



Case No. SCSL-2003-01-T

THE PROSECUTOR OF
THE SPECIAL COURT
V.
CHARLES GHANKAY TAYLOR

WEDNESDAY, 25 JUNE 2008
9.30 A.M.
TRIAL

TRIAL CHAMBER II

Before the Judges:

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

For Chambers:

Mr Simon Meisenberg
Ms Sidney Thompson

For the Registry:

Ms Rachel Irura

For the Prosecution:

Mr Nicholas Koumjian
Ms Shyamala Alagendra
Ms Maja Dimitrova

For the accused Charles Ghankay
Taylor:

Mr Terry Munyard
Mr Morris Anyah

1 Wednesday, 25 June 2008

2 [Open session]

3 [The accused present]

4 [Upon commencing at 9.30 a.m.]

09:29:52 5 PRESIDING JUDGE: Good morning. I think appearances are as
6 before, Mr Koumjian?

7 MR KOUMJIAN: Good morning, your Honours. Yes, the
8 Prosecution is the same this morning. Thank you.

9 PRESIDING JUDGE: Mr Munyard, you also I think.

09:30:07 10 MR MUNYARD: Good morning, your Honour. No, we're not, in
11 fact. Good morning, your Honours, and counsel opposite. This
12 morning it is myself Terry Munyard, Morris Anyah who was not here
13 yesterday and Thomas Scott.

14 PRESIDING JUDGE: Sorry, Mr Munyard.

09:30:31 15 MR MUNYARD: Your Honour, can I point out that I think
16 everybody is in the same boat as far as LiveNote is concerned.
17 We don't have functioning LiveNote on our laptops and I
18 understand that Madam Court Officer is going to be able to
19 broadcast again from her desk for the benefit of the entire
09:30:48 20 court.

21 PRESIDING JUDGE: This is what we have been advised also,
22 Mr Munyard, and I understand that the problem emanates from the
23 provider and efforts are being made to rectify it as soon as
24 possible.

09:31:04 25 MR MUNYARD: Thank you.

26 PRESIDING JUDGE: Before I remind the witness of his oath I
27 would restate what was stated yesterday afternoon. If there are
28 any monitors or members of the public that were in court
29 yesterday before lunchtime, certain matters stated by a witness,

1 which have now been redacted from the public record and made
2 confidential, are not to be repeated in public, or in any way
3 disseminated. I think monitors will be aware of the references I
4 am alluding to. If they are not, information can be brought from
09:31:42 5 our senior Legal Officer.

6 I will now remind the witness of his oath if there are no
7 other matters. Mr Witness, I again remind you this morning, as
8 I've done on previous mornings, that you have taken the oath to
9 tell the truth. The oath is still binding on you and you must
09:32:00 10 answer questions truthfully. Do you understand?

11 THE WITNESS: Yes.

12 WITNESS: TF1-375 [On former oath]

13 PRESIDING JUDGE: Very well. Please proceed.

14 MR KOUMJIAN: Thank you. Good morning, your Honours. Just
09:32:16 15 for everyone's information, I have a very short amount of
16 questions in open session and then, with apologies to those in
17 the audience, I will be making an application for a private
18 session for the remainder of the evidence, which I anticipate
19 will take a couple of hours.

09:32:34 20 EXAMINATION-IN-CHIEF BY MR KOUMJIAN: [Cont.]

21 Q. Mr Witness, did you ever meet a General Ibrahim?

22 A. Yes.

23 Q. Do you know his full name?

24 A. No, I only knew General Ibrahim.

09:32:55 25 Q. Where have you seen General Ibrahim?

26 A. I saw him in Buedu and I later saw him in Liberia at White
27 Flower.

28 Q. When you saw General Ibrahim, let's take it one at a time,
29 if you recall, how was he dressed in Buedu?

1 A. He was in uniform, AFL uniform.

2 Q. Again so the record is precise, when you say AFL, what do
3 you mean?

4 A. Armed Forces of Liberia.

09:33:39 5 Q. You said you saw General Ibrahim at White Flower. Do you
6 recall the year it was that you saw him there?

7 A. I can't recall the actual year.

8 Q. When you say you saw him at White Flower, do you recall
9 where it was you saw him?

09:34:06 10 A. Yes.

11 Q. Where was it you saw him?

12 A. At the entrance of the President's house. The entrance of
13 the President's house.

14 Q. Do you recall how General Ibrahim was dressed on this
09:34:22 15 occasion?

16 A. Yes.

17 Q. Please tell us.

18 A. The time I saw him he was in ATU uniform, ATU uniform, at
19 the time I saw him at White Flower.

09:34:42 20 Q. Mr Witness, have you met Charles Taylor face to face?

21 A. Yes.

22 Q. Can you tell us about the first time you met Charles Taylor
23 face to face?

24 A. Yes.

09:35:06 25 Q. What year was that, if you recall?

26 A. '99.

27 Q. Tell us the circumstances of how you first met
28 Charles Taylor.

29 A. Benjamin Yeaten took us, he took me to his house at Congo

1 Town, White Flower, and he said, "These are the boys that are
2 with me in Lofa County and he is doing very well." Benjamin
3 Yeaten told the President that and the President shook my hand
4 and he tapped me on the head and he said, "Oh boys, just take
09:35:57 5 care, I will see what to do about you." That was the first time.

