my brothers, one of our colleagues. I met them
2 digging a hole - four of them digging this pit for these
3 corpses to be buried. I said, "What you are doing,
4 fellows?" Then he said, "We are burying people." I
5 said, "I don't know, I'm staying far away from here." He
6 said, "Come and join us, come and help us." Then he
7 said, "Even one man was killed, this guy is killed,
8 SI Mimor." I said, "He is lying there at his house at
9 the back of our own place. He is lying there. His
10 corpse is lying there. He was also killed." Then he
11 said, "Let us go for him." Then he gave me two other
12 guys and we went to bring the corpse. Then we brought
13 the other six people. Mimor was the seventh person - was
14 the seventh corpse. Then I helped them to bury the
15 corpses.

16 Q. Could you tell us where the grave is located?

17 A. Oh, yes. Some of them were decomposed already. When I
18 met them digging the grave and I joined them in the
19 barracks - it was in the barracks; it was in the barracks
20 that the grave was dug.

21 Q. So you say seven persons were buried in this grave; is
22 that right?

23 A. No, no, there were six people. I had met the -- one
24 person had been buried already in another grave. Then I
25 said, "There is one other man -- one other corpse out
26 there." Then he said, "Go and bring it."

27 PRESIDING JUDGE: [Microphone not activated] we've heard this,
28 we've heard this. Let him move. One other corpse then

1 you went back. You are moving forwards and backwards,
2 forwards and backwards. We don't have time, please.
3 This Court has a limited mandate. Please, let's move
4 forwards instead of moving forwards and backwards, you
5 know.

6 THE WITNESS: It's because he's asking me, that's why.

7 MR SAUTER:

8 Q. Please tell us the total number of persons having been
9 buried in this grave.

10 A. In that one grave there was -- there were six people.
11 Then the other one I had already met him buried, who made
12 -- six people were buried in one grave and another one
13 buried in a separate grave.

14 Q. In all the persons having been buried, six in one,
15 another person in a separate grave, were they, all of
16 them, policemen to your knowledge?

17 A. As I -- as I -- as I heard it, they were policemen; those
18 seven people were policemen.

19 Q. What did you do after having been present at the burial?

20 A. Then I went back to my house. Then the other guys that I
21 also met also went to their own various houses. I went
22 back to my house.

23 Q. How long did you stay this time inside your house?

24 A. We were there up to two days. Then on the third day,
25 then ECOMOG came. We heard that ECOMOG had come.

26 Q. You say you heard that ECOMOG had come.

27 A. Yes, sir.

28 Q. Who told you that ECOMOG had come?

1 A. Well, we were -- we were in the house and we heard it
2 over loud speakers that ECOMOG had come. That everybody
3 would come out. ECOMOG had come. We heard it over loud
4 speakers.

5 Q. [Microphone not activated]

6 A. That all government workers, police, soldiers, all other
7 government workers, should come out.

8 Q. What did you do after having heard this announcement?

9 A. Then I opened the door, then I saw ECOMOG soldiers
10 outside. Then I told my wife, I said, "Let us come out."

11 I put up my hand and said we were here. Then they took
12 us -- put us in their vehicle and took us - took us at
13 NIC building, where the headquarters was, and it was
14 there that we went and surrendered.

15 Q. So you said you were brought by ECOMOG personnel to NIC
16 building and you surrendered. And you surrendered to
17 ECOMOG; that's right?

18 A. Yes, myself and my family in that large compound. That's
19 where they were.

20 Q. And after having surrendered to ECOMOG, what happened;
21 what did you do?

22 A. After they had taken down our names, our places of work,
23 all government workers' names, we slept there for one day
24 and they told us that -- "Then whosoever want to go and
25 watch his house, you should go there," and then I said,
26 "I want to go to my house." And they said, "Okay." And
27 I took permission. On my way going -- as I was going by
28 railway line, I saw two people lying dead by the

1 supermarket - by the supermarket.

2 Q. Could you see what people they are? Are they civilians,
3 or soldiers, or Kamajors?

4 A. They were civilians, but I didn't know them. There are
5 two at the back of the supermarket, but I didn't know
6 them. They were civilians at the back of the supermarket
7 lying dead.

8 Q. On your way home, did you see more corpses?

9 MR WILLIAMS: My Lord, I take an objection, My Lord. My Lord,
10 let the witness be allowed to tell his story. I mean,
11 this is quite clearly leading. I mean, what did you say
12 would have been the proper question?

13 JUDGE THOMPSON: Objection sustained.

14 MR SAUTER:

15 Q. Mr Witness, when you went home from ECOMOG, did you
16 see -- did you make any observations?

17 A. Yes, I said I met two people dead at the back of the
18 supermarket. I passed there. Then, when I was going
19 back, I saw others. I saw two other people lying at
20 Short Street.

21 Q. Can you remember when you took up your police duties once
22 again?

23 PRESIDING JUDGE: That is in addition to the first two
24 corpses. He saw two more?

25 MR SAUTER: Two more.

26 THE WITNESS: Yes, it's because he said I should be explaining
27 step-by-step. But as I -- by the school field I saw
28 another person. At that bicycle field, I saw two -- one

1 other person dying; a civilian, dead.

2 MR SAUTER:

3 Q. So, if I am right, now we have a total of five corpses
4 you saw; that is right - two at the supermarket, one at
5 the bicycle field, two at another place.

6 A. Yes, five people.

7 Q. Thank you. My last question was when did you return back
8 to your office as a police officer?

9 A. No, we were not completed. When I passed those corpses
10 and reached the barracks, I went round my house. I
11 didn't enter the house. I went back to ECOMOG where I
12 had come from. I went through Hangha Road. I didn't use
13 the road that I used initially when I was coming. I met
14 my doors locked. I didn't enter the house and I went
15 back.

16 Q. My question was: when did you take up office as a
17 policeman after you had surrendered to ECOMOG?

18 A. Well, we were not doing much of the police work again.
19 We had on civilian clothings because all our offices were
20 open and everything was scattered about. They told us
21 they cleaned the office after three days. We met all the
22 drawers opened, and we were gathering our wares and
23 wasted papers and we were gathering all our property and
24 keeping the place tidy once more - and burning them. We
25 were not doing any other thing again besides -- we were
26 just going to the office, coming back. We were just
27 going to clean and come back to our houses and living.

28 Q. Am I right that at this time the Kamajors were in control

1 over Kenema?

2 A. At that time, I said no. ECOMOG had come and they had
3 taken over. At that time ECOMOG had come and Kamajors
4 hadn't much power. So Kamajors, soldiers, and all of us
5 were now under ECOMOG. So ECOMOG was in control. ECOMOG
6 was in control.

7 Q. Thank you.

8 MR SAUTER: That's it, My Lords. Thank you very much.

9 JUDGE BOUTET: Thank you. Dr Jabbi.

10 MR JABBI: Yes, Your Honour.

11 JUDGE BOUTET: You may proceed with your cross-examination.

12 MR JABBI: My Lord, I just start with the clarification from
13 the Bench. In light of the new status of court-appointed
14 counsel, may I take it that I may still cross-examine
15 more or less as if I were doing so on behalf of the first
16 accused?

17 PRESIDING JUDGE: Yes.

18 JUDGE BOUTET: Absolutely.

19 PRESIDING JUDGE: Absolutely, yes.

20 JUDGE BOUTET: Without any limitation given the normal
21 limitation of cross-examination.

22 MR JABBI: Thank you very much, My Lord.

23 JUDGE BOUTET: So please proceed.

24 CROSS-EXAMINED BY MR JABBI:

25 Q. Now, Mr Witness, to begin from the beginning, on what
26 day -- on what day did the Kamajors enter Kenema when the
27 Junta were in control -- on what day - day?

28 PRESIDING JUDGE: Dr Jabbi, I wish you luck.

1 THE WITNESS: When the Kamajors entered Kenema, what's the day
2 that they entered Kenema?

3 MR JABBI:

4 Q. You have said in your examination-in-chief that the junta
5 were in control of Kenema in the initial months of 1998,
6 and that the Kamajors later came and took over from them.
7 My question is: on what day of the week did the Kamajors
8 take over in Kenema?

9 A. No, on that day, I said I can't remember that day.

10 Q. I am not asking for a date; I am asking for a day like
11 Monday, Tuesday, Wednesday, Thursday, Friday, Saturday,
12 Sunday. On what day?

13 A. Okay. It was Sunday that they took over Kenema. It was
14 on the Sunday that they took over.

15 PRESIDING JUDGE: But you had earlier said, you know, that
16 they took over on the 15th January 1998, which was a
17 Sunday.

18 JUDGE THOMPSON: [Microphone not activated]

19 PRESIDING JUDGE:

20 Q. I have you on record here.

21 A. That's what I have said again, I said it was on a Sunday.

22 Q. You say you cannot remember the date, but that you
23 remember the day. When counsel insisted you said, "Yes
24 it was a Sunday," but earlier on you had said it was on
25 the 15th of January 1998, which was a Sunday.

26 A. Yes, but I remembered it again.

27 MR JABBI:

28 Q. Now, when the junta were in control in Kenema, you gave

1 evidence as to that, that their relationship with the
2 people of Kenema was bad. Can you go over any examples
3 of this bad relationship?

4 JUDGE THOMPSON: [Microphone not activated] not ask him to
5 give specific.

6 MR JABBI: Specific examples, My Lord.

7 JUDGE THOMPSON: [Microphone not activated] and go over the --

8 THE WITNESS: At that time, themselves and the civilians?

9 MR JABBI:

10 Q. Yes. When they were in control in Kenema.

11 A. You said what relationship existed between themselves and
12 civilians.

13 Q. That you had said the relationship was bad. My question
14 is whether you can give specific examples of their bad
15 conduct to the people.

16 A. They were looting people. They would just enter a shop.
17 If you have anything there, they would loot everything;
18 they'd take it from you. They would take it by force
19 from you. They were looting people, taking their
20 property away from them.

21 Q. Was this happening more or less over the whole period
22 they were in control?

23 A. Yes, when the juntas were there. Yes, they were looting
24 people.

25 Q. Apart from that example of looting, is there any other
26 specific bad conduct?

27 A. No, I didn't see or hear about any other thing.

28 Q. Now, you also in your examination-in-chief spoke about

1 what the junta did before they left Kenema. Can you
2 explain that? When the Kamajors were coming in and the
3 RUF and soldiers had to leave Kenema, what specifically
4 did you say they did on their leaving. When they were
5 going back, they opened all the shops and they looted
6 everything. They took everything. People's food,
7 people's money were taken away from them and they were
8 carted away. They took everything out -- looted people.
9 There was no shop that was not opened by them in Kenema
10 when they were going -- when they were going back. They
11 opened all the shops and looted. I saw that happen.

12 Q. This is the conduct of the AFRC and the RUF when they
13 were pulling out; is that so?

14 A. Yes.

15 Q. Now, if I may go back to the time of the arrival of the
16 Kamajors. You said they came on a Sunday, 15th January
17 1998. This is the only specific date you have given.
18 Might it perhaps be February rather than January?

19 A. It was in that same month, that same week that I have
20 just called.

21 Q. February. [Inaudible]

22 A. I think it was in February.

23 Q. You now say it was February, not January?

24 A. Yes, it was in January. At times I get confused.

25 Q. Now, you again said it was January and not February?

26 A. At times they asked the questions, I get confused.

27 Q. Now you say that when the Kamajors came, you went to lie
28 in hiding in your house for a long time and there were

1 gunshots for a long time. Can you estimate roughly how
2 long the shooting took place whilst you were lying down
3 in your house or under the bed?

4 A. It was not up to one hour and they didn't take so long in
5 the barracks. They went up to the brigade, just after
6 some -- some -- some -- as you could say 15 hours or one
7 hour. No, it didn't take up to one hour.

8 PRESIDING JUDGE: [Microphone not activated] the question.

9 THE WITNESS: It was up to one hour.

10 MR JABBI:

11 Q. Was the shooting widespread in the barracks whilst you
12 were lying in your house?

13 A. No, from our own end we were just hearing the gunshots
14 down -- down the road there. We were hearing the
15 gunshots from down -- down the road.

16 Q. My question was whether the shooting was widespread.

17 A. I can't say so, because I was in my house and while
18 lying -- I was lying down. We were just hearing the
19 gunshots. I can't see, so no. I can't say whether they
20 were all about the place.

21 PRESIDING JUDGE: Dr Jabbi [Microphone not activated] change
22 the word "widespread," so that you can bring the message,
23 you know --

24 MR JABBI:

25 Q. Was the shooting -- was the sound of shooting you were
26 hearing, was it coming from a lot of directions, many
27 directions? The sound of shooting, did it come from many
28 directions?

1 A. It was down the barracks; we were up the barracks. It
2 was from down the barracks that I was hearing the
3 gunshots. Who were in Sumbuya Street up the barracks
4 were hearing the gunshots from down the barracks.

5 Q. Was it heavy shooting?

6 A. You want me to tell a lie? I said we were lying in the
7 room. I wasn't outside. It was not up to one hour and
8 they went -- went back. I didn't come out while the
9 firing was on.

