



Case No. SCSL-2003-01-T

THE PROSECUTOR OF
THE SPECIAL COURT
V.
CHARLES GHANKAY TAYLOR

THURSDAY, 25 FEBRUARY 2010
9.30 A.M.
TRIAL

TRIAL CHAMBER II

Before the Judges:

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

For Chambers:

Ms Erica Bussey

For the Registry:

Ms Rachel Irura
Ms Zainab Fofanah

For the Prosecution:

Ms Brenda J Hollis
Mr Nicholas Koumjian
Ms Maja Dimitrova

For the accused Charles Ghankay
Taylor:

Mr Courtenay Griffiths QC
Mr Morris Anyah
Mr Simon Chapman

1 Thursday, 25 February 2010

2 [Open session]

3 [The accused present]

4 [Upon commencing at 9.30 a.m.]

09:29:10 5 PRESIDING JUDGE: Good morning. We will take appearances,
6 please.

7 MR KOUMJIAN: Good morning, Madam President, your Honours,
8 counsel opposite. For the Prosecution this morning, Brenda J
9 Hollis, Maja Dimitrova and myself Nicolas Koumjian.

09:33:35 10 MR ANYAH: Good morning, Madam President. Good morning,
11 your Honours. Good morning, counsel opposite. Appearing for the
12 Defence this morning are Courtenay Griffiths QC and myself Morris
13 Anyah. Thank you.

14 MR GRIFFITHS: Madam President, can I raise a matter which
09:33:49 15 was brought to my notice by the Court Manager this morning.
16 Apparently Mr Taylor doesn't have access to LiveNote at the
17 moment. That really concerns me, because from our point of view
18 it's imperative that the defendant, of all people in this
19 courtroom, be able to follow the proceedings. And, as you can
09:34:16 20 see, Mr Taylor has been busy taking notes and his ability to do
21 so is compromised if he doesn't have access to LiveNote, also his
22 ability to give us instructions. So it's a matter of some real
23 concern to me.

24 PRESIDING JUDGE: What has been happening in the past?

09:34:33 25 MR GRIFFITHS: Well, in the past he did have access but
26 apparently his password was somehow given to somebody else and as
27 a consequence he now doesn't have access to it.

28 PRESIDING JUDGE: How is that possible, Madam Court
29 Manager?

1 Things are rapidly falling apart.

2 MR GRIFFITHS: This one isn't working either.

3 PRESIDING JUDGE: Three of the judges' microphones are not
4 working and the Prosecutor's microphone is not working.

09:35:56 5 MS IRURA: Your Honour, the AV booth has been informed of
6 the technical problem with the microphones. With regard to the
7 LiveNote pertaining to Mr Taylor, the relevant sections of the
8 Registry have been informed and action is being taken to ensure
9 that he has access to LiveNote as soon as possible.

09:36:19 10 PRESIDING JUDGE: But, you know, this is not satisfactory
11 because when the judges come and sit at the Bench at 9.30, we
12 expect that everything has been put in place technically for us
13 to start working. It's not time to start checking the
14 microphones. It's not time to start checking passwords. It's
09:36:41 15 time to start the trial. This is not satisfactory and I hope
16 that it doesn't happen again. What are we supposed to do now?
17 Adjourn? Can we have some indication of when the microphones at
18 least will start working, and probably the earphones are not
19 working either.

09:37:20 20 MS IRURA: Your Honour, we are informed by the audiovisual
21 technicians of the ICC that the technicians are trying to look
22 into the problem with the microphones.

23 PRESIDING JUDGE: Mr Witness, can you hear through your
24 headphones?

09:37:41 25 THE WITNESS: Yes, I can hear you.

26 PRESIDING JUDGE: Can you say something in your microphone
27 to see if we can hear, like good morning or something?

28 THE WITNESS: Good morning, your Honour.

29 PRESIDING JUDGE: And how soon can Mr Taylor's LiveNote be

1 rectified?

2 MS IRURA: Your Honour, the relevant sections of the
3 Registry have been informed and at this moment I cannot give a
4 definitive time frame.

09:38:22 5 PRESIDING JUDGE: That is the Special Court Registry
6 because passwords and our LiveNote is dealt with by the Special
7 Court Registry.

8 MS IRURA: Your Honour, the Special Court Registry. I
9 would be able to give an indication as soon as I liaise with the
09:38:38 10 relevant section in the Registry.

11 PRESIDING JUDGE: You know, this is amazing because there
12 is no reason why a change like that would have been made, to take
13 away the ability of Mr Taylor to follow the proceedings. It's
14 quite needless.

09:39:00 15 MS IRURA: Your Honour, I do apologise on behalf of the
16 Registry. During the testimony of Mr Taylor, he probably did not
17 have need to access LiveNote, hence the present situation. But
18 all measures have been taken to rectify it, your Honour. We do
19 apologise on behalf of the Registry.

09:39:19 20 PRESIDING JUDGE: Mr Griffiths, I hope that perhaps during
21 the tea break, the midmorning break, this problem will be
22 resolved and that's the best that I can do at this stage.

23 MR GRIFFITHS: Well, I do hope that it can be resolved by
24 then, your Honour, and I won't make any further application at
09:39:41 25 this stage until we see how long this situation is likely to
26 continue.

27 PRESIDING JUDGE: I do direct that not later than the tea
28 break this problem be resolved so that Mr Taylor has access not
29 later than the tea break.

1 MS IRURA: Much obliged, your Honour.

2 PRESIDING JUDGE: Mr Smythe, I do remind you of your oath
3 to tell the truth as you continue with your testimony this
4 morning.

09:40:05 5 WITNESS: YANKS SMYTHE [On former oath]

6 EXAMINATION-IN-CHIEF BY MR ANYAH: [Continued]

7 Q. Good morning, Mr Smythe.

8 A. Good morning, counsel.

9 Q. Mr Smythe, yesterday afternoon before we adjourned we were
09:40:24 10 discussing a trip taken to Lome, Togo, by you, Mr Taylor and
11 others in the middle of 1999. Do you recall that?