6 Q. Mr Witness, in your answer I understood you to use the word
7 "boys". Without giving any names can you tell us, aside from
8 yourself and Benjamin Yeaten and Charles Taylor, was anyone else
9 present at that meeting? Don't give us names, just answer yes or
09:36:18 10 no.

11 A. Yes.

12 Q. Again without giving us names, can you just tell us the
13 type of other people that were present?

14 A. Yes.

09:36:35 15 Q. Tell us, the other people that were there, what type of
16 organisation did they belong to?

17 A. SSS and some belonged to the militia forces.

18 Q. Thank you. Mr Witness, do you recall the last time you saw
19 Charles Taylor?

09:37:08 20 A. Yes.

21 Q. What year was that?

22 A. 2003.

23 Q. Where were you when you last saw Charles Taylor?

24 A. I saw him in 2003 at the Executive Mansion and I saw him at
09:37:34 25 his residence before he left.

26 Q. Which was the very last time; at the Executive Mansion, or
27 at the residence?

28 A. At his house.

29 Q. Can you tell us what happened then?

1 A. That was the time he was asked to leave the country. So he
2 went there to give us few words that he was going to leave, but
3 that things would be fine. That was the last time we met him.
4 Those were the things that he told us that night. He said, "I
09:38:19 5 will be leaving, but things will be fine with you. I will leave
6 you in good hands. Benjamin Yeaten will take care of you, but
7 when I arrive I will give some instruction to Benjamin Yeaten."
8 Charles Taylor said when he arrived he would give some
9 instruction to Benjamin Yeaten. That was the last time.

09:38:37 10 Q. Mr Witness, when you say, "Charles Taylor said when he
11 arrived", what did you understand as to where he meant that he
12 would arrive?

13 A. When he arrived at his destination, Calabar, the place they
14 were taking him to.

09:39:01 15 Q. What country is Calabar in, if you know?

16 A. Nigeria.

17 Q. Did Charles Taylor say any words or have any interaction
18 directly with you on that occasion?

19 A. Yes, he met us individually, every one of us. He shook my
09:39:35 20 hands, he tapped me on my head and he said, "Son, I know that
21 people are now feeling bad that I am leaving, but that things
22 will be fine." And he did that directly, he said that directly
23 to me, but he was talking to people individually before he left.

24 Q. Mr Witness, one final question in this phase of your
09:39:54 25 examination. You've told this Court that you were abducted when
26 you were 11 years old by the RUF rebels. Did you ever see your
27 father again?

28 A. No.

29 Q. Did you ever learn what happened to your father?

1 A. After the war I did not see my father and I asked my
2 mother, but my mother told me that my father passed away.

3 Q. Sorry, when you were with your family, before your
4 abduction, did you have any siblings, brothers or sisters?

09:40:37 5 A. Yes.

6 Q. What happened to your brothers or sisters?

7 A. One of my brothers was killed in Sierra Rutile in Sierra
8 Leone and they said he was killed by the rebels in 1995.

9 MR KOUMJIAN: Thank you. I have no further questions in
09:41:00 10 open session and I would apply now for private session, or
11 perhaps closed session to your Honours' discretion, as to the
12 remaining questions, because all of the areas that I have left to
13 cover are areas where if the witness testifies openly his
14 identity would be known to individuals because his role was very
09:41:25 15 unique in these particular events.

16 PRESIDING JUDGE: Thank you. Mr Munyard, you've heard the
17 application.

18 MR MUNYARD: Would your Honour give me just a moment while
19 I take direct instructions?

09:41:43 20 PRESIDING JUDGE: Yes, please do so.

21 MR MUNYARD: Your Honours, what I would propose is that we
22 go into private session in order for Mr Koumjian to outline why
23 he wants the evidence, why he wants the evidence in either a
24 private or a closed session, so that I can make such submissions
09:42:30 25 as are appropriate and so that the Court can then consider
26 whether - I'm not asking for all of the evidence of course at
27 this stage to be outlined, but for Mr Koumjian to give us an idea
28 of what it is that is so unique about these situations that it
29 might lead to the identification of the witness. At the moment

1 we've simply got a bald statement that these are areas that would
2 reveal his identification - his identity, I am sorry.

3 PRESIDING JUDGE: Mr Koumjian, you have heard counsel for
4 the Defence.

09:43:01 5 MR KOUMJIAN: I'm happy to do that, your Honour.

6 PRESIDING JUDGE: Yes, very well. Madam Court Attendant,
7 we will first go into private session to discuss the application,
8 and for those members of the public that are here there will be
9 an application made for a private or a closed session because of
10 issues touching on the witness's security and we will deal with
11 that application now in private session. So, you will be able to
12 - the windows will remain open, but you will not hear what is
13 being said. This, as I've already noted, is for reasons of
14 security of the witness.

09:43:46 15 [At this point in the proceedings, a portion of
16 the transcript, pages 12711 to 12717, was
17 extracted and sealed under separate cover, as
18 the proceeding was heard in private session.]