10 Q. I don't want you to tell a lie, but it may be you would
11 want to speak the truth. So, if it was you were lying in
12 your house, you could at least say whether the shooting
13 you were hearing was heavy shooting. Was it?

14 A. I was just hearing gunshots. No, it was not something
15 like RPG. I was hearing it from down the barracks.

16 Q. If I may slightly alter the question to help you. Was
17 the shooting - the sound of shooting - you were hearing,
18 sporadic?

19 A. I was not so -- it was -- it was not sporadic.

20 Q. Now, how long did it take you to come out of your house
21 after you had started hearing the shooting? How long did
22 it take you to come out of your house after you had
23 started hearing the shooting?

24 A. It didn't take up to one hour. I have said it before, it
25 was just about 15 minutes. I have said it before. When
26 we were in house it didn't take up to one hour.

27 PRESIDING JUDGE: [Microphone not activated] You have said it
28 before. Answer counsel's questions.

1 THE WITNESS: It was not up to one hour.

2 MR JABBI:

3 Q. Did you say it was around 15 minutes?

4 A. Yes, yes, that's what I said.

5 Q. Now, what did you feel when you heard that sort of
6 shooting all over the place, as you said? How did you
7 feel? Not what did you think, but how did you feel?

8 A. I -- I -- I knew that people were coming and that people
9 had been killed.

10 Q. Were you, for instance, afraid?

11 A. Oh, yes.

12 Q. For your life?

13 A. Yes, sir.

14 Q. And yet, according to you, you still decided to go out to
15 buy cigarettes?

16 A. After the gunshots had quelled down. It was later that I
17 came out after the firing had stopped. Then people were
18 fast moving about. It was then that I came out. The
19 gunshots didn't just stop, then I came out. I saw people
20 going down there and they said they had killed people
21 down there. Then I said, "Let me go out and buy
22 cigarettes." Then the gunshots had quelled down a
23 little.

24 Q. I will ask you again, how long did it take you, after you
25 started hearing the gunshots, to come out of your house?

26 A. I said when the firing stopped, then I don't hear any
27 firing any more. Then I said, "I should go out and buy
28 cigarettes."

1 Q. That doesn't answer the question. The question is: How
2 long did it take you from the time the shooting started
3 to the time you came out of your house? Give us a rough
4 estimate of time.

5 A. I said after the firing had stopped it took some time.
6 After the firing -- after the gunshots had stopped, then
7 I said, "Let me go out and buy some -- and buy
8 cigarettes."

9 Q. [Microphone not activated] some time that I want you to
10 assess. Give us an estimate. It took so long, roughly.

11 PRESIDING JUDGE: About how many minutes?

12 MR JABBI:

13 Q. How many minutes, how many hours, something like that?

14 A. It didn't take up to one hour. It took about 15 minutes
15 and then the gunshots stopped.

16 PRESIDING JUDGE: [Microphone not activated] how much time?

17 THE WITNESS: I said it took up to 15 minutes, then the
18 gunshots quelled down. That's what I first said.

19 MR JABBI:

20 Q. So it took about 15 minutes from the time you started
21 hearing the shooting to the time you went out of the
22 house; is that what you are saying?

23 JUDGE THOMPSON: Isn't that what he is saying?

24 MR JABBI: No, My Lord, he is using two time frames. He
25 said --

26 THE WITNESS: No, no, no, no.

27 MR JABBI: [Inaudible] first of all.

28 THE WITNESS: No.

1 PRESIDING JUDGE: Yes.

2 MR JABBI: The shooting took about 15 minutes.

3 JUDGE THOMPSON: [Microphone not activated]

4 MR JABBI: But my question was how long it took him from the
5 time the shooting started to the time he went out. And
6 he had already said that it took some time after the
7 shooting before he went out.

8 JUDGE THOMPSON: I think --

9 MR JABBI: But when I asked the latter question, he is not
10 distinguishing between these two time frames.

11 JUDGE THOMPSON: It's a perfectly clear question and, as a
12 police officer, I think he should be able to give
13 approximations - estimates here. I mean, after all, from
14 his testimony so far he carefully listen to everything.

15 THE WITNESS: Could you please repeat the question?

16 MR JABBI:

17 Q. Now, the question is: How long did it take you to go out
18 of your house, beginning from the time you had started
19 hearing of the shooting? This question is not how long
20 did the shooting take place - not how long did the
21 shooting take place - but from the time the shooting
22 started to the time you decided to go out of the house to
23 buy your cigarette, how long, roughly, was it?

24 A. I said it didn't take up to 15 minutes. Then the
25 gunshots quelled down, 15 minutes, then the gunshots
26 quelled down.

27 Q. [Microphone not activated] time frame. From the time the
28 gun -- the shooting quelled down, how long did it take

1 you to leave your house? Give me a rough estimate of
2 that.

3 A. After the gunshots had quelled down, then I went out to
4 go and buy the cigarettes. You are asking me to tell you
5 the time it took?

6 Q. The time frame, yes.

7 A. When I was going to buy these cigarettes, I took up to
8 seven minutes, because when I saw the corpse, I was going
9 from house to house. It took about seven minutes.

10 PRESIDING JUDGE:

11 Q. [Microphone not activated] the question. Mr Witness,
12 guns stopped firing. After that you saw people -- you
13 looked outside and you saw people moving around and you
14 decided to go out yourself to buy cigarettes. From the
15 time guns stopped shooting to when you went out -- to
16 when you left your house, how many minutes? When the
17 guns stopped shooting, how many minutes did it take you
18 to leave your house to go and buy cigarettes.

19 A. When I went to buy the cigarettes I didn't have a watch
20 on me. I didn't have a watch on me. When I said I
21 should go and buy the cigarettes say, for example, I
22 should be having a watch and looking at it, I didn't have
23 a watch when I went to buy the cigarettes.

24 Q. [Microphone not activated] please, we want you to --

25 A. Because when I was [inaudible] I was afraid.

26 Q. [Microphone not activated] please. Try to estimate the
27 time. How many minutes did it take you, after the
28 gunshots, for you to leave the house? You can say this

1 even if you didn't have your watch?

2 A. It took about ten minutes, ten minutes, because I was
3 moving about, passing about.

4 MR JABBI: Now, My Lord, I am sorry that his answer actually
5 seems to be very off the question, because what he has
6 just said is, "It took about ten minutes, because I was
7 going from body to body."

8 PRESIDING JUDGE: No, we -- He has said that it took him -- I
9 put the question clearly to him.

10 JUDGE THOMPSON: Yes.

11 PRESIDING JUDGE: He says it took ten minutes from the time
12 gunshots, you know, ceased; it took him ten minutes to
13 leave his house.

14 MR JABBI: But he added --

15 PRESIDING JUDGE: Because I insisted, you know, that he should
16 estimate time. He said he didn't have a watch.

17 MR JABBI: After his [overlapping microphones] My Lord.

18 PRESIDING JUDGE: I said he should estimate time.

19 MR JABBI: Yes, after your insistence, My Lord, his answer
20 ended with "because I went from body to body looking at
21 the bodies. [Overlapping microphones]

22 JUDGE THOMPSON: [Microphone not activated]

23 PRESIDING JUDGE: No, you see, that is where, you know --

24 JUDGE THOMPSON: [Microphone not activated] annexed that to
25 his answer.

26 PRESIDING JUDGE: Yes.

27 JUDGE THOMPSON: But it seemed as if --

28 PRESIDING JUDGE: Yes, he was going to something else --

1 JUDGE THOMPSON: Yes, he was very [Overlapping microphones].

2 PRESIDING JUDGE: -- which had no relevance to your answer.

3 JUDGE THOMPSON: [Overlapping microphones] quite right.

4 MR JABBI:

5 Q. Now, Mr Witness --

6 PRESIDING JUDGE: [Overlapping microphones] question, rather.

7 MR JABBI:

8 Q. -- can you also tell the court how long it took you to
9 trace all the bodies in question?

10 A. It was about ten minutes. By then I have cigarette on me
11 and I was going about.

12 Q. So for the period you went to buy the cigarette and then
13 come across all the bodies in question, that was about
14 ten minutes; is that what you are saying?

15 A. Yes; yes, sir.

16 Q. Now, I go back to your first 15 minutes; that is, the
17 period of the shooting. I want to put it to you that
18 those 15 minutes of shooting, when the Kamajors arrived,
19 must -- was exchange of fire between the police and the
20 Kamajors.

21 A. No, that didn't happen.

22 Q. I put it to you that when the Kamajors arrived in the
23 barracks --

24 PRESIDING JUDGE: Just wait, just wait, just wait, Dr Jabbi.

25 Yes [inaudible]

26 MR JABBI:

27 Q. I put it to you that when the Kamajors arrived in the
28 barracks, it was the police who started shooting at them.

1 A. That did not happen. I did not see that happen.

2 Q. I also put it to you that you were not in a position to
3 say who was doing the shooting.

4 A. I did not see any gun with the policeman.

5 MR JABBI: My Lord, with respect he has started answering on
6 the wrong limb.

7 PRESIDING JUDGE: [Microphone not activated]

8 MR JABBI: Yes, because he is saying he did not see a
9 policeman with a gun. But my last question to him was
10 that he was not in a position to say who was doing the
11 shooting.

12 THE WITNESS: I was lying down in my house and I was lying
13 down in my house.

14 MR JABBI:

15 Q. So, you could not say who was doing the shooting that you
16 were hearing. That is all I am asking you. Since you
17 were lying down in your house - hiding under the bed,
18 according to you - the shooting you were hearing could
19 not be identified.

20 JUDGE BOUTET: Slowly, slowly, please.

21 MR JABBI: My Lord, I'm sorry. I'm sorry, My Lord.

22 Q. I will say that again just in case.

23 A. I am unable to say why. They came to the barracks. Then
24 there was no longer a police; they were in charge of the
25 police and soldiers. They were holding guns. I did not
26 see any policeman with any gun.

27 MR JABBI: My Lord, the witness is quite liberal with his
28 volunteered answers, but the question is whether you were

1 in a position to say who was doing the shooting that you
2 were hearing whilst you were hiding in your house at the
3 time you were hiding.

4 JUDGE THOMPSON: Let him answer that question before you
5 proceed further.

6 MR JABBI: Yes, My Lord. Yes, My Lord.

7 JUDGE THOMPSON: Then you can develop your line of further
8 questioning. In other words, the question is: is he in
9 a position to say that or not?

10 MR JABBI: Yes, My Lord.

11 THE WITNESS: Why I say that?

12 MR JABBI:

13 Q. [Microphone not activated]

14 A. Okay.

15 Q. Your answer to the question whether you were in a
16 position to say who was doing the shooting whilst you
17 were hiding in your house is no. Do I take it so?

18 JUDGE BOUTET: When you were hiding under the bed, could you
19 see who was doing the shooting or not?

20 JUDGE THOMPSON: [Microphone not activated] question, yes.

21 THE WITNESS: I was not seeing anybody, but why I'm
22 [inaudible] I would not seeing anybody.

23 JUDGE THOMPSON: [Microphone not activated] a question put to
24 you. Answer the question. Were you in a position to see
25 who was doing the shooting or not?

26 THE WITNESS: If I say that, I will be telling a lie.

27 MR JABBI:

28 Q. So your answer is that you could not see who was doing

1 the shooting while you were hiding under -- in your
2 house. Yes or no?

3 A. If I say that, I will be lying - telling a lie.

4 PRESIDING JUDGE: [Microphone not activated]

5 THE WITNESS: No, [inaudible] I was lying down in my bed, but
6 I didn't know who was doing the shooting, but they came
7 to the barracks.

8 MR JABBI:

9 Q. Now --

10 A. It was the Kamajors that came to the barracks.

11 JUDGE BOUTET: The question to you is not whether you can say;
12 it is whether you saw.

13 THE WITNESS: What did I see? Go -- ask that question again.

14 MR JABBI:

15 Q. No, you have actually answered it. His Lordship --

16 JUDGE BOUTET: Yes, that's okay. Move ahead. [Overlapping
17 microphones]

18 MR JABBI: He has answered the question, My Lord.

19 PRESIDING JUDGE: [Overlapping microphones] yes, what I was
20 saying is that --

21 MR JABBI: Right. Now, you say also that it took you about
22 ten minutes -- [Overlapping microphones]

23 [COURT REPORTER INTERRUPTS FOR THE RECORD]

24 PRESIDING JUDGE: [Microphone not activated]

25 THE INTERPRETER: Your mike is not on.

26 PRESIDING JUDGE: [Microphone not activated] have the reply to
27 that answer.

28 MR JABBI: Yes, indeed, My Lord.

1 PRESIDING JUDGE: That is while he was hiding in his house, he
2 could not see.

3 MR JABBI: That's right, My Lord.

4 PRESIDING JUDGE: He could not determine who was doing the
5 shooting.

6 MR JABBI: Yes. I am satisfied that he has given the answer,
7 My Lord.

8 PRESIDING JUDGE: Yes.

9 MR JABBI: But it was His Lordship who also put the --

10 PRESIDING JUDGE: No, but His Lordship finally asked you to
11 proceed, and that I think there was a -- Yes.

12 MR JABBI: Yes.

13 [HN210904C 12.22 p.m.]