12 A. Yes, I do recall that.

13 Q. You gave us the names of some of those who accompanied you
14 and Mr Taylor to Lome. You said it included Dr D
09:40:48 15 Musuleng-Cooper, the Foreign Minister of Liberia Monie Captan and
16 Benjamin Yeaten. Do you recall that?

17 A. Yes, I do.

18 Q. And at about 4.30 p.m. yesterday I asked you a question,
19 whether Benjamin Yeaten and yourself were the only SSS officers
09:41:06 20 to accompany Mr Taylor to Lome. Can you continue with your
21 answer to that question, please.

22 A. We were not. Benjamin Yeaten and myself were not the only
23 officers that accompanied Mr Taylor.

24 Q. Which other officers from the SSS, to your knowledge,
09:41:21 25 accompanied Mr Taylor on that trip to Lome?

26 A. The aide-de-camp, Musa N'jie, was on that trip. The chief
27 of protective services, Ocebio Dehme, was there. There was a
28 special attendant, a butler, and some other officers.

29 Q. If you know, can you give us an approximate number of

1 people that accompanied Mr Taylor on that trip to Lome.

2 A. No, I can't be precise, actually.

3 Q. Was it more than 50?

4 A. No, it's not 50, no.

09:41:55 5 Q. Was it less than 30?

6 A. Yes, it should be less than 30, yes.

7 Q. Were those who accompanied him, except for Dorothy
8 Musuleng-Cooper, members of the Government of Liberia?

9 A. Yes.

09:42:08 10 Q. Do you know how long it took to plan that trip?

11 A. No, I can't remember how long it took to plan the trip.

12 Q. When was the first time you yourself, Mr Smythe, were
13 informed that you would be going to Lome with Mr Taylor?

14 A. If there is a trip, I will be informed maybe a few days to
09:42:31 15 the trip. Two or three days to the trip, I will be informed.

16 Q. Now, when you got to Lome, do you recall where the Liberian
17 delegation was housed?

18 A. The Liberian delegation was housed at a hotel. I don't
19 know the name of there. I forget the name of the hotel, but it
09:42:49 20 was in a hotel.

21 Q. Were there delegations from other West African countries
22 present in Lome when you arrived?

23 A. I don't know whether they were there when we arrived, but
24 there were other delegations. Whether they arrived before us or
09:43:06 25 after us, I can't say for certain, but there were delegations
26 there, other delegations.

27 Q. From which countries in West Africa, if any, were such
28 delegations from?

29 A. There was a delegation from Sierra Leone, there was a

1 delegation from - I think the President of Burkina Faso was
2 there; the President of Nigeria was also there; and the host
3 country, the President of Togo was there also.

4 Q. The President of Togo then, was it Gnassingbe Eyadema?

09:43:35

5 A. That's correct.

6 Q. And the President of Nigeria then, was it Olusegun

7 Obasanjo?

8 A. That's correct.

9 Q. The President of Burkina Faso then was who?

09:43:42

10 A. Blaise Compaore.

11 Q. Who was there representing the Sierra Leonean delegation?

12 A. The Sierra Leonean delegation was represented by the

13 President, Ahmad Tejan Kabbah.

14 Q. Were all the Sierra Leoneans present there, to your

09:43:59

15 knowledge, members of the Sierra Leonean government?

16 A. I don't know who were all - all the members of the
17 delegation, but I know the President was there with a delegation.

18 Q. The question was: Do you know whether all of the Sierra
19 Leoneans there were part of the Sierra Leonean government?

09:44:14

20 A. No. There were - the RUF was represented also.

21 Q. And who, to your knowledge, represented the RUF in Lome?

22 A. Foday Sankoh did.

23 Q. Who else, if anyone, from the RUF was there besides Foday
24 Sankoh, to your knowledge?

09:44:29

25 A. No, I can't recall that.

26 Q. Besides the RUF, were there any other Sierra Leonean groups
27 present in Lome, to your knowledge?

28 A. The first - the meeting I attended, there were only RUF and
29 the Sierra Leonean government.

1 Q. Did you see Foday Sankoh in Lome in 1999?

2 A. Yes, I saw Foday Sankoh in Lome, yes.

3 Q. Under what circumstances did you see him?

4 A. I saw him as a member of the delegation for the RUF.

09:45:01 5 Q. Can you tell us what you observed President Taylor engaged
6 in while you were in Lome?

7 A. What I observed President Taylor was - he was in
8 negotiation with his colleagues, with President Kabbah and Foday
9 Sankoh.

09:45:18 10 Q. What sort of negotiations are you referring to?

11 A. Well, it was closed door, but, you know, they were in
12 closed door with no security. There was no security access, but
13 they were in closed - it was in closed session.

14 Q. Were you in the vicinity of the area or conference room
09:45:37 15 where they had these closed-door meetings?

16 A. They had a closed-door meeting at the hotel. We were in
17 the lobby. We didn't have access to where they were in.

18 Q. When Mr Taylor embarked from that meeting, did he say
19 anything about what was discussed inside it?

09:45:53 20 A. No, he never told us anything that was discussed inside it.

21 Q. Was there just one meeting, or were there several meetings
22 during the period you were in Lome?

23 A. [Microphone not activated].

24 MS IRURA: Your Honour, the AV technicians have requested a
09:46:18 25 minute to be able to reset the microphones to ensure that we
26 don't encounter any further problems.

27 Your Honour, we are informed that the situation has been
28 remedied.

29 PRESIDING JUDGE: Are you sure LiveNote is working?

1 Because mine seems to be frozen.

2 MS IRURA: Your Honour, we are informed that although a
3 test was conducted in the morning, there may be a bad connection.
4 But then the AV technicians are able to activate the mic from the
09:50:33 5 booth, and if we can continue with that, they can assist in that
6 regard.

7 PRESIDING JUDGE: I don't understand. When the witness's
8 microphone is off, as it obviously is now, are you saying we can
9 still hear him?

09:50:57 10 MS IRURA: Your Honour, they say - the AV technicians
11 inform us that they can activate it from the booth.

12 PRESIDING JUDGE: Can we give it a try then? Mr witness,
13 can you say something?

14 THE WITNESS: [Microphone not activated].

09:51:14 15 PRESIDING JUDGE: Can you hear me?