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1 [Open session]

2 MS IRURA: Your Honour, we are in open session.

3 MR MUNYARD: If it doesn't take terribly long then the
4 Court might want to reconsider the question of the mid-morning
10:04:39 5 break. I'm simply putting that down as a marker.

6 PRESIDING JUDGE: Yes, indeed. I could foresee, if
7 shorter, that that could arise. If it's going to be shorter, I
8 suggest you speak to your colleague on the other side and to our
9 Legal Officer.

10:04:54 10 MR MUNYARD: I will certainly.

11 PRESIDING JUDGE: For purposes of the public, we've had a
12 long discussion in private session. Counsel has indicated they
13 need more time to take instructions and we are going to adjourn
14 for one hour, that is to 11.05, to allow counsel to take those
11:00:51 15 instructions and the normal mid-morning break will be included
16 within that time. Please adjourn court until 11.05.

17 Mr Witness, please sit where you are until everything is
18 closed down and then you can move.

19 [Break taken at 10.05 a.m.]

11:03:47 20 [Upon resuming at 11.05 a.m.]

21 PRESIDING JUDGE: Before we go into the substantive
22 application before us, I wish to raise another matter which has
23 come to our attention during that brief adjournment. We have
24 been - we note that there's an application - an urgent Defence
11:06:00 25 application - for a temporary adjournment of the testimony of
26 witness TF1-375, who is the witness now before us. Mr Koumjian,
27 are you aware of this filing?

28 MR KOUMJIAN: Yes, your Honour, I was just handed a copy a
29 few moments ago and I've read it quickly, yes.

1 PRESIDING JUDGE: Bearing in mind the content and the
2 application, we have in mind that there will be a need to have an
3 expedited decision and therefore an expedited filing. Before
4 making a decision on times et cetera, Mr Koumjian, can you give
11:06:31 5 us an indication if you have any views on how long it will take
6 for the Prosecution to file an expedited response to this
7 application - to this motion?

8 MR KOUMJIAN: Your Honour, I'm prepared to respond orally
9 to the motion if the Court would like that and that the Court
11:06:49 10 simply take oral arguments and decide the motion on that basis.

11 PRESIDING JUDGE: Thank you. Mr Munyard, I'm not going to
12 deal with it right now at this minute. I'm just dealing, as I
13 said, with the practicality.

14 MR MUNYARD: Your Honour, first of all can I thank the
11:07:07 15 Court for the time that you've given us. We did actually get
16 back into court a quarter of an hour ago and at that time - well,
17 we had things to discuss and I then told my learned friend about
18 our application once I'd confirmed that it had gone in this
19 morning and he confirmed that he'd just had it, or just had
11:07:26 20 notice of it, and I can deal with that obviously later.

21 I wanted to put something in in writing in order to comply
22 with the formalities, but I was obviously going to raise it at
23 some stage today before I was due to cross-examine. I won't say
24 anything more about that at the moment because I know we'll deal
11:07:44 25 with that when the time comes.

26 PRESIDING JUDGE: I'm merely asking are you prepared to
27 deal with it orally?

28 MR MUNYARD: Yes.

29 PRESIDING JUDGE: I have not conferred with my learned

1 colleagues yet.

2 MR MUNYARD: Yes, I am prepared to deal with it orally. I
3 would have made an oral application in any event, but because we
4 had overnight we did have a chance to put something in in
11:08:01 5 writing.

6 PRESIDING JUDGE: Well, I will confer on that point in due
7 course and we will now deal with the substantive issue before us.

8 MR MUNYARD: Yes, thank you. My learned friend raised a
9 number of issues depending on how you break down the --

11:08:19 10 MR KOUMJIAN: Can I just check are we in open session now?

11 PRESIDING JUDGE: I have just been reminded by my learned
12 colleague. Are we in private, or in open session?

13 MS IRURA: Your Honour, we are in open session.

14 PRESIDING JUDGE: I think we should go into private session
11:08:32 15 in the light of the fact that the application was in private
16 session and the issues are matters of security. Again, if there
17 are members of the public present in the public gallery, we are
18 going into private session for reasons of security of the
19 witness.

11:08:47 20 [At this point in the proceedings, a portion of
21 the transcript, pages 12721 to 12744, was
22 extracted and sealed under separate cover, as
23 the proceeding was heard in private session.]

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1 [Open session]

2 MS IRURA: Your Honour, we are in open session.

3 PRESIDING JUDGE: Thank you. Mr Witness, and for the
4 members of the public that are here present, the next part of the
12:14:57 5 evidence of the witness will be in private session for reasons of
6 security of the witness. Please go into private session, Madam
7 Court Attendant.

8 [At this point in the proceedings, a portion of
9 the transcript, pages 12746 to 12795, was
12:15:09 10 extracted and sealed under separate cover, as
11 the proceeding was heard in private session.]

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1 [Open session]

2 MS IRURA: Your Honour, we are in open session.

3 PRESIDING JUDGE: Mr Witness, there is going to be another
4 legal application and in the circumstances I think it's more
15:07:04 5 comfortable for you and better for the procedure that we deal
6 with it in your absence. So I am going to ask that the curtains
7 be put down to allow you to leave the courtroom.