14 MR JABBI:

12:23:08 15 Q. Now, you also said that it took you about ten minutes to
16 leave your house to go and buy the cigarettes and also
17 see all the bodies that you saw and return to your house;
18 is that correct?

19 A. Yes, within the ten minutes, and I returned to my house.

12:23:39 20 Q. These six bodies you saw were all seen during the frame
21 of ten minutes; is that correct?

22 A. Yes, indeed; yes, indeed. Yes.

23 Q. Now, can you tell me how far-flung these bodies
24 were [microphone not activated] these bodies that you
12:24:10 25 saw, one after the other?

26 A. Those who know the barracks, I mean, they are all close
27 together -- the quarters are very close together. I saw
28 this and that and that. They were not very much far

1 apart. The quarters are not far apart.

2 Q. And you also said that the total number of bodies you
3 discovered were six?

4 A. At first there were six.

12:24:55 5 Q. And I'm putting it to you that on that occasion you did
6 not see any bodies on the ground in the barracks.

7 A. No, I would not lie. I have sworn to the Koran, I will
8 not lie.

9 Q. I also put it to you that this evidence about six bodies
12:25:29 10 is in fact fabricated after the event.

11 A. [No interpretation]

12 JUDGE BOUTET: What was the answer?

13 MR JABBI: He has not given an answer.

14 THE WITNESS: No, it is not a lie; I'm telling the truth.

12:26:05 15 That is why I've sworn on the Koran. What is the reason
16 I would not say it?

17 MR JABBI:

18 Q. Now, can you tell the Court -- can you tell the Court any
19 particular Kamajor that you saw on that day in the
12:26:23 20 barracks?

21 A. During that time, if you believed they were your
22 relatives, you would not be able to tell, because they
23 were so dressed fearfully. They disguised themselves and
24 they painted their faces. Even if it were your brother,
12:26:54 25 you would not know him -- you can't recognise the person
26 on that day.

27 Q. So may I take it that you were not able to identify any
28 Kamajor on that day in the barracks?

1 A. I would not lie. No, they were so fearfully dressed and,
2 because they disguised themselves and painted their
3 faces, even if it were your brother, you would not know.

4 Q. You have also given evidence of being present at the site
12:27:33 5 when a grave was dug and bodies buried there. Where was
6 that?

7 A. In the barracks. In fact, I went and took part in doing
8 the work in the barracks. I helped them. We dug the
9 grave; we buried them there in the barracks.

12:28:04 10 Q. Were those bodies police officers, or --

11 A. They were all policemen.

12 Q. All six bodies were policemen?

13 A. Yes, they were all policemen -- yes.

14 Q. Now, do you remember the spot where that burial took
12:28:41 15 place?

16 A. Yes, indeed. I said it was in the barracks, by the
17 school field -- by the --

18 Q. You know the specific spot?

19 A. Yes, sir; yes, yes.

12:29:02 20 Q. And you can identify the spot to this Court, if given an
21 opportunity?

22 A. Kenema, yes.

23 Q. Now, after all this had happened - according to you - to
24 police officers, and fairly senior police officers at
12:29:28 25 that, did you make a report of it?

26 A. Where can you report? There was no station; we were not
27 working -- no.

28 Q. Did you make a report of it?

1 A. No, sir.

2 Q. Fine.

3 A. No.

4 Q. Now, of the six bodies, you have said before -- okay,
12:30:00 5 before that question, I will ask you a preliminary. The
6 police force, or the policemen in the barracks at that
7 time, those who were resident in the barracks - all
8 policemen resident in the barracks - can you tell this
9 Court what categories of police there were there?

12:30:25 10 Because you started by saying, if I may just refresh your
11 memory, that you, yourself, a general services
12 policeman --

13 JUDGE THOMPSON: General duty policeman.

14 MR JABBI: General duty, sorry, My Lord.

12:30:45 15 Q. General duty policeman. Can you tell this Court what
16 types of such category existed among policemen who were
17 living in the barracks?

18 A. Those that were in the barracks at that time?

19 Q. Those who were living in the barracks regularly up to the
12:31:18 20 time the Kamajors came, what categories of policemen were
21 there?

22 A. I can't tell -- there were so many, but many left.

23 Q. I'm not sure that --

24 A. Many left.

12:31:33 25 Q. I'm not asking about the number of policemen. You have
26 named one category for us here, that they were general
27 duties policemen.

28 A. But we are general duties, like me.

1 Q. Was there any other category of police officer apart from
2 general duties?

3 PRESIDING JUDGE: Dr Jabbi, please.

4 MR JABBI: Sorry, yes, My Lord.

12:32:00 5 PRESIDING JUDGE: Ask him how many categories exist in the
6 police force and then ask him -- you know, let him say
7 whether this category was there in Kenema.

8 MR JABBI: As Your Lordship pleases.

9 Q. Generally speaking, apart from the general duties
12:32:19 10 policemen, was there any other category of policemen,
11 generally speaking, in the police force in Kenema?

12 A. Yes; yes, we were all there, SSDs were there, CID
13 and SB and general duty police -- we were there. At the
14 time, we were the people in the barracks.

12:32:55 15 Q. Okay. So how many categories did you name just now --
16 SSD, just --

17 A. Listen to me -- listen. General duties, SSD, CID, SB.

18 Q. What do you mean by "SB" [overlapping microphones]

19 A. They don't put on any uniform.

12:33:14 20 Q. No, but what does "SB" mean? SB, you said; what does it
21 mean?

22 A. SB, they're like the CIDs -- they don't put on any
23 uniform. They --

24 Q. What words do the letters "SB" stand for in that answer
12:33:34 25 you have given? You have given an answer to say there
26 were SB policemen. What words do those two letters "SB"
27 stand for?

28 A. There is a branch that is called SB -- CID. They are

1 there; they are branch.

2 Q. Is it Special Branch?

3 A. Special Branch, yes.

4 Q. So there were four categories of policemen generally in
12:34:02 5 the service in Kenema -- four categories?

6 A. Yes, yes.

7 Q. Now, of these bodies that you saw, or you say you saw in
8 the barracks after the arrival of the Kamajors, were you
9 able to say how many categories, or which of those
12:34:25 10 categories were represented among the dead bodies -- the
11 dead bodies -- seven of them, you said?

12 A. Yes. SSD OC Brima -- he was in the SSD. The others were
13 general duty; they put on uniforms.

14 Q. So, Your Honour, I did not get the answer very clearly.
12:35:10 15 Did you say two categories? Can you go over your answer
16 again, please?

17 A. What I said was SSD -- the head of the SSD, OC Brima, was
18 killed. The rest were all general duty policemen.

19 Q. So the seven policemen that were killed --

12:35:31 20 A. Six.

21 PRESIDING JUDGE: [Microphone not activated]

22 JUDGE THOMPSON: Six; they were talking about six. In other
23 words, OC Brima was the head of the SSD and the rest of
24 the other six - that's the five - were general duty
12:35:44 25 police officers. That would seem to be what he's saying.

26 MR JABBI: That is, indeed, what he's saying. I was talking
27 about the seventh.

28 JUDGE THOMPSON: He hasn't dealt with that yet; you referred

1 him to six. The evidence seems to suggest that he
2 identified six at one point in time and, later on, a
3 seventh.

4 MR JABBI: Thank you very much, My Lord.

12:36:07 5 Q. Now, your answer is that, of the six bodies you first
6 identified, there were two categories of police
7 represented there -- one SSD --

8 A. The OC.

9 Q. -- and the OC, and the remaining five were all general
12:36:24 10 duties?

11 A. Yes.

12 JUDGE THOMPSON: He was specific. He said Brima was the OC.
13 Otherwise --

14 MR JABBI: Yes, My Lord.

12:36:34 15 JUDGE THOMPSON: He was specific on that.

16 MR JABBI: Yes, My Lord. I take it, My Lord.

17 Q. Of those categories of policemen, which ones usually
18 carried arms?

19 A. Those that carry guns are the SSDs -- SSDs, they carry
12:37:02 20 guns.

21 Q. Now, would you be surprised to learn that OC Brima was
22 armed before he died?

23 A. No, he had no gun. When I went to see his corpse, he was
24 wounded at the back -- he was shot on the back.

12:37:38 25 Q. Your answer is that, by the time you saw the body, there
26 was no gun by it; is that your answer? Is that your
27 answer?

28 A. Yes. He was dead, yes.

- 1 Q. So I put it to you that you were not in a position to say
2 whether he was armed by the time he died.
- 3 A. What do you want me to say?
- 4 Q. I want you to say whether you were in a position to say
12:38:22 5 that OC Brima was armed or not armed by the time he died.
6 Are you in a position to say that categorically?
- 7 A. You want me to tell a lie. I did not see any gun with
8 him. I met him -- dead. I did not see any gun with him,
9 but you want me to tell a lie.
- 12:38:58 10 Q. Let him listen to my question carefully.
- 11 A. Yes, sir, I'm listening.
- 12 Q. In view of your answers so far, you cannot say whether,
13 at the time that OC Brima died, he had a gun on him --
14 you cannot say that; that is all I'm asking you. You're
12:39:33 15 not in a position to say that.
- 16 A. No, I did not see any gun with the man; I saw his corpse.
- 17 Q. [Overlapping microphones] the answer I need. You could
18 not say whether, at the time he died, he might have been
19 armed or not armed; you cannot say that?
- 12:40:04 20 A. [Overlapping microphones] I did not see any gun with him.
21 I only saw his corpse.
- 22 Q. Because it was only his corpse they took him across
23 afterwards. Now, did you witness the shooting of any one
24 of those six bodies? Did you yourself personally witness
12:40:32 25 the shooting of anybody?
- 26 A. No, no, no.
- 27 Q. You did not witness the shooting of any bodies
28 [overlapping microphones]

1 A. No, I only saw the corpses.

2 Q. Now, I will take you to the arrival of ECOMOG. You have
3 said that, after two days, loud hailers announced the
4 arrival of ECOMOG asking people - the police - to go to
12:41:48 5 the NIC building.

6 A. They asked us to come out, all the policemen -- we just
7 come out and report.

8 Q. [Microphone not activated] the same for you, and the
9 questions will now come. Again, I want you to be as
12:42:08 10 precise as you can be in the circumstances. How many
11 days - days - did it take from the time the Kamajors
12 arrived to the time ECOMOG arrived? How many days did it
13 take?

14 A. When the Kamajors came, they were there for three days.
12:42:43 15 They were there for four days, and 50 ECOMOG came.

16 Q. Between the time that you saw the dead bodies for the
17 first time - the six dead bodies for the first time - up
18 to the time that ECOMOG arrived -- I've not put the
19 question yet.

12:43:19 20 A. Okay.

21 Q. Between the time that you saw the six dead bodies for the
22 first time to the time that ECOMOG arrived, to your own
23 knowledge, was there any shooting or fighting in the
24 barracks?

12:43:59 25 A. Go back to your question.

26 Q. Was there any shooting or fighting in the barracks from
27 the time you came out and saw the six bodies to the time
28 a few days later when ECOMOG arrived? Had any fighting

1 taken place?

2 A. No. As soon as -- as soon as they killed the people,
3 we --

4 PRESIDING JUDGE: No, stop there. The answer is no.

12:44:46 5 MR JABBI:

6 Q. So no fighting took place for that period, to your own
7 knowledge?

8 A. The military were killed.

9 Q. ECOMOG arrived and called you at NIC. What did they tell
12:45:13 10 you?

11 A. We were not the only people.

12 Q. The question is: What did ECOMOG say to you --

13 A. When ECOMOG came and asked the police to come out and we
14 were gathered together and we were taken to the NIC, they
12:45:47 15 told us that we were now safe.

16 Q. Was that all ECOMOG [overlapping microphones]

17 A. Yes, that is what I heard, that we were now safe.

18 Q. Did ECOMOG ask the police, who assembled at NIC, to say
19 anything there?

12:46:19 20 A. No, I did not hear that. I did not hear them ask me to
21 say anything. I did not hear it.

22 Q. Not you in particular -- whether the assembled policemen
23 were asked to say anything to ECOMOG?

24 A. I did not hear that.

12:46:36 25 Q. [Microphone not activated]. Now, do you know if any
26 report was made about those six dead bodies to ECOMOG?

27 A. Even if they did, I did not hear it. Even if they did,
28 I did not hear it.

1 Q. You do not know if any report was made to ECOMOG about
2 those six bodies?

3 A. No, no. [No interpretation]

4 PRESIDING JUDGE: That's enough.

12:47:25 5 JUDGE THOMPSON: All this explaining and commenting.

6 MR JABBI:

7 Q. Now, do you also know if any report was made to the
8 Kamajors about the incident in the police barracks since
9 they took over and they were there for some time in

12:47:49 10 control before ECOMOG came? Was any report made to them
11 in control about the six dead bodies you mentioned?

12 A. Go over that question. I did not get you clear.

13 Q. According to your evidence, the Kamajors took over
14 control of Kenema --

12:48:32 15 A. Yes, sir.