16 THE WITNESS: Yes, I can hear you.

17 PRESIDING JUDGE: Mr Anyah, let's limp on and see how far
18 we get. If you could ask that last question, to which we didn't
19 get an answer.

09:51:37 20 MR ANYAH:

21 Q. Mr Smythe, the last question I posed was - and this is at
22 page 10 of my LiveNote, line 17 using a 12-point font - "Was
23 there just one meeting or were there several meetings during the
24 period you were in Lome?"

09:51:55 25 A. There were several meetings.

26 Q. And was President Taylor the only representative of the
27 Liberian delegation to attend those meetings?

28 A. No, the Foreign Minister was there.

29 Q. When you say "was there", you mean he also attended

1 meetings?

2 A. Yes, the Foreign Minister attended meetings.

3 Q. For how many days did you remain in Lome?

4 A. I think it should be not more than three, four days.

09:52:21 5 Q. Was there some sort of ceremony before you departed Lome?

6 A. Yes. There was the signing of the final communique at the
7 conference hall in Lome.

8 Q. And were you present in the conference hall when that
9 communique was signed?

09:52:43 10 A. Yes.

11 Q. Do you know whether President Taylor signed that
12 communique?

13 A. Yeah, I think so. I was not at the podium, so I am sure
14 all the Presidents present at the meeting signed the - yes, he
09:53:02 15 signed, yes.

16 Q. Do you know whether, when you were in Lome,
17 President Taylor ever met with Foday Sankoh?

18 A. They met during the meeting with the other Presidents that
19 I know of.

09:53:15 20 Q. When you got back to - did you go back to Monrovia from
21 Lome?

22 A. Yes, we did, I went back to Monrovia.

23 Q. Did President Taylor go back with you to Monrovia?

24 A. Yes, President Taylor went back with me to Monrovia.

09:53:29 25 Q. When you went back to Monrovia, were you still assistant
26 director of operations for the SSS?

27 A. Yes, correct, I was still assistance director for the SSS.

28 Q. Before that trip taken to Lome, did, to your knowledge, any
29 RUF members pass through Liberia?

1 A. I said yesterday that Sam Bockarie came to Liberia, and on
2 his third visit he passed through Liberia to go to Burkina Faso.

3 Q. No, that was not my question. Separate and apart from Sam
4 Bockarie, before you and the others travelled to Lome, did any
09:54:11 5 RUF members pass through Liberia, to your knowledge?

6 A. To my knowledge, no.

7 Q. After you returned from Lome in 1999, did any RUF members
8 pass through Liberia?

9 A. Yes, there was an AFRC/RUF delegation. I think AFRC
09:54:39 10 delegation passed through Liberia to go to Lome.

11 Q. AFRC, what do you understand that acronym to mean?

12 A. I think it should be Armed Forces Revolutionary Council,
13 something like that.

14 Q. And where was that delegation from?

09:54:54 15 A. That delegation came from Freetown, Sierra Leone.

16 Q. And do you remember the month in which they arrived Liberia
17 in 1999?

18 A. No, I can't recall the month, but it was after the first
19 Lome conference.

09:55:09 20 Q. Do you remember any members of that delegation?

21 A. I saw them physically - I mean, physically, but I don't
22 know their names.

23 Q. Under what circumstances did you see those members of that
24 delegation?

09:55:23 25 A. Well, they came to Liberia, they went to the mansion to see
26 President Taylor, and they proceeded - from there they went to
27 Lome.

28 Q. Do you know where they stayed when they were in Liberia?

29 A. Yes, they stayed at a guesthouse.

1 Q. In which city?

2 A. In the City of Monrovia. Congo Town, to be precise.

3 Q. Do you know how many in number there were?

09:55:59

4 A. If I am not mistaken, there were about four. I think about
5 four or five.

6 Q. Did - I am sorry, continue.

7 A. I think there are about three - between the number three,
8 four and five.

09:56:12

9 Q. To your knowledge, was there a leader among those who came
10 to Liberia?

11 A. No, I didn't see any leader among them.

12 Q. Who, if anyone, provided security for them?

13 A. The Government of Liberia provided security for them.

09:56:28

14 Q. Which unit or entity within the Government of Liberia
15 provided that security?

16 A. The Special Security Service.

17 Q. Were you involved in any way in the provision of security
18 for these persons?

09:56:42

19 A. I designated people to provide security for them. I didn't
20 physically provide security for them.

21 Q. The guesthouse where they stayed at, to whom did
22 it - rather, I withdraw that. The guesthouse in which they
23 stayed at, do you know who owned that guesthouse?

09:56:58

24 A. That guesthouse and land was owned - it was leased by the
25 Liberian government. It was owned by Monie Captan, the former
26 Foreign Minister.

27 Q. How far was that guesthouse, if you know, from
28 President Taylor's White Flower?

29 A. I can't be quite precise, but it's more than 2 kilometres -

1 2, 3 kilometres.

2 Q. Did you have occasion to go to that guesthouse when this
3 AFRC delegation was present?

4 A. No, I didn't go to the guesthouse at that time.

09:57:28 5 Q. You said they met with President Taylor at the Executive
6 Mansion?

7 A. That's quite correct.

8 Q. Were you present at the Executive Mansion when this meeting
9 was held?

09:57:39 10 A. I was present at the Executive Mansion when the meeting was
11 held, yes.

12 Q. Do you know what, if anything, was discussed --

13 A. I was not --

14 Q. -- when the meeting was held?

09:57:49 15 A. I was not inside the meeting hall, but I was within the
16 Executive Mansion when the meeting took place.

17 Q. Did you hear from anyone what was discussed during this
18 meeting?

19 A. No, I didn't hear from anyone what was discussed.

09:58:04 20 Q. For how long did that delegation stay in Monrovia?

21 A. That delegation, I can't remember, but it shouldn't be more
22 than three, four, five days.

23 Q. After you saw Foday Sankoh at Lome, did you ever see him
24 again in the year 1999?

09:58:30 25 A. Yes, I saw him again.