8 [In the absence of the witness]

9 Mr Munyard, may we take it that you are relying on your
15:08:24 10 application to move this?

11 MR MUNYARD: Yes, Madam President, I am and I will address
12 the Court on the basis of this application.

13 MR KOUMJIAN: Well, I think then since the Defence has
14 filed a written motion the ball is in our court to respond. Your
15:08:47 15 Honours, the basis - shall I begin or shall I wait?

16 PRESIDING JUDGE: Just wait for the curtains. We are now
17 in open session, Mr Koumjian. Please proceed with your response
18 to this written application.

19 MR KOUMJIAN: Your Honour, the Prosecution opposes the
15:09:34 20 delay of the cross-examination of the witness and the relief
21 sought by the Defence; a four week adjournment before
22 cross-examination begins. The reason given by the Defence is
23 that they need to investigate material that was provided as a
24 result of conversations with the witness and by myself in The
15:09:57 25 Hague, and it was provided to the Defence on Wednesday, as the
26 Defence motion correctly states, consisting of a bit over five
27 pages.

28 Specifically the matters mentioned in the Defence motion -
29 and I think the Court can only deal with what is specifically

1 pointed out by the Defence that they need to investigate - is a
2 reference to information relating to other witnesses not
3 specified, mobile telephone numbers alleged to belong to the
4 accused and other individuals and then other material factual
15:10:31 5 matters.

6 Your Honours, it is our obligation to continuously disclose
7 to the Defence any information we learn from a witness, under
8 Rule 66 and also under Rule 68, and we attempt to comply with
9 that obligation always. Every time a witness - any person - is
15:10:54 10 spoken to about complex events, it is expected that some
11 additional information is going to come out. Even in live
12 testimony, in their direct examination and in cross-examination,
13 it is inevitable that some additional information is provided by
14 the witness to that that was disclosed in previous interviews,
15:11:20 15 because there is a limitless number of questions that counsel for
16 either side can think of and because an honest witness is not
17 going to give the exact same answer to a question each time they
18 are asked that question. The answers are going to slightly vary.

19 The specific information that has been cited by the Defence
15:11:43 20 in the motion and orally is information about telephone numbers
21 that was provided in the proofing note and also some of those,
22 not all of them, the witness testified to in his direct
23 examination.

24 The Prosecution of course understands that the Defence has
15:12:00 25 a duty to investigate certain matters and we have no problem with
26 them investigating it. The part of the application that we
27 oppose is that this investigation necessitates right now a four
28 week delay in the cross-examination, effectively I believe
29 meaning that the witness would have to come back after the break

1 to begin cross-examination.

2 What I propose - it is our belief that nothing has been
3 shown and it would be pure speculation to believe that anything
4 in that investigation would lead to relevant questions for
15:12:39 5 cross-examination. However, if the investigation does lead to
6 relevant questions, the witness is available to be called by the
7 Defence. They can call the witness in their own case as a
8 witness.

9 I would further say that we do not oppose that this Court
15:12:59 10 ask the Defence to complete all of the relevant cross-examination
11 of this witness now and should before - over the time period up
12 to the beginning of the next break their investigation reveal
13 matters that they can show would lead to relevant questions that
14 necessitate that the witness come back to answer those questions,
15:13:24 15 then we would not be opposed to that taking place. In practice,
16 what I am proposing --

17 PRESIDING JUDGE: When you say "the witness come back to
18 answer those questions", do you mean come back as a Prosecution
19 witness, or as when you said earlier they can call the witness in
15:13:39 20 their own case?

21 MR KOUMJIAN: This is a second alternative, your Honour, to
22 come back as a continuation of the cross-examination. In other
23 words that instead of telling the witness that they are free to
24 go, as the Court normally does with witnesses when
15:13:57 25 cross-examination is completed, the witness be informed that he
26 is still under order from the Court to return if necessitated if
27 VWS tells him that that is necessary. But we would say we only
28 think that should occur if, after the investigation, the Defence
29 makes a real showing to the Court that there are relevant

1 questions that have now arisen because of their investigation.
2 We believe that that is unlikely, but to be fair to the Defence
3 we don't have a problem with giving them that option.

4 PRESIDING JUDGE: Your reply, Mr Munyard.

15:14:46 5 MR MUNYARD: I have to correct what was obviously a slip of
6 the tongue by my learned friend. This material was not disclosed
7 to us on Wednesday of last week. As your Honours will see from
8 paragraph number 2 of our motion, this came to us at some time
9 after 4 o'clock on Friday. I can't say precisely what time it
15:15:12 10 came, because there wasn't anyone in our office at the time that
11 it came. I have been able to track down everybody who was there
12 up to 4 o'clock, but not everybody who is there is authorised to
13 receive materials, or would even know the significance of
14 materials being received at that time. All I can tell you is
15:15:34 15 that one of our staff went in on Saturday and found the material.
16 I don't know whether it was found in hard copy form, or in the
17 form of an e-mail, but it was sent - it wasn't sent out until
18 Saturday and because of my own personal commitments elsewhere
19 I didn't actually become aware of it until Sunday evening and, as
15:15:55 20 you know, the witness started his evidence on Monday.