16 Q. -- for a few days before ECOMOG arrived? For a few days,
17 six persons had been killed in the barracks before ECOMOG
18 arrived, and for that period --

19 A. Yes.

12:48:55 20 Q. -- before ECOMOG arrived, the Kamajors were in control of
21 the situation in Kenema. Do you know if -- during that
22 pre-ECOMOG period when Kamajors were in control, do you
23 know if any report was made to the Kamajors about the six
24 dead bodies?

12:49:15 25 A. I don't know that. I don't know. I do not know.

26 Q. You do not know if any such report was made?

27 A. I was in my house. I didn't go out at all.

28 Q. Thank you.

- 1 PRESIDING JUDGE: Except to buy cigarettes.
- 2 MR JABBI: The urge is very strong for him.
- 3 Q. Now, do you know whether any report was made to ECOMOG
4 about the Kamajors when ECOMOG arrived?
- 12:50:00 5 A. I don't know about that.
- 6 Q. You do not know whether any such report was made to the
7 Kamajors. Now --
- 8 A. [No interpretation]
- 9 Q. That is okay. Your answer is completely satisfactory.
- 12:50:17 10 A. We had elders -- we had -- all our bosses were there.
- 11 Q. Okay, sir.
- 12 A. Okay.
- 13 Q. Now, next question. Did you recognise, at the NIC
14 meeting, any Kamajors? Did you recognise any Kamajors at
12:50:48 15 the NIC meeting?
- 16 A. No. We --
- 17 PRESIDING JUDGE: Stop there. Please answer the question.
- 18 MR JABBI:
- 19 Q. You did not recognise any Kamajors that you knew at the
12:51:12 20 NIC meeting?
- 21 A. No.
- 22 Q. Now, for the period that the Kamajors were in control in
23 Kenema, before the arrival of the ECOMOG - this is not
24 now at the NIC meeting alone, don't forget - but for the
12:51:39 25 period that the Kamajors were in control in Kenema,
26 before the arrival of the ECOMOG, did you recognise any
27 Kamajors that you can identify?
- 28 A. No.

1 Q. You did not recognise any Kamajors in Kenema for that
2 period?

3 A. No.

4 Q. Now, whilst ECOMOG --

12:52:32 5 A. I want to ease myself.

6 PRESIDING JUDGE: The Court will rise for him to ease himself,
7 please. We will stop here. Dr Jabbi, you'll continue
8 with your cross-examination. I don't know how much time
9 you still have.

12:52:54 10 MR JABBI: I will not need a lot of time. The Court --

11 PRESIDING JUDGE: We'll stop there, and the Court will rise
12 and we will resume at 2.30 for the continuation of the
13 cross-examination. The Court rises, please.

14 [Luncheon recess taken at 12.52 p.m.]

14:31:27 15 [On resuming at 2.42 p.m.]

16 [The accused not present]

17 PRESIDING JUDGE: We are resuming the session. We are
18 informed -- the Chamber is informed that there is a
19 communication from the Detention Unit, you know, on the
14:45:19 20 state of health, you know, of the second and third
21 accused persons. Do you have the correspondence? Court
22 Management, do you have this correspondence, please? Can
23 you show this to the Defence -- the second and third --
24 well, the first, second and the third, of course, see the
14:46:26 25 document.

26 [Document shown to Defence counsel]

27 PRESIDING JUDGE: Can you show it to the Prosecution, please?

28 [Document shown to Prosecution]

1 PRESIDING JUDGE: It is the intention of the Chamber to admit
2 this document in evidence. Is there any objection?
3 MR SAUTER: No objection, Your Honour.
4 PRESIDING JUDGE: Defence?
14:49:19 5 MR JABBI: No objection.
6 MR BOCKARIE: Yes, Your Honour, in relation to the --
7 PRESIDING JUDGE: Can you wait? Just exercise some patience.
8 Let's have the document back. This will be Exhibit 14,
9 is it?
14:50:33 10 MS EDMONDS: 13.
11 PRESIDING JUDGE: 13? We had 13.
12 MR HALL: 13 is the letter from yesterday from Chief Norman.
13 MS EDMONDS: That's 12.
14 PRESIDING JUDGE: That's 12, so this is 13.
14:51:03 15 [Exhibit No. 13 was admitted]
16 PRESIDING JUDGE: Maureen, can you please read the contents of
17 Exhibit 13?
18 MS EDMONDS: It's:
19 "Court Management,
14:51:32 20 Special Court for Sierra Leone"
21 From:
22 "Raymond Cardinal, Deputy Chief, Detention
23 Centre. "Please find attached a memo from
24 Dr Harding advising that both Moinina
14:51:44 25 Fofana and Allieu Kondewa be excused from
26 attending Court on this date due to a
27 medical condition. Moinina Fofana
28 complained of severe headache. His blood

1 pressure is 120 over 90. This is slightly
2 high and has been treated. I'm reviewing
3 him at 1600 hours today. I'm advising that
4 he rest today."

14:52:07 5 "Allieu Kondewa complained of headache.
6 Blood pressure is normal. However, I was
7 called to see Mr Kondewa on Sunday. He had
8 symptoms of malaria and was started on
9 anti-malarials. This might be the cause of
14:52:21 10 his being unwell today. He took his third
11 dose of Arinate this morning and has had a
12 stronger analgesic. He can also rest
13 today. Dr Donald Harding."

14 PRESIDING JUDGE: Thank you. Yes, Mr Bockarie?

14:52:42 15 MR BOCKARIE: Yes, Your Honour. In addition to the medical
16 report, I spoke to my client this afternoon and he told
17 me that he will come tomorrow if he feels better -- and
18 I hope he feels better. He's quite prepared to
19 participate in the Court's proceedings. Thank you, sir.

14:53:05 20 PRESIDING JUDGE: Thank you. Right. There's no other comment
21 from either side?

22 MR BOCKARIE: Sorry, Your Honour, the doctor is here. May
23 we -- probably I have to call -- I didn't know about the
24 Exhibit 13, so I just telephoned if he can just come and
14:54:08 25 give viva voce evidence as to the status of Moinina's
26 health, but now that matter has been disposed of, may
27 I just ask for his release, sir?

28 PRESIDING JUDGE: Yes, he's released. Exhibit 13 says it all.

1 MR BOCKARIE: Thank you very much, doctor, for coming.

2 DR HARDING: Thank you.

3 PRESIDING JUDGE: Thank you. Dr Jabbi, can we continue with
4 the cross-examination of this witness?

14:54:42 5 MR JABBI: Yes, Your Honour.

6 Q. Now, Mr Witness --

7 A. Yes.

8 Q. -- your evidence-in-chief was that, after the NIC
9 meeting, on your way back to your house you saw certain
14:55:07 10 dead bodies; is that so?

11 A. Yes. When I left and I see when I was going back to my
12 house, yes.

13 Q. According to you, two by the supermarket, who were
14 civilians; two other dead bodies around Short Street, who
14:55:29 15 were also civilians --

16 JUDGE BOUTET: Slowly, slowly.

17 THE INTERPRETER: Can you take the question, again, please?

18 MR JABBI:

19 Q. According to you, there were two dead bodies by the
14:55:43 20 supermarket; not so?

21 A. Yes.

22 Q. And another two around Short Street; not so?

23 A. Yes, sir.

24 Q. And yet another one by the bicycle field; is that
14:56:05 25 correct?

26 A. Yes, sir.

27 Q. They were all civilians?

28 A. The way I saw them, yes, they were civilians.

1 Q. Did you know how they came to die?

2 A. No, I just met them there. I just saw them -- I just saw
3 their corpse when I was going home. I do not know how
4 they were killed.

14:56:36 5 Q. You reached the barracks and decided to go back to ECOMOG
6 on that occasion; is that correct, according to your
7 evidence?

8 A. Yes, I went round the house and I went back to where
9 I came from. I didn't even enter my house.

14:56:59 10 Q. Did you report these dead bodies to ECOMOG when you went
11 back there?

12 A. No.

13 Q. What did you go to do at ECOMOG on that occasion?

14 A. When they said we should surrender, we surrendered to
14:57:25 15 them. That's where we were, and they told us to go and
16 check in our houses, if anything had happened. As I was
17 going, that's when I saw the corpses behind the
18 supermarket and Short Street and in the bicycle field.
19 I went to my house -- went round my house, and I returned
14:57:40 20 to where I had come from.

21 Q. Would you say that those dead bodies were something that
22 happened, since you were supposed to go and check if
23 something happened? Would you say the dead bodies were
24 something that happened -- in that language?

14:58:17 25 A. Yes.

26 Q. There was something that happened?

27 A. No, sir.

28 Q. There was not something that happened?

1 A. I just saw corpses there. I don't know how they died.
2 That's why I passed by, when I was going.

3 Q. Okay. I'm not asking how they died. My question is:
4 you were told by ECOMOG to go back to your house and
14:58:45 5 check if anything had happened, according to you.

6 A. Yes, that's what I said.

7 Q. On your way to your house, you discovered five dead
8 bodies at different points; not so?

9 A. Yes, but they were not in the same place.

14:59:13 10 Q. They were at different points --

11 A. Yes, sir.

12 Q. Yet you did not report that to ECOMOG when you went back
13 there, did you?

14 PRESIDING JUDGE: He said no, he didn't report it.

14:59:28 15 MR JABBI:

16 Q. Why did you not report it to ECOMOG when you went back?

17 A. (Inaudible) I didn't tell anybody. I was afraid --
18 I didn't tell anybody.

19 Q. My question is: Why did you not report that discovery to
14:59:48 20 ECOMOG when you went back -- why?

21 A. I did not know why they died -- how they died. I was
22 afraid. That's why I returned. I didn't make any
23 reports.

24 Q. As a police officer, in those circumstances don't you
15:00:17 25 think it was part of your duty to make the report of that
26 discovery?

27 A. No, I didn't do that. I didn't make any report. When
28 I saw them, I went hurriedly to my house and I returned.

1 I didn't make any report.

2 PRESIDING JUDGE:

3 Q. Mr Witness, Mr Witness, please, follow his question.

4 Follow his question. As a police officer, don't you

15:01:06 5 think it is your duty -- it was your duty to make a
6 report on those deaths, as a police officer? That is the
7 question counsel is putting to you.

8 A. No.

9 MR JABBI:

15:01:22 10 Q. It wasn't your duty, or you didn't consider it to be part
11 of your duty?

12 JUDGE THOMPSON: Just a minute.

13 THE WITNESS: It is my job, but at that time there was no --

14 JUDGE THOMPSON: Your first question was, wasn't it his duty
15:01:39 15 to report this as a police officer.

16 MR JABBI: Yes, My Lord.

17 JUDGE THOMPSON: And we were trying to get the answer to that

18 when you split your questions, and "part of" -- that

19 complicates it a little, doesn't it? Because the first

15:01:51 20 question, wasn't it, "Didn't you think this was your duty
21 as a police officer to have reported those deaths?" And
22 we were trying to get the answer and then you interjected
23 with, "Or didn't you think it was part of your duty?" It
24 seems a different kind of -- it has a nuance there.

15:02:12 25 MR JABBI: I got an answer back, and I thought --

26 JUDGE THOMPSON: I didn't get it -- as a police officer.

27 MR JABBI: Sorry, My Lord.

28 Q. As a police officer -- if I may ask the question again.

1 As a police officer, don't you think it was your duty to
2 report the discovery of those dead bodies?

3 JUDGE THOMPSON: Yes.

4 THE WITNESS: At that time we were not told to do any police
15:02:42 5 job, no.

6 JUDGE THOMPSON: [Microphone not activated]

7 MR JABBI:

8 Q. Had you been told at any time before that you should stop
9 doing your police duties?

15:03:11 10 A. When the Kamajors came, we were not doing any police job.
11 When they did those things, we were not doing any police
12 job. We had no police uniforms on. We were wearing
13 ordinary clothes so they wouldn't ask who you are. We
14 were not doing any police job.

15:03:32 15 Q. My question, however, was: Had you been told at any time
16 before to stop doing your police duties -- "Yes" or "No"?

17 A. It was only when the Kamajors came. At that time we were
18 not doing any police job, because they told us there are
19 no policemen. We were not doing any police job.

15:04:01 20 MR JABBI: I don't know how the interpretation of the question
21 is reaching him, because I think it's quite clear.

22 PRESIDING JUDGE: But he has given the reply at least, which
23 is pertinent to the question you asked.

24 MR JABBI: It is not -- I mean, it is pertinent, but it is not
15:04:18 25 on all fours.

26 PRESIDING JUDGE: "Were you ever asked not to do police jobs?"
27 He said, "It's only when the Kamajors came that they
28 stopped us from doing police jobs," or police job, or

1 whatever -- whatever way he's putting it.

2 MR JABBI: I did not get the interpretation that way, My Lord.

3 PRESIDING JUDGE: That's what I got.

4 MR JABBI:

15:04:37 5 Q. Am I going to conclude that your answer is that you had
6 not been told to stop doing your police duties?

7 A. No. They talked to us, that they are not recognising any
8 police people. There were no policemen. We thought we
9 were hiding. We were not wearing uniforms; we were in
15:05:10 10 hiding.