26 Q. When was that?

27 A. That was in the same year I think 1999 in Monrovia.

28 Q. Do you recall the month?

29 A. No, I can't recall the month.

1 Q. Do you know the circumstances that led to Foday Sankoh
2 being in Monrovia late in 1999?

3 A. Yes. He came there on a - he came there with Johnny Paul
4 Koroma to see President Taylor.

09:58:58 5 Q. And who is Johnny Paul Koroma, if you know?

6 A. Johnny Paul Koroma I learned was the head of the Armed
7 Forces Revolutionary Council.

8 Q. The same group you referred to just a few minutes ago?

9 A. That's correct.

09:59:12 10 Q. When Foday Sankoh came to Liberia later in 1999, did he
11 come alone or with other RUF members?

12 A. No, I can't recall seeing any other RUF members, but I know
13 he was there.

14 Q. When you say he came with Johnny Paul Koroma, are you
09:59:32 15 saying to these judges that they arrived at the same time?

16 A. No, I can't remember whether they arrived at the same time,
17 but they were there at the same time.

18 Q. Do you know when Johnny Paul Koroma came to Monrovia later
19 in 1999, whether he came alone or with other AFRC members?

09:59:53 20 A. He came - I think he came with some AFRC members.

21 Q. Do you know how many he came with?

22 A. No, I don't know the number.

23 Q. Do you know any names of those he came with?

24 A. No, I don't know their names.

10:00:08 25 Q. Do you know the purpose for which both Foday Sankoh and
26 Johnny Paul Koroma were in Monrovia?

27 A. The purpose was for them to go back to Sierra Leone - for
28 Mr Taylor to talk to them for them to go back to Sierra Leone to
29 work together.

1 Q. And how do you know this?

2 A. Yes, I knew this because I heard - you know, I heard it.

3 Q. And from whom did you hear it?

4 A. Yeah, normally when meetings take place, sometimes - even
10:00:37 5 if you are not there, sometimes those that were in the meeting
6 they might tell you something off record.

7 PRESIDING JUDGE: Could I request both of you to slow down
8 a bit. For the sake of the record, please, you are requested to
9 slow down.

10:00:45 10 MR ANYAH: Yes, Madam President:

11 Q. Mr Smythe, my question was, "And how do you know this" and
12 you said, "Yes, I knew this because I heard - you know, I heard
13 it" and question, "From whom did you hear it?"

14 A. Can I repeat myself? There was a time during that meeting
10:01:14 15 when the press was invited inside and I was opportune to be
16 inside that press conference. There was a press conference that
17 was held after the meeting.

18 Q. Okay. We will come to that press conference later. Do you
19 know whether Foday Sankoh met separately with President Taylor
10:01:35 20 without Johnny Paul Koroma being present?

21 A. I can't recall that. I can't recall.

22 Q. Do you recall whether Johnny Paul Koroma met separately
23 with President Taylor without Foday Sankoh being present?

24 A. I can't recall.

10:01:56 25 Q. Do you recall the three of them meeting jointly, as in
26 together?

27 A. Yes, I can recall that.

28 Q. You said there was a press conference held?

29 A. Yes.

1 Q. Where was it held at?

2 A. The press conference was held at the Executive Mansion.

3 Q. And who was present during the press conference?

4 A. President Taylor was present, Foday Sankoh was present,
10:02:22 5 Johnny Paul Koroma was present and the press corps was present.

6 Q. Were average regular citizens of Liberia present during
7 that press conference?

8 A. Well, I can't remember, actually.

9 Q. And what was said at this press conference?

10:02:42 10 A. Well, at the press conference, what was basically said was
11 both parties have agreed to go back to Sierra Leone to work
12 together.

13 Q. Were speeches made by any of those present at the press
14 conference?

10:03:00 15 A. Yes, speeches were made.

16 Q. And by whom were they made?

17 A. President Taylor made a speech, Johnny Paul made a speech
18 and Foday Sankoh made a speech also.

19 Q. And what happened after the press conference?

10:03:14 20 A. After the press conference, they left to go to the
21 guesthouse.

22 Q. When you say "they left to go to the guesthouse", where was
23 Foday Sankoh staying when he arrived in Monrovia later in 1999?

24 A. Foday Sankoh was at the guesthouse, the same guesthouse.

10:03:37 25 Q. The same guesthouse?

26 A. The same guesthouse that was provided for the RUF - I mean,
27 excuse me, for the AFRC when they came.

28 Q. Are you saying the two men were housed together?

29 A. They were all in the same guesthouse, yes.

1 Q. And did you also provide security for Foday Sankoh?

2 A. I provided security for Foday Sankoh as well as for Johnny
3 Paul.

4 Q. How long did both - let's start with Foday Sankoh. How
10:04:09 5 long did he stay in Monrovia during this visit later in 1999?

6 A. No, I can't recall for how long, but it was not too long.

7 Q. Was it less than two weeks?

8 A. It was far less than two weeks, yes.

9 Q. Was it less than a week?

10:04:25 10 A. Yes, yeah, I'm sure it's - I think it's less than a week.
11 I can't be very precise, actually.

12 Q. And how long did Johnny Paul Koroma stay in Monrovia in
13 late 1999?

14 A. I think also the same time frame, I think.

10:04:40 15 Q. Did you know where they went after they left Monrovia?

16 A. They left Monrovia and I suppose they went to Freetown.

17 Q. Did they leave together or did they leave separately?

18 A. I can't recall how they left, actually.

19 Q. Do you know whether they went by road or by plane to
10:04:58 20 Freetown?

21 A. They didn't go by road. I think they went by plane.

22 Q. Mr Smythe, let's start with the visit in September 1998 by
23 Sam Bockarie. Do you know whether when he was leaving Liberia
24 President Charles Taylor gave him any arms or ammunition?

10:05:25 25 A. Not to my knowledge.

26 Q. When he came in October 1998, do you know whether when he
27 was leaving Liberia he left with any quantity of arms and
28 ammunition given to him by President Taylor?

29 A. Not that I know of.

1 Q. When you said he passed through Monrovia in December 1998
2 on his way to Burkina Faso, do you know whether he received any
3 quantity of arms or ammunition from President Taylor before going
4 to Burkina Faso?

10:05:59 5 A. No, not that I know of.