21 The prepping session that lasted - sorry, it started on
22 Sunday of the previous week, then it went on on Monday and
23 Tuesday and Wednesday. That is 15, 16, 17 and 18 June. We have
24 no indication as to when it finished on Wednesday. We have no
15:16:21 25 indication as to whether these notes were drafted at the end of
26 it, or whether they were drafted continuously. We have no idea
27 when the notes were prepared.

28 However, the Prosecution knew by Thursday at the latest -
29 and I emphasise at the latest because, despite the fact that we

1 sent e-mails asking them when witness 168 was going to be called
2 if at all, we didn't get any replies to those e-mails. That may
3 have been because the system was down last week. So as a result
4 of that on Thursday at 2.30 Mr Griffiths asked for an indication
15:17:00 5 whether the Prosecution were calling 168, who should have been
6 the next witness, and Ms Hollis stood up and said in the light of
7 the Court's earlier ruling, which was some days earlier, they
8 were no longer calling 168 and therefore the next witness would
9 be the current witness. So on Thursday - well, obviously the
15:17:22 10 Prosecution knew that before Ms Hollis stood up at 2.30 and gave
11 that response on Thursday.

12 The proofing notes one would have expected to have been
13 completed at some time on Wednesday. They were not sent to us
14 until what is in real terms on a Friday afternoon for counsel
15:17:41 15 close of business. They were sent in practical terms after close
16 of business and, for reasons I have outlined, I didn't get them
17 until Sunday evening.

18 The proofing notes or prepping notes consist of just over -
19 my learned friend says just over five pages. In fairness if
15:18:01 20 there had not been a heading at the top of the first page it
21 would have been five full pages and that is all, but it is five
22 pages of A4. This is the - I am holding it up so you can see.

23 This is the sort of density of paragraphs of material. There are
24 40 paragraphs of material. Of those 40 paragraphs only seven are
15:18:25 25 corrections or clarifications, or said to be corrections and
26 clarifications, of earlier material that had been supplied to us.

27 Now, amongst the material in these paragraphs are - and we
28 have highlighted - telephone numbers that we obviously want to
29 pursue to see if we can find any further information on, there is

1 reference to a flight that the witness alleged that he had been
2 on and there are other items in here that involve either people,
3 or objects, that we would - that have been mentioned by this
4 witness for the first time that we need time to investigate.

15:19:16 5 Dealing just with the very obvious issue of
6 telecommunications and telecommunications information, it is
7 certainly our experience that getting information from telephone
8 companies is a laborious and time consuming exercise and that is
9 dealing with telephone companies in northern European countries.
15:19:39 10 Whether the same applies to telephone companies operating in West
11 Africa I can't yet say, but it certainly appears to us that it is
12 going to take more than a couple of weeks and we thought four
13 weeks was a reasonable time. I have to say that in the
14 United Kingdom, where I normally practice, it is unlikely that
15:20:03 15 you would get any telephone information from a telephone company
16 within anything less than four weeks and it can take longer.

17 That is one example that I have chosen to highlight because
18 it is an important area. The witness has been giving a lot of
19 evidence about his personal communications with the accused and
15:20:25 20 it is something that we do wish to pursue and it is very likely,
21 in my submission, to take some little time to pursue that.

22 I don't want to go into all of the detail of the issues we
23 wish to pursue for what I imagine are obvious reasons, that is
24 one of the reasons I have asked the witness to be kept out of
15:20:47 25 court, but it is not an application that we make lightly.
26 However this witness, as you know from submissions I made earlier
27 on, has been interviewed on 20 occasions prior to this latest
28 prepping session. There is a very large amount of material in
29 his previous interview notes and now we have been given a

1 considerable amount more effectively, in the case of myself, the
2 day before he was called to give evidence.

3 It really does not fit with the accused's rights to have a
4 witness cross-examined to say that he can go off at the end of
15:21:35 5 such cross-examination as I was to do, go back to Sierra Leone,
6 or Liberia, or wherever it is that he lives, we don't know, and
7 then come back as a defence witness. That strikes at the heart
8 of the accused's rights to cross-examine a witness for a start.

9 However, we have a concern that is even a practical concern
15:21:57 10 that is even greater than that. I raise the question if this
11 witness does go back to West Africa in the middle of
12 cross-examination, or goes anywhere else for that matter, what
13 realistically are the prospects of getting him back here to
14 continue his cross-examination? It seems to us that we are
15:22:19 15 entitled first of all to know the full picture of the ambit of
16 the matters we are going to cross-examine him on and, secondly,
17 that we do not want the risk of this witness being partly
18 cross-examined and then not being able to be brought back for the
19 rest of his cross-examination. That, I would submit, is a very
15:22:39 20 real danger.

21 PRESIDING JUDGE: Just on that very practical point, four
22 weeks - let's say in theory four weeks from today, what date does
23 that take us up to?