11 Q. Fine. Now, as a citizen -- this time not as a police
12 officer -- as a citizen, did you consider it necessary to
13 make a report of those dead bodies you found on your way
14 back to the house?

15:05:36 15 A. I said I didn't make any report -- I didn't make that
16 report. I was afraid of my own life, that they would
17 kill me -- that's why.

18 Q. You have said --

19 A. I just saw them and passed away.

15:05:49 20 Q. You have said you did not make a report, and we have got
21 that, but my question is: As a citizen, did you not
22 consider it necessary to make the report? Whether or not
23 you did make a report, but did you not consider it
24 necessary to make the report?

15:06:23 25 A. I said I didn't make the reports.

26 JUDGE THOMPSON: Learned counsel, when you said "necessary",
27 are you asking him -- I take it you're not asking him a
28 factual question; you're asking him a question that seems

1 to go to obligation, because when you say, "As a citizen,
2 an ordinary citizen, did you consider it necessary," are
3 you suggesting that there is some obligation; is that
4 what you're putting to him? Because if it's a factual --

15:06:50 5 MR JABBI: My Lord, I believe that --

6 JUDGE THOMPSON: Because if it's a factual inquiry, he has
7 already told us that he did not make any report, because
8 he was afraid for his life, or words to that effect. But
9 now you're saying, as an ordinary citizen - as an
10 ordinary citizen - whether he considered it necessary.

15:07:09 11 Does the word "necessary" there impute some obligation,
12 moral or otherwise?

13 MR JABBI: To the extent, My Lord, that it may import some
14 obligation, my intention is to evince the fact or
15 otherwise whether he considered it to be so.

15:07:30 16 JUDGE THOMPSON: But, you see, the question itself as it's
17 framed seems to admit of some notion of a moral or legal
18 obligation. "Necessary" -- I don't think that's a
19 factual question.

15:07:47 20 MR JABBI: My Lord, it may be a question of fact whether
21 I consider that it is so-and-so and so-and-so.

22 JUDGE THOMPSON: But the concept of "consider necessary"
23 imports the notion of some kind of obligation, moral or
24 legal. It does not seem to actually relate to a factual
15:08:09 25 situation. If I consider something necessary, I must be
26 acting from some frame of reference -- some references to
27 certain duties or responsibilities that I'm supposed to
28 work within.

1 MR JABBI: I agree entirely with Your Lordship on that. But
2 I would have thought, also, it was a matter of fact
3 whether one had that frame of reference at a particular
4 time.

15:08:35 5 JUDGE THOMPSON: Well, perhaps, yes.

6 MR JABBI: That is what I was trying to evince, My Lord,
7 whether he had that sort of frame of reference at that
8 time.

9 JUDGE THOMPSON: I will say no more at this stage.

15:08:47 10 MR JABBI: Thank you very much, My Lord.

11 Q. I take it that you did not consider it necessary to
12 report those deaths -- as a citizen?

13 A. I said I didn't make the report.

14 [HN210904D 3.15 p.m.]

15:01:24 15 Q. Thank you. Now, can you tell this Court when the police
16 started doing their regular duties after the arrival of
17 ECOMOG?

18 A. It was about -- it was up to one month before we started
19 our job properly -- our police jobs properly, but at that
15:02:10 20 time we only went to the compound and swept there and
21 returned.

22 Q. So when --

23 A. Nobody was allowed to stay in the police station.

24 Q. So around what month would you say the police resumed
15:02:50 25 their regular duties, around what month?

26 A. I can't remember the time. I can't remember the date,
27 but it was up to two weeks to one month there was no
28 police job. The ECOMOG were in control of the town.

1 Q. So if we said March 1998, around March?

2 A. I said I don't know the dates at that time that we
3 started working. I can't remember the dates.

4 Q. Would it be around February?

15:03:33 5 A. And the day.

6 Q. I mean April - sorry - would it be around April?

7 A. I said I can't remember the date.

8 Q. Would it have been before Independence Day, April 27th?
9 That's three months since ECOMOG came.

15:04:16 10 A. I said I can't remember the date when we started working.

11 Q. Now, I put it to you that, at the latest, around March
12 the regular police duties would have resumed in Kenema in
13 1998. I put it to you.

14 A. Just as you've said, I didn't record it. I didn't put it
15:05:06 15 in mind. I didn't record it anywhere. I can't even
16 remember.

17 Q. Do you remember when you made your first statement to the
18 Prosecution?

19 A. No. I have forgotten the date because it was quite a
15:05:42 20 long time ago. If I had recorded it, then I would have
21 said so. They just went for me and asked me to make a
22 statement.

23 Q. May I suggest that it was in January 2003?

24 A. Just as you've said so, I'll accept it, but I told you
15:06:11 25 I don't know the dates.

26 Q. Will you consider that date likely to be the truth?

27 A. Just as you've said. I said I don't know the dates.
28 I didn't keep it in memory. I didn't record it up to

1 this time. No, I didn't keep it in memory. I can't
2 remember it. If you've said so, then it might be.

3 Q. I have just proposed that as the milestone of memory.
4 I'll put a question on it now. How long, roughly, before
15:06:50 5 the time you made your statement -- how long, roughly,
6 before the time you made your statement had you started
7 doing your police duties in Kenema?

8 A. It was about after two months before they called me that
9 some people had come from Freetown. At that time I had
15:07:31 10 gone to my duty station and I came back and they told me
11 to explain to them what had happened and that is what
12 they want to record on paper.

13 Q. Are you saying that you made your statement around two
14 months after you had resumed your police duties, since
15:07:57 15 1998 -- since February 1998? Is that what you're telling
16 the Court?

17 A. Yes.

18 Q. Well, I put it to you that you -- the police would have
19 resumed -- or the police resumed their police duties in
15:08:18 20 Kenema some time in the year 1998 and not later.

21 A. What should I say? What do you want me to say?

22 Q. You have to say whether that is true or not.

23 JUDGE THOMPSON: Learned counsel, is that in contention?

24 MR JABBI: No, My Lord. He is saying he cannot remember when
15:08:56 25 he resumed -- when the police resumed their duties and
26 I've asked him with reference to the time he made his
27 statement.

28 JUDGE THOMPSON: Yes. In other words, he's not able to fix a

1 particular time frame in March. He's talked about March
2 1998. You yourself said police duties would have resumed
3 in March 1998. He's not able to accept that time frame.

4 MR JABBI: My Lord, my last question now was -- I've expanded
15:09:24 5 it -- in 1998 - I did not fix the month - but in 1998
6 police duties resumed in Kenema. That was my last
7 question, My Lord.

8 JUDGE THOMPSON: But not necessarily March.

9 MR JABBI: I didn't take it to a month, just the whole year.

15:09:40 10 JUDGE THOMPSON: All right.

11 PRESIDING JUDGE: When did your question -- when was your
12 question put, you know, as to the time limit of when he
13 started working as police and when they recorded his
14 statement? There was a question like that from you.

15:09:59 15 MR JABBI: No, I asked one question. First of all, he made a
16 statement to the police and he cannot remember a date and
17 I suggested a month, that it was in January 2003. He
18 could not remember either, and then I asked him: "How
19 long before your made your statement to the police had
15:10:19 20 you resumed police duties in Kenema?" And he said, "Two
21 months."

22 PRESIDING JUDGE: Yes, he said two months.

23 MR JABBI: But since he doesn't know when he made the
24 statement, these two months would not have passed March.
15:10:35 25 That is why I have come back to suggest to him the time
26 that police would have resumed duties in Kenema.

27 JUDGE THOMPSON: And then you specifically suggested March
28 1998.

1 MR JABBI: I first of all suggested March, then I went to the
2 whole year. The whole year is the last question I posed.

3 JUDGE THOMPSON: All right.

4 MR SAUTER: Objection, Your Honour. This, to my memory, was
15:10:54 5 not the answer of the witness - being asked how many
6 months before he has given his statement. He was
7 resuming his duties. He answered, "It was two months
8 before I've given the statement that I was informed to
9 give a statement." This is quite a difference, in my
15:11:15 10 view. Thank you.

11 JUDGE BOUTET: Dr Jabbi, I would suggest you ask the witness --
12 maybe he has given many statements. Now you say "the
13 statement", so which statement are we talking about? So
14 it may help to clarify the issue slightly.

15:11:32 15 MR JABBI: Thank you, My Lord.

16 Q. Now, how many statements?

17 THE INTERPRETER: Your microphone.

18 MR JABBI:

19 Q. How many statements have you made to the Prosecution in
15:11:47 20 respect of this matter?

21 A. Only once since they took that one. It still stands.

22 Q. Do you remember when you made it?

23 A. No.

24 Q. Do you remember how many months before that statement you
15:12:12 25 had resumed police duties in Kenema?

26 A. I can't tell the month now since I started working, doing
27 my police job.

28 Q. I put it to you that police duties in Kenema resumed some

1 time in 1998.

2 A. Yes, but it was not everybody that came to the station.
3 People had gone into hiding. It was not everybody that
4 was there.

15:13:13 5 Q. The question was not whether everybody was at work, but
6 whether police duties resumed in 1998, and your answer to
7 that is yes; is it not -- some time in 1998?

8 A. If you've said so, then I'll accept it, but I can't
9 remember the date, because it is quite a long time.

15:13:35 10 I have not recorded it on paper nor kept it in memory.

11 Q. Your statement in respect of this matter was not made in
12 1998, was it?

13 A. If I didn't make my statement in 1998?

14 Q. Yes, it was not in 1998 that you made the statement to
15 the police in respect of this matter or to the
16 Prosecution? So it was not in 1998; was it or was it
17 not?

18 A. I don't know the dates that I made the statement. I've
19 forgotten the dates.

15:14:25 20 Q. You may not know the date, but you may know the date when
21 it was not made. I'm not asking you when you made it.
22 I'm putting it to you that you did not make it in 1998.

23 THE INTERPRETER: My Lord, can Mr Jabbi please take it step by
24 step? The interpreter seems to be confused as to how to
15:14:51 25 put the question.

26 MR JABBI: I will take it slowly. Thank you. May I ask it
27 again?

28 THE INTERPRETER: Please.

1 JUDGE BOUTET: Please proceed.

2 MR JABBI:

3 Q. My question is: That the statement you made to the
4 Prosecution in respect of this matter was not made in
15:15:13 5 1998. It was not in 1998 that the statement was made;
6 yes or no?

7 A. I said I don't know the dates. I don't know the dates.

8 JUDGE BOUTET: Dr Jabbi, if I may help, it appears that the
9 dates -- the witness has a lot of problems with the
15:15:49 10 dates, but maybe if you're trying to bring him to a
11 statement, you can refer -- I don't know how many people
12 were there at the time. I don't have the statement, so
13 ask him if it was one, two, three, five, a dozen persons,
14 if he remembers one of them, who it is. Ask him these
15:16:07 15 kinds of questions. We may not be able to bring him to a
16 space, but maybe to a location, so --

17 MR JABBI: My Lord, I believe that whether I put it that way,
18 the fact of the time of making that statement is going to
19 be --

15:16:24 20 JUDGE BOUTET: But --

21 MR JABBI: But I will go accordingly, My Lord.

22 Q. To whom did you make -- that is to say, the persons, to
23 which persons did you make your statement in respect of
24 the matter now in court?

15:16:57 25 A. White man came from here -- one white man and two black
26 men, they went to Kenema -- one woman and a man and a
27 white man.

28 Q. Do you by any chance know their names?

1 A. Would the Court allow me to give their names, those that
2 took the statement from me?

3 MR JABBI: Yes, I believe so.

4 JUDGE BOUTET: Yes.

15:17:29 5 THE WITNESS: They will allow me, is it?

6 JUDGE BOUTET: Yes, please.

7 THE WITNESS: Yes. The one that I knew there was called

8 Mr Gbekie and the white man and one woman. There were

9 three in number, but I knew Mr Gbekie. His name is

15:17:51 10 Gbekie.

11 MR JABBI:

12 Q. So you remember that very well. How long ago?

13 A. Up to this time? From that time to now? No, no, even

14 now I can't remember the time.

15:18:10 15 MR JABBI: As I predicted, My Lord.

16 Q. Did you make your statement in respect of this matter

17 after the Special Court of Sierra Leone, this Court in

18 which you are now, had been set up, or before?

19 PRESIDING JUDGE: Do you expect him to know when this Court

15:18:31 20 was set up?

21 MR JABBI: Maybe he does, My Lord. He can say if he doesn't.

22 He's very good saying that he doesn't.

23 PRESIDING JUDGE: And yet you keep asking him to say.

24 MR JABBI: Well, I am not asking, My Lord, to see whether I

15:18:47 25 can elicit certain facts from him.

26 PRESIDING JUDGE: Go ahead. Go ahead.

27 MR JABBI:

28 Q. You can say you don't know, just as you've said to

1 certain questions. When you made your statement to
2 Mr Gbekie and the white woman in respect --

3 A. A white man, not a white woman.

4 Q. White man. When you made that statement to them in
15:19:16 5 respect of this matter now in this Court, did you know
6 whether this Court had been set up or not?