6 Q. When the AFRC delegation you referred to came to Monrovia
7 in 1999, do you know whether when they left they left with any
8 quantity of arms or ammunitions given to them by
9 President Taylor?

10:06:19 10 A. No, they never left with any arms and ammunition.

11 Q. When you saw Foday Sankoh and Johnny Paul Koroma in
12 Monrovia later in 1999, starting with Foday Sankoh, do you know
13 whether when he left he left with any quantity of arms or
14 ammunition given to him by President Taylor?

10:06:38 15 A. No, that was not to my knowledge.

16 Q. And the same question with respect to Johnny Paul Koroma.
17 To your knowledge, did he leave Liberia when he headed to
18 Freetown, Sierra Leone, with any quantity of arms or ammunition
19 given to him by President Taylor?

10:06:52 20 A. No, that was not to my knowledge.

21 Q. Do you know whether any other person within the structure
22 of the Liberian government gave either Foday Sankoh or Johnny
23 Paul Koroma arms or ammunition in the years 1998 and 1999?

24 A. No, not that I am aware of.

10:07:14 25 Q. Do you know whether anyone within the structure of the
26 Liberian government gave any arms or ammunition to Sam Bockarie
27 in the years 1998 or 1999?

28 A. No, not that I am aware of.

29 Q. When Foday Sankoh and Johnny Paul Koroma left Liberia later

1 in 1999, did anyone else from the RUF come to Liberia in that
2 year?

3 A. Yes, Sam Bockarie came to Liberia, yes.

4 Q. And do you recall the month in which he came to Liberia?

10:07:50 5 A. Yes. Sam Bockarie, I think he came to Liberia I think it's
6 around December 1999.

7 PRESIDING JUDGE: Mr Anyah, there is something that I think
8 I need to point out. I know it may or may not be picked up in
9 correction. When you asked the witness at line 14 page 22, "When
10:08:16 10 Foday Sankoh and Johnny Paul Koroma left Liberia later in 1998",
11 now it appears like "late 1998" which is two different things.

12 MR ANYAH: Well, I said '99.

13 PRESIDING JUDGE: Sorry, 1999. You said "later" not
14 "late", which can have two different meanings. I just said that
10:08:41 15 for the record.

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

17 Q. Mr Smythe, I believe my last question had to do with the
18 arrival, you said, of Sam Bockarie in Liberia, you said December
19 1999 - you said around December 1999?

10:09:05 20 A. That's correct.

21 Q. Do you know under which circumstances Sam Bockarie arrived
22 in Liberia in December 1999?

23 A. Yes.

24 Q. Let's be specific. Was it the City of Monrovia he arrived
10:09:19 25 in?

26 A. Yes, he arrived in Monrovia.

27 Q. Do you know how he got to Liberia? Was it by road, was it
28 by air, was it by sea?

29 A. No, I can't be specific. I can't be specific on where he

1 passed, but he was in Monrovia.

2 Q. Did he come alone, to your knowledge, or with anyone else?

3 A. No, he came along with some boys, there were some boys, and
4 his family.

10:09:44 5 Q. You said he came along with some boys. How many boys did
6 he come with?

7 A. I don't know the number of boys. I didn't check them.

8 Q. What nationalities did these boys have, if you know?

9 A. These boys were Sierra Leoneans.

10:09:58 10 Q. You said he came with his family?

11 A. Yes, he brought his family, yes.

12 Q. And by that you mean what?

13 A. His wife. I think I only saw one son of his at the time.
14 They are the people that I was aware of.

10:10:17 15 Q. These boys he came with that you say were Sierra Leoneans,
16 to your knowledge, were they members of the RUF?

17 A. I should assume they should be members of the RUF because
18 Sam Bockarie was a member of the RUF.

19 Q. Were either Sam Bockarie or any of these men armed when
10:10:39 20 they came to Liberia?

21 PRESIDING JUDGE: He said boys, he didn't say men.

22 MR ANYAH:

23 Q. Mr Smythe, when you say boys, are these boys or are these
24 young men?

10:10:48 25 A. The young men. Excuse me, your Honour.

26 Q. Were any of these young men or Sam Bockarie, to your
27 knowledge, armed when they came to Liberia?

28 A. No, they were never armed. They were not armed. They were
29 not armed when they came to Liberia.

1 Q. Do you know where they stayed when they came to Liberia?

2 A. Yes.

3 Q. Where was that?

4 A. Sam Bockarie had a house somewhere in the Paynesville area
10:11:15 5 called AB Tolbert Road, if I remember, yes.

6 Q. He had a house. Was it just one house?

7 A. There was a house that was assigned to him for him - for he
8 and his family. Another house assigned to his boys, his men.

9 Q. And when you say house assigned to him, who assigned him a
10:11:39 10 house?

11 A. The Government of Liberia did.

12 Q. And when you say, "Another house assigned to his boys, his
13 men," who assigned his men a house?

14 A. The Government of Liberia as well.

10:11:52 15 Q. Were securities provided for Sam Bockarie when he was in
16 Monrovia in December 1999?

17 A. Yes. When he came in, security was provided for him.

18 Q. And who provided that security?

19 A. Security was provided by the Special Security Service.

10:12:17 20 Q. Were you still assistant director for operations of the SSS
21 at that time?

22 A. That's correct, yes I was.

23 Q. Were you in any way involved in the provision of security
24 for Sam Bockarie and his men?

10:12:28 25 A. I was not physically involved, but my men were involved.

26 Q. Did you have occasion during that period of time to go to
27 this premises where Sam Bockarie was housed?

28 A. Yes, I went there once.

29 Q. Can you describe it for us, please.

1 A. You mean the location of the house?

2 Q. No, the set-up and make-up of the premises.

3 A. It was a house - I think a two or three bedroom house,
4 living room, kitchen, bathroom.

10:13:00 5 Q. How far from that house was the other house where his men
6 stayed?

7 A. It's not too far. It's not too far. Maybe about 200, 300
8 metres away.

9 Q. Did you ever enter the house in which Sam Bockarie stayed?

10:13:17 10 A. I entered the house up to the living room.