24 MR MUNYARD: Well it does take us into the vacation,
15:22:56 25 I appreciate that, but I was positing four weeks as the sort of
26 period of time that we would normally expect to be able to gather
27 the information that we require. I am deliberately at the moment
28 ignoring the vacation because obviously that will have an impact.

29 To try and do it in three weeks and then have the witness

1 come back in three weeks would be equally impractical, because we
2 are now so close to the vacation and cross-examination of him
3 could take quite some time and that also would be likely to push
4 us into the vacation. So I am asking for the four week period
15:23:33 5 as, if you like, a period of time in principle and then we can
6 address the practical realities of that.

7 Even if the Court wasn't going to vacation in a few weeks'
8 time and we asked for four weeks and you granted it, it would not
9 necessarily mean that he would come back in four weeks because of
15:23:53 10 course there might be other important witnesses giving their
11 evidence, or he might have difficulties coming back at that time.
12 That is why I have just said four weeks is what I am saying is
13 our theoretical request. That will then be set against the
14 practical considerations that arise as a result of the vacation.

15:24:08 15 I hope that answers your Honour's question. I am just looking at
16 the issue in principle first of all.

17 We don't have a burden of proof, of course. It is not for
18 us to bring evidence and call witnesses, but that is subsumed -
19 that point in any event is subsumed - in the fact that the
15:24:28 20 accused has a right to have witnesses against him cross-examined,
21 not called to give evidence-in-chief as part of his case when
22 they have already given evidence against him as part of the
23 Prosecution case. That suggestion, I would submit, is wholly
24 impractical.

15:24:44 25 I am very concerned, your Honours, that we are getting as
26 substantial an amount of material as this in relation to a
27 witness who the Prosecution has had every opportunity to question
28 at length over a very long period of time. They then choose to
29 produce a great deal more material from him in mid-June when in

1 fact the previous proofing session which took place over a period
2 of three days was on 15, 19 and 23 May this year. So this is a
3 witness who they had every opportunity of asking all of these
4 questions only a month ago and yet didn't ask all of those
15:25:33 5 questions a month ago.

6 They have produced, as a result of those prepping sessions,
7 a document that runs to 32 paragraphs over seven very densely
8 typed pages. Again I am holding that up. In bigger print it
9 would run to far more than seven pages. Yet we get another 40
15:26:01 10 paragraphs just a month later, served on us, in effect, at the
11 door of the Court as the witness is waiting to come in to give
12 evidence.

13 I have referred in the motion to the authority of the
14 Prosecutor v Rwamakuba which is a decision of the Rwanda
15:26:29 15 tribunal. I don't know if your Honours have got a copy of that.
16 I don't know if we attached a copy of it. I can certainly hand
17 it in. It is a very short decision, thankfully. It is dealing
18 with various different matters and the final point in the
19 decision, or the final point in the deliberations, I think it is,
15:27:00 20 of that Chamber - yes, it's the decision. Paragraph 7 reads as
21 follows:

22 "The Chamber, however, points out that the Prosecution
23 cannot wait for the last moment to give notice of what the
24 witness will additionally testify to at the trial. It is
15:27:16 25 expected that this additional information will be disclosed as
26 soon as possible after the arrival of a witness at the seat of
27 the tribunal and not immediately before the presentation of a
28 witness."

29 Now, I ask why wasn't all of this gone into in May when he

1 was subjected to a prepping session over a period of days? Why
2 wasn't this served on us - this extra material drawn out of him
3 and served on us in good time for us to be investigating? You
4 will appreciate I am asking for four weeks, no more than that.

15:27:54 5 If we had had this four weeks ago when he was subjected to that
6 earlier very intensive prepping session then I wouldn't be asking
7 for more time, or it is extremely unlikely that I would be asking
8 for more time now.

9 Finally in response to one of the submissions of my learned
15:28:11 10 friend, I would say that it is not right to produce all of this
11 new material now and then say that we should cross-examine the
12 witness, see him disappear to whatever part of the world he is
13 going to and then only have the right to cross-examine him on
14 those issues that we need to investigate if we can show to the
15:28:36 15 Court that we have - I forget the expression that my learned
16 friend used - compelling relevant evidence, or words to that
17 effect. We are entitled to cross-examine him properly informed
18 and instructed on all areas that he has given in evidence. So we
19 are put at such a disadvantage as undermines the accused's rights
15:29:02 20 to a fair trial by any of the methods that my learned friend is
21 now proposing.

22 Your Honours, unless there are any other matters that you
23 specifically wish me to address those are my submissions in
24 reply.

15:29:16 25 PRESIDING JUDGE: No, thank you, Mr Munyard. We will have
26 to consider this application.

27 [Trial Chamber conferred]

28 PRESIDING JUDGE: This is a ruling on a partly written and
29 partly oral application. Having heard the submissions of the

1 parties, we find this is a reasonable request. The additional
2 material was disclosed to the Defence late on or after close of
3 business on Friday, 20 June 2008. The witness commenced giving
4 evidence on the following court day; that is 23 June 2008, a
15:39:51 5 Monday.