7 A. It was not in this country.

8 Q. When you made your statement?

9 A. To my knowledge, no.

15:19:43 10 Q. I put it to you that your statement was made more than
11 four years after 1998 -- including 1998, sorry. That's a
12 wide span. Would you agree?

13 A. If I had seen it written on a paper, but you have
14 something before you written. I can't say whether it is
15:20:31 15 more than four years or less than four years. No, I
16 can't say.

17 Q. I will move on. Now, during the period from 1998 to the
18 time you made the statement to the Prosecution in respect
19 of this matter - from 1998 to that time - was any report,
15:20:58 20 to your knowledge, made to the police about the six
21 policemen that you said had been killed in the barracks
22 in 1998?

23 A. No, I don't know that. Probably they made a statement or
24 report, but I don't know that.

15:21:38 25 Q. To your knowledge, was any investigation in respect of
26 those bodies conducted by your police force during that
27 time?

28 A. I said I didn't see it happen. Probably it happened, but

1 I didn't see it happen.

2 Q. Then we go to the other dead bodies, the ones you
3 discovered on your way from ECOMOG back to your house.
4 To your knowledge, during the time between 1998 and the
15:22:25 5 time you made a statement in respect of this matter, was
6 any investigation done in respect of those bodies by your
7 police force?

8 A. I don't know that.

9 Q. Now, do you know of any other atrocious incident during
15:23:09 10 the time the Kamajors and ECOMOG were in Kenema, other
11 than the killing of the six policemen? Do you know of
12 any other such incident in Kenema?

13 A. When the Kamajors came, it was later that ECOMOG came.
14 When ECOMOG came, the men people had already died.

15:23:54 15 Q. Apart from those six policemen, do you know of any other
16 such atrocious incident at that time; that's the
17 question?

18 A. He says those five people -- besides those six people
19 that you mentioned, besides the people at Short Street in
15:24:19 20 supermarket, and the bicycle field, besides those --
21 because those are the other things that I saw again when
22 we -- those five people, after the six people killed.

23 Q. So would you agree with me that the deaths of those six
24 policemen was the worst thing that happened in that area
15:24:39 25 at that time?

26 MR SAUTER: Objection, Your Honour.

27 JUDGE THOMPSON: Argumentative.

28 MR SAUTER: Objection, Your Honour. The witness is not in a

1 position to answer this question, which is highly
2 speculative.

3 JUDGE THOMPSON: And highly subjective, too.

4 MR JABBI: Thank you, My Lord.

15:25:18 5 Q. Now, let's try to come to a conclusion.

6 PRESIDING JUDGE: The Tribunal was going to ask you when you
7 were going to come to a conclusion, because it is getting
8 too long.

9 MR JABBI: Yes, indeed, My Lord. It's the manner of
15:25:40 10 answers --

11 PRESIDING JUDGE: You see, we have not, like in other
12 tribunals -- I'm saying this, I think, for the second or
13 third time -- this Chamber has not, like in other
14 tribunals, set time frames for examination-in-chief,
15:25:56 15 cross-examination and re-examination. You know that it
16 exists in other tribunals. We have resisted the
17 temptation, on the understanding, you know, that counsel
18 will at least be reasonable in their exercise -- in the
19 exercise of their rights, you know, to examine-in-chief,
15:26:19 20 to cross-examine and to re-examine. We would like to
21 remind counsel to please be understanding in this regard.
22 It is not at all times that the Tribunal would want to
23 use the hammer, you know, to call you to order, which is,
24 of course, our inherent right. So, please, we have to be
15:26:42 25 very understanding of this and to ensure we're as brief
26 and to the point as possible. Thank you.

27 MR JABBI: My Lord, I wish to entertain a hope -- no cause for
28 Your Lordships to adopt that method.

1 PRESIDING JUDGE: Right. That's why I have never touched the
2 hammer.

3 MR JABBI: This is the first time I've seen it, My Lord.

4 So, as I say, let's try and wrap it up now.

15:27:15 5 Q. Would you be surprised if somebody said that this
6 incident was so crucial and so heinous that there ought
7 to have been an investigation about it by the police in
8 your area before this Court came into existence?

9 A. I said, whether they did it or not, I don't know.

15:28:25 10 Whether it was reported to the police or not, I don't
11 know.

12 Q. I put it finally to you that your narrative of this
13 incident concerning the alleged six deaths of policemen
14 is a complete fiction of your imagination.

15:28:49 15 A. No, what I saw with my eyes is what I explained. That is
16 why I took an oath on the Koran, because if I'm telling a
17 lie, let the Prophet judge me tomorrow.

18 Q. I'm putting it to you that this event did not take place
19 and the Prophet is going to judge you tomorrow.

15:29:38 20 A. Okay.

21 MR JABBI: That's my last question.

22 JUDGE BOUTET: Thank you.

23 PRESIDING JUDGE: He said, "That event did not take place and
24 the Prophet is going to judge you tomorrow." What was
15:29:56 25 your answer to that?

26 JUDGE BOUTET: He said okay.

27 THE WITNESS: I know I said the truth, and if he says I'm not
28 telling the truth, and I know I've said the truth, then

1 it is left to the prophet to decide. It is left to God
2 to decide. I know I've said the truth.

3 JUDGE BOUTET: Second accused.

4 CROSS-EXAMINED BY MR BOCKARIE:

15:30:54 5 Q. Mr Witness?

6 A. Yes, sir.

7 Q. You've been in the police force for nearly 20 years; am I
8 correct?

9 A. Yes, at end of this year it will be 20 years. It is
15:31:15 10 19 years.

11 Q. During your stay in the police, you've been obtaining
12 statements from prospective litigants, isn't it?

13 A. No. My own job was to patrol. We had different jobs,
14 that was not my own job. We have different jobs in the
15:31:53 15 police. I did not make any statements.

16 Q. By the way, do you read and write?

17 A. No. I said I don't take statements. We have
18 different-different jobs in the police.

19 PRESIDING JUDGE: He said: Do you read and write; answer the
15:32:09 20 question.

21 THE WITNESS: No, sir.

22 MR BOCKARIE:

23 Q. But you can sign -- you can sign your name, don't you?

24 A. Oh, yes, yes.

15:32:21 25 Q. Have a look at this document. Is this your signature?

26 A. Yes, yes, that is my signature.

27 Q. Sorry, I didn't get the answer. That's your signature?

28 A. Yes, sir.

1 Q. Thank you. Now, in your statement you had this to say,
2 and I'll read briefly: "We were all hiding in a house
3 and we heard firing all over the place. One bullet hit
4 the wall on the veranda side of my house."

15:33:42 5 A. Yes.

6 Q. That is correct, isn't it? Thank you. Now, Mr Witness,
7 you said the Kamajors were coming from all three
8 directions, isn't it?

9 A. Yes, that's what happened.

15:34:02 10 Q. At that time were they firing?

11 A. No, initially when they came, they were not firing, no.

12 Q. You even encountered them and they just ignored you; am I
13 correct?

14 A. We did not meet. They met me at the pump laundering.

15:34:29 15 They didn't talk to me and I also didn't talk to them
16 when they passed. They went down -- down the barracks.

17 Q. That is exactly what I'm saying. When they met you, they
18 ignored you and went about their business?

19 A. Yes, they did not talk to me. That second they were

15:34:49 20 saying, "No police, no soldier." That is what they were
21 talking to me when they went down to the barracks.

22 Q. And all of a sudden you heard this firing all over the
23 place?

24 A. When I had gone back to the house and I went into the

15:35:08 25 house, we heard the firing down the barracks and we are
26 up the barracks here -- up the barracks here.

27 Q. Now, during this time were the SSD armed? Say by
28 December 1998, were the SSD armed in Kenema? Sorry,

1 December 1997 -- December 1997, were the SSD armed in
2 Kenema?

3 A. Yes, yes, I can remember.

4 Q. Mr Witness, will you agree with me that before February
15:36:01 5 1998 there were clashes between the Kamajors and the
6 soldiers -- the AFRC in Kenema; am I correct?

7 A. Repeat it again.

8 Q. Will you agree with me that before February 1998 there
9 were clashes between the Kamajors and the AFRC soldiers
15:36:24 10 in Kenema; am I correct?

11 A. I didn't hear or see that happen, but I used to come to
12 the place and go back to my village. There is not much
13 problems in Kenema, but I used to go there and return
14 back to my village.

15:37:01 15 Q. Oh, so you -- okay, I'll take that. Now, Mr Witness,
16 after the incident you went into your room and hid, and
17 you were in your room until the firing subsided; am I
18 correct?

19 A. Yes, myself and my family.

15:37:36 20 Q. Eventually you came out and you saw corpses?

21 A. Yes, when I heard people passing, when I heard civilians
22 moving about, when I heard civilians talking outside, so
23 we came out then.

24 Q. Just to reiterate what you told Dr Jabbi, but it is a
15:37:55 25 fact if I say that you did not see the killings, did you?

26 A. I said I was in the house. When I left -- when I went
27 outside now, I just saw corpses. I was not there; I was
28 in the house.

1 Q. You're required to answer yes or no.

2 A. No.

3 Q. You did not see -- thank you, thank you.

4 A. No.

15:38:25 5 Q. Simple, Mr Witness --

6 JUDGE THOMPSON: Learned counsel, please avoid any
7 confrontational --

8 MR BOCKARIE: I am sorry.

9 JUDGE THOMPSON: He said that he did not see the killings, and
15:38:39 10 the records, in fact, clearly indicate that.

11 MR BOCKARIE: Yes.

12 Q. Now, Mr Witness, let's come to this February. When the
13 Kamajors entered into town, were there Kamajor leaders
14 among them? Are you aware of that, yes or no?

15:39:08 15 A. I just saw them in a group that morning coming from
16 Sannoh Street and Suppui Street. That is when I saw them
17 that morning. I didn't know who was their leader or
18 whether they had a leader. I didn't know anything about
19 that.

15:39:25 20 Q. Did you make any attempt to inquire whether they had a
21 leader or not?

22 A. No, I was afraid. I couldn't ask such a thing. I was
23 afraid. I just took the bucket and I went back home.
24 I was afraid.

15:39:45 25 Q. Thank you. Now, you've been emphasising that these
26 barracks are very, very big. Can you tell me at the time
27 of this incident, between January and February, how many
28 police personnel were staying in these barracks,

1 approximately?

2 A. No, no, I don't know the number.

3 Q. Will I be correct to say that they exceeded 200?

4 A. If I said that, I'll be telling a lie. People were
15:40:38 5 scattered about.

6 Q. Will you agree with me that they exceeded 100?

7 A. No.

8 Q. Now -- but can you give us a rough estimate as to how
9 many police personnel were in the barracks on this
15:41:03 10 February? Just a rough estimate.

11 A. At that time if I should give you a number now, I will be
12 telling a lie, because most people had gone into the
13 bush. Most people had gone into the bush -- this is when
14 they killed those people. After they killed them, then
15:41:35 15 most people left for the bushes. I can't tell you a
16 rough estimation of how many people were there.

17 Q. So you're telling this Court they left after the alleged
18 killings, not before?

19 A. Yes, sir. Some people went into hiding -- some went to
15:42:01 20 the villages into hiding.

21 Q. Now, you mentioned a name Tamba Gbekie. Where does he
22 work?

23 A. I said at that time they went and took a statement from
24 us, I didn't know where he was working. I knew that he
15:42:26 25 was working with the CID in the police. A long time
26 before this, this incident that I talked about, he was
27 working at the CID. A long time before I knew him to be
28 a CID personnel.

1 Q. So you knew him to be a police personnel. At time that
2 the statement was obtained from you, did you know that he
3 was still in the police?

4 A. I said he was in the police before this incident took
15:42:55 5 place. I knew him in the Sierra Leone police long before
6 this incident happened.

7 Q. Just a minute. Is he still in the police force?

8 A. Yes.

9 Q. Is he a superior officer?

15:43:14 10 A. Oh, yes, he's commissioner himself.

11 Q. Was he ever assigned to Kenema?

12 A. It is this year that he was sent to Kenema.

13 Q. [Overlapping microphones] you worked under him?

14 A. Yes, I am just an errand boy. I work under him. He's
15:43:45 15 our head, all of us.

16 Q. Now, Mr Witness, can you tell this Court how did you come
17 in contact with officials from the Office of the
18 Prosecutor? Did you volunteer to meet them, or did they
19 meet you?

15:44:03 20 JUDGE THOMPSON: Let him answer the first question before you
21 entangle it.

22 MR BOCKARIE: Sorry.

23 Q. Tell this Court: How did you come in contact with
24 officials from the Office of Prosecutor?

15:44:18 25 A. At that time I was posted -- I was posted to hang -- I
26 was working there. I was there when I had a message --
27 our boss, the sergeant -- the sergeant said that people
28 had come from Freetown, that they named a number of

1 people, of which I was among. They said they want to see
2 us and I left my station and went there.

3 Q. Thank you. Now, are you afraid, as you're sitting here
4 presently?

15:44:56 5 JUDGE THOMPSON: Afraid of what?