11 Q. And what was your purpose in going there?

12 A. I was sent by President Taylor to call Sam Bockarie to come
13 to the Executive Mansion.

14 Q. Did you go alone or did you go with someone else?

10:13:34 15 A. I went with a driver.

16 Q. And what happened when you went with the driver?

17 A. I went there, I asked for him, he came. I was in the
18 living room, he came out of the room. I told him that
19 President Taylor wanted to see him. He went and got ready, got
10:13:48 20 in the car, and I took him to the mansion.

21 Q. What time of day was this?

22 A. This should be before - I think it should be before midday,
23 I think.

24 Q. And when you took him to the mansion, what happened?

10:14:08 25 A. When I took him to the mansion, I told the securities
26 assigned at the President's office that, you know, they should
27 inform the President that Sam Bockarie was here, and they did.

28 Q. And what happened after that?

29 A. Yes. I take him over to the security and he was escorted

1 to see Mr President Taylor.

2 Q. Do you know for what purpose he went to see
3 President Taylor?

4 A. No, I was not inside the discussion, so I don't know.

10:14:41 5 Q. Were you present when he emerged from that discussion?

6 A. I was in my office when I was informed that, you know, the
7 meeting was over.

8 Q. Did you see him again after the meeting?

9 A. Yes, I took him from there back to his house.

10:14:59 10 Q. For how long did the meeting last, if you can recall?

11 A. No, I can't recall how long it lasted.

12 Q. For how long did Sam Bockarie remain at that location you
13 described near Paynesville?

14 A. He remained there until the time I left. I left him there
10:15:22 15 when I was going to Libya.

16 Q. And when did you go to Libya?

17 A. I went to Libya in July 2000.

18 Q. To your knowledge, when Sam Bockarie resided at the
19 location you mentioned, did any RUF members visit him at that
10:15:50 20 location?

21 A. When you say "RUF members visit him at that location", what
22 do you mean? I don't understand that.

23 Q. I appreciate that. Did he remain residing at the location
24 you mentioned from the time in December 1999 that you saw him
10:16:07 25 through the time you left Liberia in July 2000?

26 A. That's correct.

27 Q. You told us previously your men were responsible for his
28 security?

29 A. That's correct.

1 Q. Do you know whether any person belonging to the RUF visited
2 Sam Bockarie from Sierra Leone during the time period we are
3 talking about?

4 A. No, not that I know of.

10:16:30 5 Q. Would you have been in a position to know if such a thing
6 took place?

7 A. Yes, because I had my security assigned there, and they
8 will always inform me of those that are visiting Sam Bockarie.

9 Q. During the period of time we were speaking about, December
10:16:45 10 1999 through July 2000, did you receive reports, either orally or
11 in writing, from your men regarding who were providing security
12 for Sam Bockarie?

13 A. Yes, they would report to me on a daily basis.

14 Q. And what sorts of reports, if any, did you receive?

10:17:07 15 A. The normal security report: Like, you know, who took up
16 assignment at so and so time; we left from there at so and so
17 time, and everything was okay while we were there.

18 Q. Were there times when Sam Bockarie was able to leave that
19 premises without being accompanied by security?

10:17:28 20 A. No. He would always be accompanied by security any time he
21 would leave from there.

22 Q. And were those security your men?

23 A. Yes, those securities were my men.

24 Q. Do you know whether there was any radio communication
10:17:44 25 equipment in the house that was assigned to Sam Bockarie?

26 A. No, there was no radio communication equipment in the house
27 assigned to Sam Bockarie.

28 Q. How do you know that?

29 A. Because if there is any radio communication, my men would

1 tell me.

2 Q. Now, Mr Smythe, yesterday you told us of trips overseas
3 that you took with President Taylor. You remember telling us
4 that?

10:18:19 5 A. Yes, I do.

6 Q. You recall telling us about the trip you took to Abuja,
7 Nigeria?

8 A. Yes.

9 Q. You recall telling us about a trip you took to Paris,
10:18:30 10 France?

11 A. Yes.

12 Q. And you also mentioned, of course, Lome?

13 A. Yes.

14 Q. With respect to the trips to Abuja, Paris - to Abuja,
10:18:45 15 Nigeria, and Paris, France, have you seen any documents regarding
16 those trips?

17 A. Yes, I saw a document regarding the trip to Paris.

18 Q. And what was the nature of that document?

19 A. That document was the - bears my name and other names that
10:19:02 20 took that trip.

21 Q. In relation to the trip to Abuja, have you seen any
22 documents similar to the one you saw regarding Paris?

23 A. I saw a document, a picture that I took when I went to
24 Abuja.

10:19:18 25 MR ANYAH: Madam President, with leave of your Honours, may
26 the witness be shown documents that appear in tabs 1 and 2 and a
27 photograph appearing in tab 35, please. May we start with the
28 document at tab 1, please. This is also currently marked as
29 MFI-133, but this is another copy of the exact same document:

1 Q. Mr Smythe, do you see that document?

2 A. Yes.

3 Q. What is that document?

10:21:06

4 A. The document is a list of the delegation accompanying the
5 President to Nigeria, Abuja.

6 Q. And does it bear a date in relation to the trip to Abuja?

7 A. Yeah, "May 9-10, 2000".

8 Q. The first name you see listed as number 2, is that the
9 Monie Captan you spoke of in relation to Lome?

10:21:30

10 A. That's correct.

11 Q. And he is the same person you told us, either yesterday or
12 the day before, was Foreign Minister throughout Mr Taylor's
13 presidency?

14 A. That's correct.

10:21:45

15 Q. Do you see your name on that document, Mr Smythe?

16 A. Yes, number 11.

17 Q. And what's the indication of your rank in that document?

18 A. Colonel Yanks Smythe, assistant director of SSS.

10:22:15

19 Q. Where you see in number 8 Major General Musa N'jie, is that
20 the same person you have told us about being a Special Forces
21 trained in Libya?

22 A. That's correct.

23 Q. Do you see the name above Musa N'jie, Musa Cisse? Is that
24 the person you mentioned yesterday who accompanied Sam Bockarie
25 to Burkina Faso?

10:22:38

26 A. That's correct.

27 Q. Above Musa Cisse is Benjamin Yeaten, and that is the same
28 person you have been speaking of as director of the SSS?