6 The four week period requested is in our view reasonable in
7 the light of the quantity of material disclosed. We therefore
8 consider this relief is in accordance with the rights of the
9 accused to prepare his defence. We note the four weeks will
15:40:09 10 lapse during the recess and therefore order that the
11 cross-examination of this witness will commence on 18 August, or
12 as soon as practicable thereafter.

13 MR MUNYARD: Thank you, your Honour.

14 MR KOUMJIAN: Your Honour, first I have to inform the Court
15:40:34 15 - perhaps I should have earlier - we are not prepared with
16 another witness tomorrow. We do not have anyone. Ms Hollis is
17 ill and another witness has just arrived today.

18 JUDGE LUSSICK: I am sorry to interrupt, Mr Koumjian.
19 I was just going to suggest that we bring the witness back and
15:40:54 20 tell him of developments and remind him of his oath before we
21 move on to another matter.

22 MR KOUMJIAN: Thank you, but perhaps on the witness may
23 I just address some practical issues. I have no doubt that VWS
24 will want to send this witness away during this period of time,
15:41:12 25 partly because all of these witnesses are on a limited visa and
26 also frankly the witnesses like this witness have very strict
27 limitations on their freedom. They are not simply - they
28 basically are in a location that they are not allowed to leave
29 and their activities are extremely restricted, so for the amount

1 of time that is involved obviously would necessitate that the
2 witness be sent away and that may affect how your Honours want to
3 address the witness.

4 I think it would also be helpful if we be given the first
15:41:58 5 date back as the date to start the cross-examination of this
6 witness so that there is a fixed time. It is frankly very
7 difficult obviously for any witness to have their testimony
8 interrupted like that and come back and have to be reminded about
9 what they said, or have to talk about what they already said,
15:42:17 10 over it will be about seven weeks later.

11 Also just one other question. Do I understand the Court
12 that if the Defence comes back at that time and says, "We need
13 more time. We haven't gotten phone records yet", what situation
14 are we in then? Mr Munyard indicated it is likely to take longer
15:42:41 15 than four weeks.

16 Finally, I would propose one other alternative relief for
17 the Court to consider. We would agree to the striking of the
18 evidence of the phone numbers. It is quite of limited - we
19 believe it is relevant, but of limited evidentiary value and so
15:43:07 20 we would agree to strike that.

21 I do want to apologise and give a partial explanation to
22 your Honours to disclosure on Friday. Mr Munyard made a
23 reference to the fact that e-mail being down. I had e-mailed the
24 disclosure to the Case Manager from my outside e-mail to her UN
15:43:28 25 e-mail and thought that she had received it, but she had not
26 because the e-mail was down and that delayed - and that was
27 realised on Friday afternoon and then it was sent to her
28 properly - actually I printed it, she scanned it and disclosed it
29 on Friday at 4. But I also - it was disclosed before the end of

1 business and, unless we hear otherwise, we do expect that as with
2 all other official matters that the business day is 5 o'clock.
3 Thank you.

4 MR MUNYARD: Madam President, I can reply very briefly.

15:44:06 5 I am not going to reply to all of what I would call the
6 administrative difficulties. If we come back on 18 August with
7 further difficulties, we will address that there and then.
8 I would be a little surprised, first of all, if we do come back
9 saying we want more time and I can anticipate at the moment what
15:44:27 10 the Court's reaction to that would be, but can I simply say we
11 have not been asking for seven weeks, we have been asking for
12 four and any other bridges we might have to cross we will deal
13 with when we arrive at them.

14 [Trial Chamber conferred]

15:46:37 15 PRESIDING JUDGE: Mr Koumjian, we have noted what you have
16 said. We will as you suggest bring the witness back to give
17 him - excuse me, my learned brother suggested and have him
18 reminded of his oath and the situation explained to him. Any
19 other matters that may arise we will deal with them if and when
15:47:00 20 they arise. So, we will first ask that the blinds be put down
21 and the witness be brought in. Thereafter, we will deal with the
22 other preliminary matter that you raised.

23 [In the presence of the witness]

24 Thank you, Mr Witness. Let me have the curtains open and
15:48:25 25 we go back into - ensure we are in open session, Madam Court
26 Attendant.

27 Mr Witness, there were certain matters to do with the
28 procedural matter of the Court discussed and ruled upon in your
29 absence. As a result of those rulings, your cross-examination

1 will not proceed now. The Defence will be allowed some time to
2 prepare for the cross-examination on your evidence. Your case
3 will therefore be stood down until 18 August and your evidence
4 will be finished thereafter. I must remind you again, as

15:49:31 5 I remind you every other day, that between now and the time that
6 all your evidence is finished you should not discuss it with
7 anyone else. Did you understand?

8 THE WITNESS: Yes.

9 PRESIDING JUDGE: I am now going to ask them to put the
15:49:48 10 curtains down so that you will be able to walk out of the Court.

11 MR KOUMJIAN: Your Honour, could I just request that the
12 Court explain to the witness that because of this situation the
13 Prosecution is unable to have any contact with him until he
14 completes his cross-examination.