6 MR BOCKARIE:

7 Q. Are you afraid of your identity being disclosed, as you
8 are sitting there?

9 A. Oh, yes. Yes, I'm afraid.

15:45:18 10 Q. But you're speaking the truth, aren't you?

11 A. Yes, I am speaking the truth.

12 Q. Why are you afraid?

13 A. What sort of afraid? What sort of fear are you talking
14 about?

15:45:39 15 JUDGE THOMPSON: I thought the question was vague and, once
16 the question is vague, it becomes highly argumentative,
17 so afraid of what?

18 MR BOCKARIE:

19 Q. Are you afraid of making your identity known?

15:45:55 20 JUDGE THOMPSON: To whom?

21 MR BOCKARIE:

22 Q. To the public.

23 JUDGE THOMPSON: Because his identity is known to us.

24 MR BOCKARIE:

15:46:05 25 Q. You don't want people sitting over there to see you?

26 A. No, no, I don't want them to see me.

27 Q. Can you tell this Court why you don't want them to see
28 you?

1 A. No.

2 Q. What is no? Can you tell this Court why you don't want
3 people outside sitting to see you?

4 A. Possibly in the nearest future any other thing could
15:46:57 5 happen, then they will say, "Such a person went and gave
6 evidence in the court." Probably they will be against
7 me. They will kill me, or they will kill my children.
8 That's why I said the Court should protect me.

9 MR BOCKARIE: That will be all for this witness.

15:47:17 10 JUDGE BOUTET: Thank you. Third accused.

11 CROSS-EXAMINED BY MR WILLIAMS:

12 MR WILLIAMS:

13 Q. Mr Witness, you said that a couple of people helped you
14 to bury corpses; is that correct? A number of people
15:47:42 15 left you to bury the corpses of your colleagues; is that
16 correct?

17 A. No, no. No.

18 Q. Did you bury them single-handedly?

19 A. No, I met them digging the grave and I asked them, I
15:48:08 20 said, "What are you doing?" They said, "We're digging
21 the grave to bury the corpse," and I went to help them.
22 I met them digging. They had almost completed the
23 digging, so they did not help me; I helped them.

24 Q. Thank you very much. Could you tell the Court the names
15:48:22 25 of those people that helped you to bury your colleagues?

26 JUDGE BOUTET: I do have one concern based on some of the
27 evidence we've heard by previous witnesses. It may be
28 that the question that you're asking is protected by

1 protective measures, because if you're asking the name of
2 who it was, as such, I do remember at least one witness
3 that said, "I was there. I did this," and that witness
4 testified here under protection.

15:49:03 5 MR WILLIAMS: My Lord, the witness did not say -- I remember a
6 female saying, you know, that she helped -- I mean, she
7 provided something, physically.

8 JUDGE BOUTET: I'm just saying that -- let's say at this
9 moment I'm just warning you that if you press that, we
15:49:24 10 may end up in a difficult scenario.

11 PRESIDING JUDGE: Do you appreciate that in the course of
12 enumerating -- I mean, it could also enumerate -- give
13 the name of that witness.

14 MR WILLIAMS: My Lord, based on what that witness said, My
15:49:45 15 Lord, she could not have participated in the digging and
16 physically laying the corpses to rest.

17 JUDGE BOUTET: Mr Williams, I'm not trying to preclude you
18 from asking any question. If you want to explore that,
19 we may go into closed session. I don't have any problems

15:50:01 20 MR WILLIAMS: I stand guided.

21 JUDGE BOUTET: If you feel this is important for your
22 cross-examination, we will assist, you, in that we will
23 just go into closed session for that short period of time
24 and allow you to ask these questions. I'm not trying to
15:50:15 25 preclude the cross-examination, just cautioning you about
26 the measures that are in place, that's all.

27 JUDGE THOMPSON: [Overlapping microphones] -- lack of your
28 instructions and based on your evaluation, if you get an

1 answer to this question, would that undermine the
2 integrity of the protective measures? I mean, you're an
3 officer of the court and this is -- we've got a decision
4 of the Court which stands now -- for now until it is
15:50:46 5 reversed and we're all guided by the decision and I'm
6 sure you feel yourself bound by it and we're trying to
7 maintain the integrity of that decision, so as counsel
8 you should be able to tell us. We don't know what your
9 instructions are and, as my learned brother said, I don't
15:51:11 10 intend to foreclose you from asking legitimate questions
11 based on your instructions, but if you end up undermining
12 the integrity of our decision, then I think we have a
13 right to intervene.

14 MR WILLIAMS: Well, then, based on Your Lordship's concern,
15:51:21 15 I will not pursue that line of cross-examination.

16 PRESIDING JUDGE: I think you are better advised not to pursue
17 that line. Can you now proceed, Mr Williams.

18 MR WILLIAMS: Yes.

19 Q. You also said that you saw civilian corpses.

15:51:44 20 A. Yes, I saw five of them. I saw them, five of them.

21 Q. Are you saying that they were dressed in civilian
22 clothing or they were civilians? What were you telling
23 the Court?

24 A. They had civilian clothes on.

15:51:59 25 Q. So you would not know whether they were civilians,
26 soldiers or rebels; is that correct?

27 A. No, they had civilian clothing on.

28 Q. Would you answer my question, please?

1 A. Yes, sir.

2 Q. You wouldn't know whether they were civilians or rebels
3 or soldiers; correct?

4 A. I know they were civilians; they had civilian clothing
15:52:40 5 on. I know they were civilians

6 PRESIDING JUDGE:

7 Q. Mr Witness -- Mr Witness.

8 A. Sir.

9 Q. You saw the corpses?

15:52:53 10 A. Yes, sir.

11 Q. They were dressed in civilian attire?

12 A. Yes, sir, these same civilians that I have.

13 Q. Were you aware whether they were of the army or whether
14 they were soldiers or rebels? Would you know?

15:53:14 15 A. No, sir, no sir, I don't know. I just saw them having
16 civilian clothing lying dead -- civilian clothing lying
17 dead.

18 Q. So if they were soldiers, you wouldn't know?

19 A. No, I wouldn't have known, but if they had had military
15:53:35 20 uniform, I would have known. That's why I said they were
21 civilians.

22 JUDGE THOMPSON:

23 Q. What are you wearing now? What are you wearing, witness?

24 A. I have a civilian clothing on.

15:53:52 25 Q. Are you a civilian?

26 A. Yes, sir. Now that I'm in this Court, I'm a civilian.

27 PRESIDING JUDGE: You are not a civilian; you're a policeman.

28 JUDGE THOMPSON: Thank you.

1 PRESIDING JUDGE:

2 Q. If you did not tell us that you were a policeman, seeing
3 you in this dress, would we have known that you were a
4 policeman in this dress? If you did not tell us here
15:54:17 5 that you're a policeman, would we have known in this
6 dress that you were a policeman?

7 A. No, no.

8 PRESIDING JUDGE: Okay.

9 MR WILLIAMS:

15:54:28 10 Q. Mr Witness, these are the -- bodies that you saw, you
11 could not officially recognise who those people were; is
12 that right? You had never seen them before?

13 A. I saw that they were men. I saw men lying down. I saw
14 that they were men.

15:54:52 15 Q. You saw Desmond Pratt and you knew Desmond Pratt;
16 correct?

17 A. Oh, yes, the person I was staying together the other
18 corpses, I didn't know their names.

19 Q. You've never seen them before?

15:55:15 20 A. No, those that I saw, I had never seen them before.

21 PRESIDING JUDGE: They're civilian corpses. He said they're
22 some civilian -- I mean, make a distinction.

23 MR WILLIAMS:

24 Q. Of the five mentioned, were all civilians?

15:55:30 25 PRESIDING JUDGE: They're police casualties according to the
26 record.

27 MR WILLIAMS: I'm concentrating on those five.

28 JUDGE THOMPSON: Well, why not --

1 PRESIDING JUDGE: [Overlapping microphones] -- call it the
2 so-called civilian.

3 JUDGE THOMPSON: The ones he described as civilian corpses.

4 MR WILLIAMS: Yes, My Lord. [Microphone not activated] --
15:55:49 5 that's why I described Desmond Pratt to be a police
6 officer.

7 JUDGE THOMPSON: [Microphone not activated]

8 MR WILLIAMS:

9 Q. All right. To be more specific, you said when you were
15:55:58 10 returning -- it was when you were returning from the NIC
11 office to your quarter that you saw these five corpses?

12 A. Yes, but they were not lying at the same place; they were
13 lying in different places.

14 Q. You didn't know whether those corpses -- I mean, those
15:56:19 15 people were soldiers, you wouldn't know?

16 A. I wouldn't know, no.

17 Q. You also would not know whether they were rebels; you
18 wouldn't know?

19 A. No, they had a civil dress on.

15:56:38 20 Q. And have you ever heard about the war vigilantes?

21 A. Yes, I used to hear it from the soldiers. They were
22 saying vigilante, volunteers; I used to hear them say
23 that.

24 [4.01 p.m. HN210904E]

16:01:08 25 Q. These vigilantes were civilians who were merely
26 assisting --

27 PRESIDING JUDGE: No. Don't say that, Mr Williams. Ask him
28 the functions of the vigilantes, not that there were

1 civilians who were assisting. That's giving evidence.

2 MR WILLIAMS: I am suggesting --

3 PRESIDING JUDGE: Frame your question, not even suggesting.

4 Ask him the role of vigilantes. Who were vigilantes;

16:01:36 5 what did they do; what was their role - vigilantes?

6 MR WILLIAMS:

7 Q. Were vigilantes present in Kenema whilst the junta was in
8 power?

9 A. Those that were called vigilantes were civilians that
16:02:12 10 were staying with the soldiers. They used to give them
11 numbers and they took guns and gave it to them. Those
12 civilians that have stayed with the soldiers were called
13 the vigilantes.

14 Q. And then those civilians who also cared about the
16:02:28 15 township of Kenema also became vigilantes; is that
16 correct?

17 A. No. Those that were made into vigilantes were taken from
18 else where, brought them and they were joined, but I
19 can't remember anyone that actually came and joined the
16:03:02 20 vigilantes voluntarily. Some were brought from Daru and
21 they were made into vigilantes.

22 Q. I mean, nobody from Kenema served as a vigilante. Is
23 that what you are saying; not a single person?

24 A. I said I didn't see a vigilante that was from Kenema, but
16:03:34 25 I knew people -- they were taking people from Daru,
26 Freetown and elsewhere that were made into vigilantes,
27 but I didn't know anyone that was taken from Kenema who
28 was a vigilante.

1 Q. All right. Okay, let me ask you this, Mr Witness. Am I
2 right to say that when the junta was in power -- I mean,
3 when they were in control of Kenema, they did a lot of
4 terrible things to the civilian populace?

16:04:16 5 A. That is what I said just now. Yes, sir.

6 Q. And then you said they never killed anybody; is that also
7 what you said?

8 A. I said I didn't see them kill people. They were saying
9 that they were killing people; it was happening outside,
16:04:42 10 but I didn't see it with my own eyes in Kenema.

11 Q. Do you know of any civilian who was killed during the
12 junta period in Kenema?

13 A. No.

14 Q. Do you know of anybody who was mayor -- who was called
16:05:10 15 the Mayor of Kenema? There was somebody who was the
16 Mayor of Kenema, do you know him?

17 JUDGE BOUTET: Mr Williams, what time are we talking about
18 when you are talking the mayor. Was it during the Junta?

19 MR WILLIAMS: During the junta period.

16:05:40 20 JUDGE BOUTET: Okay, thank.

21 MR WILLIAMS:

22 Q. So you don't know of somebody -- or do you know a BS
23 Massaquoi who was a mayor?

24 A. Oh, yes, Oh, yes.

16:05:50 25 Q. Is he still alive?

26 A. No.

27 Q. How did he die?

28 A. On that day I went to my village. When I came back they

1 said they had killed BS Massaquoi. They said the
2 junta -- RUF had killed him. I came from my village on
3 that day. I met; they said they had killed him.

4 Q. I mean, just a short while ago, didn't you say you never
16:06:28 5 heard of any civilian who was killed by the junta in
6 Kenema; didn't you say that?

7 A. No, that's not the way you asked me.

8 Q. The way you answer is what I care.

9 A. I know of his death; I was told.

16:06:50 10 Q. Now, tell us all the other civilian deaths.

11 JUDGE THOMPSON: Which question are you putting to him now?

12 MR WILLIAMS: My Lord --

13 JUDGE BOUTET: Any person dead or was killed because --

14 JUDGE THOMPSON: Can we be a little bit more organised and
16:07:02 15 logical and tidy, because we have quite a multiplicity of
16 questions put to him, and that would result in a
17 multiplicity of issues. Let's go step by step.

18 MR WILLIAMS:

19 Q. Apart from BS Massaquoi, tell us about other civilians
16:07:26 20 who were killed by the junta in Kenema during the period
21 1997 to February 1998?

22 JUDGE THOMPSON: Isn't that like a fishing expedition, because
23 do the records reflect that he admitted here that he knew
24 of other civilians killed other than the five he
16:07:56 25 identified -- he referred to?