29 A. That's correct.

1 Q. And number five was the name you attempted to spell for us
2 yesterday. Who is the person in number five?

3 A. Kadiatu Diarra.

4 Q. You also gave her another name yesterday.

10:23:08 5 A. Findley. That's the name she obtained when she got
6 married.

7 Q. And she is the same person you were referring to yesterday?

8 A. That's correct.

9 Q. As a special assistant to the President?

10:23:20 10 A. That's correct.

11 Q. You showed us a picture yesterday and you said somebody
12 there was a butler to the President. Do you recall telling us
13 that?

14 A. Yes, that's correct.

10:23:32 15 Q. There is a name at number 9. Are you familiar with that
16 person who's named there?

17 A. Number 9?

18 Q. Yes.

19 A. Yes, Colonel David Norris.

10:23:44 20 Q. And who is David Norris?

21 A. David Norris is the butler that replaces Edwin Lewis.

22 Q. During which period of time was Edwin Lewis
23 President Taylor's butler?

10:24:03 24 A. Edwin Lewis was President Taylor's butler from the time of
25 his election as President, I think, through the end of 1999.

26 Q. And when did David Norris become his butler?

27 A. David Norris succeeded Edwin Lewis.

28 Q. Who is Veronica Smith? We see that name at number 10.

29 A. Veronica Smith is a religious person.

1 Q. Do you know Veroni ca Smi th?

2 A. Yes, I thi nk I can remember, yes.

3 Q. Do you know what functi on, i f any, she served wi thi n the
4 Li beri an government?

10:24:50 5 A. She was one of the religi ous advi sers to the President.

6 Q. Was she the only person that was a religi ous advi ser to
7 Presi dent Tayl or?

8 A. No, she wasn' t the only person.

9 Q. To your knowl edge, was i t typi cal for Presi dent Tayl or to
10:25:06 10 travel wi th religi ous advi sers?

11 A. Yes.

12 Q. To your knowl edge, was i t typi cal of Presi dent Tayl or to
13 consul t wi th such peopl e?

14 A. Yes.

10:25:17 15 Q. Religi ous advi sers?

16 A. Yes, wi th regards to religi ous matters.

17 Q. Thank you, Mr Smythe.

18 Madam Presi dent, may the wi tness the shown the document
19 behi nd tab 2, please.

10:25:56 20 Mr Smythe, can you see the document?

21 A. Yes.

22 Q. What does --

23 PRESIDING JUDGE: Is thi s an existi ng MFI?

24 MR ANYAH: It possi bly coul d be, but I am not sure,

10:26:10 25 Madam Presi dent, i f I am to be honest. It' s qui te possi ble. I
26 don' t thi nk so, Madam Presi dent. Mr Gri ffi ths al so does not
27 bel i eve that' s --

28 Q. Mr Smythe, what i s thi s document about, i f you know?

29 A. Thi s document was the names of Presi dent Tayl or' s

1 delegation to a summit in Paris.

2 Q. And you told us that trip was eventually made?

3 A. Yes.

4 Q. When did you travel to Paris?

10:26:58 5 A. I travelled to Paris in 1998.

6 Q. Do you know the purpose for that trip?

7 A. That was a summit. I think a Franco-African summit, if I
8 am not mistaken.

9 Q. Now, I just want to go through some of this with you.

10:27:30 10 Mr Smythe, do you see your name on that document?

11 A. Yes.

12 Q. And what number is next to your name?

13 A. 34.

14 Q. And what was your rank at that time?

10:27:49 15 A. My rank was colonel.

16 Q. And what does it have you listed, as far as your
17 function?

18 A. Special agent to the President.

19 Q. Now, there are two asterisks next to that sentence, and do
10:28:04 20 you see at the bottom the indication of what that means?

21 A. Yes, I do.

22 Q. And what do you remember this signifies?

23 A. This signifies members of the advance team, I think. Yeah.

24 Q. Did you go ahead of President Taylor to Paris, or did you
10:28:23 25 go with him together?

26 A. I went ahead of President Taylor.

27 Q. And why did you go ahead of him?

28 A. I went as advance team, which is normal. Before a
29 President travels, there should be an advance security team.

1 Q. Were you still during this period of time assistant
2 director for operations of the SSS?

3 A. No, at this time I was not assistant director of SSS.

4 Q. Well, you told us you became assistant director in 1998.

10:28:51 5 A. Yes.

6 Q. Was it before or after this time you became assistant
7 director?

8 A. It was after this time.

9 Q. Now, we go up to number 22. Who is Lewis Brown?

10:29:12 10 A. Lewis Brown was an assistant to the President.

11 Q. And what functions, if any, did he perform?

12 A. He performed functions assigned to him by the President.

13 Q. Right below Lewis Brown's name is Edwin Lewis?

14 A. That's correct.

10:29:35 15 Q. Is this the same person you were just speaking to us about?

16 A. That's correct.

17 Q. As being the butler to the President?

18 A. That's correct.

19 Q. Above Lewis Brown's name is somebody named the Honourable
10:29:55 20 Adolphus Taylor?

21 A. Yes.

22 Q. Who is Adolphus Taylor?

23 A. Adolphus Taylor was deputy director for VIP protection,
24 NSA, National Security Agency.

10:30:08 25 Q. Was at this time the NSA an auxiliary branch of the SSS?

26 A. No, the NSA was never an auxiliary branch of the SSS.

27 Q. Is it the case then that, separate and apart from the SSS,
28 members of the National Security Agency also provided security
29 for President Taylor?

1 A. That's correct, yes. Not in the immediate vicinity though.

2 Q. What was the nature of the security they provided to
3 President Taylor?

4 A. The NSA - the VIP protection of the NSA is a small team
10:30:46 5 that is assigned at the mansion. They are covert security
6 agents.

7 Q. Covert, you said?

8 A. Yes.

9 Q. Number 18, is that the same person we just spoke about,
10:31:12 10 Ms Kadiatu Diarra Findley?

11 A. That's correct.

12 Q. We saw a picture yesterday of somebody you called Urias
13 Taylor. Do you remember that?

14 A. Yes, I do.

10:31:21 15 Q. The name that appears on line 20, who is that person?