15:50:07 15 PRESIDING JUDGE: I will explain that. Mr Witness, when
16 I said you should not discuss your evidence with any other
17 person, that actually includes you not being able to talk, not
18 only about your evidence but about other matters, with the
19 Prosecution lawyers. Although you think because you have talked
15:50:29 20 to them before you come into court you are free to talk to them
21 now, whilst you are still under oath you are not free to talk to
22 them. Do you understand?

23 THE WITNESS: Yes.

24 PRESIDING JUDGE: [Microphone not activated].

15:50:45 25 MR KOUMJIAN: Yes, and I am sure if he has any questions
26 VWS can deal with it.

27 PRESIDING JUDGE: Thank you. Please close the curtains to
28 allow the witness to retire.

29 Mr Koumjian, we revert to your other problem. You started

1 to address us on the next witness.

2 MR KOUMJIAN: Yes, your Honours. We do not have another
3 witness available tomorrow and I would have to check on the -
4 I don't know of Ms Hollis's health situation other than that she
15:52:55 5 is out today and the other witness has just arrived, my
6 understanding is, today. Mr Bangura will be leading that witness
7 and I don't know if he is even meeting with the witness today or
8 tomorrow for the first time. I am not sure. But it also is, in
9 our view, a complicated and important witness.

15:53:51 10 I just received a message from my office, just to inform
11 your Honours, that says that we will not be ready with another
12 witness until Monday.

13 Can I propose a final alternative relief and that would be
14 that the Defence starts the cross-examination, knowing that the
15:54:40 15 Court has given the Defence additional time for the investigation
16 and that, if your Honours would like, the Defence begins the
17 cross-examination except for those matters that they require
18 further investigation of and then we bring the witness back, if
19 your Honours want to take advantage of this time, and after the
15:55:00 20 break the Defence can complete the cross-examination.

21 PRESIDING JUDGE: That was proposed and considered.
22 Mr Munyard, you have heard counsel for the Prosecution.

23 MR MUNYARD: Your Honour, I also heard your Honour and
24 I assumed that there was no need for me to address you. It was
15:55:33 25 proposed, it was addressed by me and it was --

26 PRESIDING JUDGE: I am talking about the adjournment
27 tomorrow and Friday.

28 MR MUNYARD: I am terribly sorry. I misunderstood.
29 I thought you were asking me to go back to that latest proposal.

1 We are entirely in the Court's hands as to how the Court proceeds
2 obviously. I don't really think it's for the Defence to comment
3 on what to do about absent Prosecution witnesses. It's for the
4 Court to decide how to deal with that.

15:58:02 5 JUDGE SEBUTINDE: Mr Koumjian, it has just been drawn to
6 our attention that actually Tuesday I think is a public holiday
7 in the Netherlands and therefore that this important witness of
8 yours would start testifying on Monday, we wouldn't sit on
9 Tuesday, he would testify on Wednesday and then on Thursday the
15:58:22 10 judges would be away attending the arrangements of the ICC, then
11 the witness would return again on Friday. I don't know how you
12 feel about that, whether you would prefer that actually your
13 witness started on Wednesday and therefore you have a longer
14 prepping session with your witness. It's just a thought before
15:58:47 15 we finally decide.

16 MR KOUMJIAN: As the messenger, your Honour, the
17 information I received from my office, the position was that they
18 wanted to proceed on Monday.

19 PRESIDING JUDGE: In the light of Mr Koumjian's application
15:59:20 20 and the response the Court will not sit on Thursday and Friday.
21 Court will resume on Monday 30 June. As already noted by my
22 learned colleague, 1 July is a public holiday, if I remember
23 correctly for the Treaty of Rome, and the judges, as already
24 noted, will be attending the 10th anniversary ICC day on 3 July.
15:59:54 25 We will therefore recommence on 30 June and I have no doubt all
26 of us will be hard working in those intervening days.

27 MR MUNYARD: Your Honour, Justice Sebutinde referred to on
28 Thursday the judges would be attending the arrangements of the
29 ICC?

1 PRESIDING JUDGE: That is 3 July.

2 MR MUNYARD: Can I enquire is that a full day?

3 PRESIDING JUDGE: That is a full day session.

4 MR MUNYARD: This is the first we have heard of this.

16:00:23 5 I know that in November a circular went round indicating that 1
6 July would be the Treaty of Rome public holiday and I think the
7 circular - we have all been reminded of it this week, because
8 nobody seems to have read it or many people don't seem to have
9 read it.

16:00:42 10 PRESIDING JUDGE: Mr Munyard, I read it. It was close to
11 my wedding anniversary I was hoping to --

12 MR MUNYARD: Congratulations in advance. To be absolutely
13 clear, we are not sitting on Tuesday and we are not sitting on
14 Thursday all day. Thank you very much.

16:01:10 15 PRESIDING JUDGE: If there are no further matters we will
16 adjourn until 9.30 on Monday 30 June. Please adjourn court.

17 [Whereupon the Court adjourned at 4.03 p.m. to
18 be reconvened on Monday, 30 June 2008
19 at 9.30 a.m.]

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I N D E X

WITNESSES FOR THE PROSECUTION:

TF1-375	12705
EXAMINATION-IN-CHIEF BY MR KOUMJIAN	12705