26 MR WILLIAMS: My Lord, this was post-junta period, My Lord --

27 JUDGE THOMPSON: Yes.

28 MR WILLIAMS: In answer to my -- to a question from me, and in

1 examination-in-chief, he said he did not know of any
2 civilian who was killed -- I think categorically that no
3 civilian or civilians were killed during the junta
4 period.

16:08:08 5 JUDGE THOMPSON: Yes.

6 MR WILLIAMS: He repeated it in cross-examination a short
7 while ago.

8 JUDGE THOMPSON: Yes.

9 MR WILLIAMS: I put it -- I put a specific case to him of BS
16:08:22 10 Massaquoi.

11 JUDGE BOUTET: That's true.

12 JUDGE THOMPSON: Okay.

13 MR WILLIAMS: Then he was killed.

14 JUDGE BOUTET: And he was killed during the junta.

16:08:22 15 JUDGE THOMPSON: Yes.

16 MR WILLIAMS: During the junta period, My Lord. I mean, I'm
17 testing his veracity now. I want him to practically
18 contradict what he has said earlier.

19 JUDGE THOMPSON: Well, by saying that he knew that

16:08:38 20 BS Massaquoi was killed during the junta period, and
21 BS Massaquoi was a civilian, is it necessarily implying
22 that he knew of all or so many other civilians again?
23 There is a lacuna there, unless you put specifically to
24 him.

16:08:50 25 JUDGE BOUTET: But the --

26 MR WILLIAMS: My Lord, with respect, he can. He lived there;
27 I mean, he is in a position to say. I mean, all the
28 witnesses have specifically mentioned of cases where

1 civilians were removed from cells and executed, and I
2 would be surprised if he does not know of those cases.

3 JUDGE THOMPSON: But remember that he is here also to testify
4 to certain facts, not to testify to things that may well
16:09:18 5 have been outside his knowledge, so unless you have
6 evidence that he has knowledge of other civilians who
7 were killed beside the ones he has mentioned, it would
8 look like a fishing expedition. That's my view, but I
9 will say no more at this point.

16:09:36 10 MR WILLIAMS: As My Lord pleases.

11 Q. Answer the question, please. Tell us of other civilians
12 who were killed by the junta during their rule in Kenema?

13 A. I said even if they killed other people, I didn't know
14 about it. I was not there permanently. Even when
16:10:02 15 BS Massaquoi was killed, I was not there. When I came,
16 they told me that BS Massaquoi was killed. I went to my
17 village.

18 Q. So many things you've testified to, I mean, you did not
19 see; you were merely told. But then I will ask you this:
16:10:18 20 Were you ever told of civilians that were removed from
21 police cells and executed by the junta?

22 A. No. I said even if they did it, I didn't know. I took
23 leave and I went to my village; I was on leave. I was
24 not there even when BS Massaquoi was killed. I don't
16:11:02 25 know -- I don't know, sir.

26 Q. How long did you go for leave?

27 A. They will give you a UPA leave to somebody for about
28 seven days. They would give an annual leave, at times

1 one month.

2 Q. You were away. When you came back, were you informed?

3 A. It was BS's death that was reported to me. Even then I

4 didn't stay there for long. I just went back. It was

16:11:30 5 BS Massaquoi's death that I was informed about. Even

6 there I didn't stay there for long; I just went back to

7 my village after I had bought some wires.

8 Q. Okay, I will proceed. How many days elapsed between the

9 Sunday the Kamajors entered Kenema and the day ECOMOG

16:12:10 10 came into Kenema?

11 A. When the Kamajors entered, it took about four days. On

12 the fifth day ECOMOG entered to Kenema.

13 Q. ECOMOG -- the Kamajors entered on Sunday. On which day

14 did ECOMOG come in?

16:12:44 15 A. It was on Friday.

16 Q. You know a Sergeant Vandí. You know somebody called

17 Sergeant Vandí?

18 A. No.

19 Q. And then you mentioned that you came out several times to

16:13:40 20 purchase cigarette. You came out of your house on a

21 number of occasions to purchase cigarette.

22 A. It was not on several occasions; it was only twice.

23 Q. And in your statement, the statement you made to the

24 Prosecutor which is dated 11th January 2003, you had this

16:14:08 25 to say - I will read it out to you, "Whilst in the

26 house..." Okay, excuse me. I made a mistake. Do you

27 know a Sergeant Sandí?

28 A. Yes, yes.

1 Q. He is a Kamajor?

2 A. No, no. He was a police, but they said we should not
3 name people here.

4 JUDGE BOUTET: Now, Mr Witness, there are some people you
16:14:42 5 cannot, and we will tell you when you cannot. So
6 otherwise, you have to answer the question, please.

7 MR WILLIAMS:

8 Q. And in your statement you made to the Prosecutor, did you
9 tell them that, when you went into your house on Sunday,
16:15:00 10 you did not step out until the day ECOMOG came into
11 Kenema?

12 A. No, no.

13 MR SAUTER: Objection, My Lord. This is not the proper way to
14 deal with alleged inconsistencies. According to the
16:15:22 15 rules you've set up, it's a different one. He has to
16 quote what he allegedly has said before asking him
17 whether this was what he said, and then come to
18 inconsistencies. Thank you.

19 JUDGE BOUTET: Mr Williams.

16:15:36 20 MR WILLIAMS: My Lord, I believe Your Lordships' ruling is
21 when you seek to tender a statement, My Lord. I don't
22 know whether my learned friend is a --

23 JUDGE BOUTET: At this stage, I will overrule the objection.
24 We will see where you are going.

16:15:54 25 MR WILLIAMS: As My Lord pleases.

26 PRESIDING JUDGE: But you have to be very careful of how far
27 you go, because if you are going to be perceived to be
28 using that statement as a para-inconsistent statement,

1 you know, to his viva voce evidence, then you will be in
2 some trouble there.

3 MR WILLIAMS: I will take the cue, My Lord.

4 Q. I will read a portion of your statement to you. You
16:16:28 5 said, "While in the house Sergeant Sandi came to my house
6 and told me that they, the Kamajors, had killed our
7 friends." Did you say that to the Prosecutors?

8 A. No, sir. Sandi is a police officer, he is not a
9 Kamajors.

16:17:00 10 PRESIDING JUDGE: When "they say," they, the Kamajors; would
11 you imagine that.

12 MR WILLIAMS: My Lord, I have abandon that. I'm not linking
13 "said to be a Kamajor." And then, My Lord, again, it is
14 subject to interpretation, but if he said that -- like,
16:17:20 15 "Came to my house and told me that they, the
16 Kamajors..." it means Sandi is inclusive, but I will not
17 pursue that, My Lord.

18 PRESIDING JUDGE: Okay. All right, go ahead, Mr Williams.

19 MR WILLIAMS:

16:17:34 20 Q. You said Sergeant Mason, Fandai, Turay, OC Brima Kanu,
21 Desmond Pratt had been killed; is that correct?

22 A. It was later that I said that. It was not Sandi that
23 told me.

24 Q. But by this statement you are saying that it was Sandi
16:18:06 25 who told; do you say that to the --

26 A. No. Would you allow me to explain? He said Sandi came
27 to me and they had missed him, after which he came to me.
28 He called me -- he met me at the pump. He called me; he

1 said, "Come here." He said, "What are you doing?" I
2 said, "I'm laundering." He said, "Let us find the way to
3 hide, because they are looking for police."

4 JUDGE THOMPSON: Listen to counsel and, counsel, I think you
16:18:30 5 need to make it quite clear that you are in fact
6 putting -- and this is the difficulty as I say what --
7 one is not quite sure what you want to do yet, but if you
8 are quoting portions of his statement to the Prosecution
9 and then trying to put those portions alongside portions
16:18:52 10 or extracts of his testimony here, I think you should be
11 very clear that you are, in fact, doing that. Now, if it
12 is not clear, then he goes on and virtually takes the
13 whole thing away from the focus and tell us what he had
14 told the police.

16:19:16 15 MR WILLIAMS: My Lord, I believe I said that I was reading
16 portions of his statement --

17 JUDGE THOMPSON: Yes, I mean with the emphasis that he made
18 that statement allegedly to the police --

19 MR WILLIAMS: Yes, My Lord.

16:19:22 20 JUDGE THOMPSON: But now you see what between that statement
21 and his oral testimony, otherwise the exercise looks to
22 be one in futility, with greatest respect.

23 MR WILLIAMS: As My Lord pleases.

24 Q. And then I will also read another portion of your
16:19:44 25 statement. You said, "We had nowhere to go, so we stayed
26 in hiding for three days."

27 A. Umm.

28 JUDGE THOMPSON: And I reckon that you would say, "Did you

1 tell the Prosecution that?"

2 MR WILLIAMS: My Lord, he has answered.

3 JUDGE THOMPSON: Well, you see, "Umm." I don't know what
4 "Umm" means.

16:20:06 5 MR WILLIAMS:

6 Q. Did you tell the Prosecution that?

7 A. That what?

8 Q. "So we stayed in hiding for three days."

9 A. Yes, I said that one.

16:20:24 10 Q. And on the fourth -- did you also say this to them, "That
11 on the fourth day, people started moving around the
12 barracks and we came out."

13 A. No, I didn't say that, I didn't say so. The way I said
14 was not the way he has just reported. If you want, you
16:21:02 15 can ask me how I said it, I will explain.

16 Q. So you are telling this Court that you were not confined
17 into your house for three days - I mean, three
18 consecutive days?

19 JUDGE BOUTET: This is not quite sure, Mr Williams. The
16:21:20 20 question --

21 THE WITNESS: Nobody put me into my house. I was there for
22 myself and after that time I came out. Nobody put me
23 into my house. I went there voluntarily and came out,
24 again voluntarily.

16:21:42 25 JUDGE BOUTET: The question was about on the fourth day. He
26 answered yes when you asked him if he had been in his
27 house hiding for three days. And on the fourth day --
28 and it's on the fourth day that he denied having said

1 that. So the first part, he said yes. It's the second
2 part.

3 MR WILLIAMS: I agree, My Lord.

4 Q. And then did you -- were you aware of any fighting
16:22:18 5 between the junta and the Kamajors whilst they were in
6 power around Kenema?

7 A. No, sir, I didn't see that.

8 Q. And then when the ECOMOG came into -- when ECOMOG entered
9 Kenema, they took over control of the activities of the
16:22:50 10 Kamajors; is that correct?

11 A. Did they start doing the job of the Kamajors; is that
12 what you are saying?

13 Q. What I meant was that --

14 JUDGE BOUTET: It's because your question is not clear, I have
16:23:10 15 to confess, because you said, "They took over from the
16 Kamajors." Did they take over control, or do they assume
17 command of the Kamajor? I mean, what do you mean?

18 MR WILLIAMS:

19 Q. I mean, they took over command of the Kamajors; is that
16:23:28 20 correct?

21 A. Yes, sir.

22 Q. Thank you.

23 A. They were under their commander then.

24 Q. Under the command of ECOMOG?

16:23:50 25 A. Yes, everybody at that time.

26 Q. And would you say that the ECOMOG officers would punish
27 Kamajors when they misbehaved after they had come to --
28 after they had entered Kenema.

1 A. No, I didn't see that. I didn't see ECOMOG punishing
2 Kamajors. I didn't see them doing that.

3 THE WITNESS: I would like to ease myself.

4 THE INTERPRETER: My Lords, the witness is expressing that he
16:25:08 5 would like to ease himself.

6 JUDGE BOUTET: Mr Witness, please wait a few seconds and we
7 will accede to your request. Mr Williams, you still have
8 long to go?

9 MR WILLIAMS: No further question, My Lord.

16:25:26 10 JUDGE BOUTET: No further questions. Thank you.

11 THE WITNESS: But I'm pressed; I want to ease myself.

12 JUDGE BOUTET: Any re-examination?

13 MR SAUTER: No, Your Lord.

14 THE WITNESS: I said I want to ease myself.

16:25:34 15 JUDGE BOUTET: Yes, we will -- we will, but we still have to
16 stand up and allow the curtains to be closed.

17 THE WITNESS: Okay, sir.

18 PRESIDING JUDGE: We will adjourn, and we will resume sitting
19 tomorrow at 9.00 a.m. -- at 9.00, please, because we have
16:26:02 20 some calendar constraints and obligations. We shall sit
21 for anything around, say, about two hours maximum in the
22 morning. We will make a further communication as to our
23 calendar tomorrow when we meet in the morning. So the
24 Court will rise and we will resume sitting tomorrow at
16:26:28 25 9.00 tomorrow morning.

26 [Whereupon the hearing adjourned at 4.25 p.m., to be
27 reconvened on Wednesday, the 22nd day of September 2004
at 9.00 a.m.]

EXHIBIT NO. 13	65
WITNESS TF2-040	13
EXAMINED BY MR SAUTER	13
CROSS-EXAMINED BY MR JABBI	37
CROSS-EXAMINED BY MR BOCKARIE	86
CROSS-EXAMINED BY MR WILLIAMS	93

C E R T I F I C A T E

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

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

Momodou Jallow

Susan G Humphries

Roni Kerekes

Maureen P Dunn