16 A. Honourable U Andy Taylor. Urias Andy Taylor.

17 Q. Is that the same person we saw in a picture yesterday?

18 A. That's correct.

19 Q. Number 16, we have a name here that is called MaCiFierran
10:31:53 20 Jibbah. Who is that?

21 A. MaCiFierran Jibbah is the same Momo Dgi ba.

22 Q. This is the same Momo Dgi ba you identified in a photograph
23 previously?

24 A. That's correct.

10:32:06 25 Q. Is he a Gambian national?

26 A. No, he's a Liberian.

27 Q. Is he of Gambian origin?

28 A. No.

29 Q. Is he of Mandingo origin?

1 A. I don't know his tribe, actually.

2 Q. Number 7, Minister of National Defence, who is that
3 referred to there?

4 A. Honourable Daniel Chea.

10:32:39 5 Q. What was his position during President Taylor's
6 administration?

7 A. He was Minister of National Defence.

8 Q. Was he the only Minister of National Defence during
9 President Taylor's administration?

10:32:50 10 A. That's correct.

11 Q. In number 5 we see a name, Honourable Ernest Eastman. Who
12 is Ernest Eastman?

13 A. Ernest Eastman at the time was the Minister of State.

14 Q. Did he serve in any other capacity besides Minister of
10:33:16 15 State during President Taylor's presidency?

16 A. Later on he was replaced as Minister of State.

17 Q. That wasn't the question. Yes, you say he was replaced,
18 but did he serve in another capacity after being replaced as
19 Minister of State?

10:33:34 20 A. Yes.

21 Q. And in what capacity did he serve?

22 A. He served as adviser to the President.

23 Q. To your knowledge, was President Taylor the first President
24 that used the services of Ernest Eastman?

10:33:46 25 A. No.

26 Q. To which other Presidents of Liberia did Ernest Eastman
27 work for?

28 A. Ernest Eastman, if I can recollect, worked for President
29 Tubman, Tolbert and President Doe.

1 Q. Let's start with President Tolbert. Do you know what
2 position, if any, Ernest Eastman served when he worked for
3 President Tolbert?

4 A. No, I don't know which position he served.

10:34:20 5 Q. Do you know if it was a ministerial position?

6 A. Yes, I think it was a ministerial position, but I don't
7 know what position it was.

8 Q. With respect to President Tubman, do you know what
9 position, if any, Ernest Eastman held during the Tubman
10 administration?

10:34:37 11 A. No, I don't know the position. He worked at the Foreign
12 Ministry, but I don't know which position he held.

13 Q. With respect to Samuel Kanyon Doe, do you know what
14 position, if any, Ernest Eastman held when he worked with
15 President Doe?

10:34:54 16 A. At one time he was Foreign Minister, I heard, and later on
17 he works with the Bong Mining Company.

18 Q. Let's look at number 24. Number 24 has Honourable Joseph
19 Montgomery, deputy director/operations SSS. Is this the person
20 you spoke of yesterday?

10:35:30 21 A. That's quite correct.

22 Q. DP-229, a photograph we looked at yesterday, was this
23 person one of those pictured in that photograph?

24 A. That's correct.

10:35:40 25 Q. Number 25. Who is listed in number 25, Mr Smythe?

26 A. Brigadier General Peter Some.

27 Q. And what was his position then?

28 A. Peter Some was aide-de-camp to the President.

29 Q. What nationality is Peter Some?

1 A. Peter Some is a Ghanaian.

2 Q. A Ghanaian?

3 A. Yes.

4 Q. For how long, if you know, did Peter Some work for
10:36:11 5 President Taylor?

6 A. Peter Some worked for President Taylor even before he
7 became President. I think he knew him before he became
8 President.

9 Q. Did you ever hear that name Peter Some in Libya?

10:36:26 10 A. Yes.

11 Q. And when you heard the name Peter Some in Libya, was it in
12 connection with the NPFL?

13 A. Yes.

14 Q. The Peter Some you heard about in Libya, do you know
10:36:41 15 whether it is one and the same Peter Some that is mentioned in
16 this document?

17 A. That's quite correct.

18 Q. And how do you know that?

19 A. Yes, because I know Peter Some and he told me he had known
10:36:52 20 President Taylor during those days that he used to visit Ghana.
21 He used to drive for him around and, you know, he has become
22 close to him. And when President Taylor was sending the Special
23 Forces, you know, being that he was with him, he sent him along
24 too.

10:37:08 25 Q. When you say someone used to drive him around in Ghana, who
26 used to drive whom?

27 A. Peter Some used to drive for President - Mr Taylor when he
28 used to go to Ghana.

29 Q. And was that before or after President Taylor became

1 President?

2 A. That was before he became President.

3 Q. And you mentioned something about Special Forces in Libya.

4 A. Yes.

10:37:35 5 Q. Was Peter Some a Special Forces?

6 A. Yes.

7 MR ANYAH: I wonder if your Honour Justice Doherty has a
8 question?

9 JUDGE DOHERTY: No, it's just that I recall him saying he
10:37:49 10 was with the NPFL in Libya, but the Special Forces was in
11 relation to visiting Ghana, not Libya. I am not sure if it's of
12 any import as you have now asked the relevant question.

13 MR ANYAH: Thank you, your Honour:

14 Q. Now, Mr Smythe, the question was, to your knowledge, was
10:38:23 15 Peter Some trained in Libya as a Special Forces?

16 A. Yes, Peter Some was trained in Libya as Special Forces.

17 Q. To your knowledge, when he received that training, to which
18 organisation was he attached?

19 A. He was attached to the NPFL.

10:38:39 20 Q. Do you know where he is today?

21 A. Peter Some is back in Ghana.

22 Q. Number 26 on this list, you mentioned this name yesterday?

23 A. Yes.

24 Q. And who is Ocebio Dehme?

10:39:02 25 A. Ocebio Dehme is the chief of protective services.

26 Q. Was he above or below you in rank?

27 A. He is below me. He is my immediate deputy.

28 Q. Now, number 2 at the top, says the First Lady. Who was
29 First Lady of Liberia during President Taylor's presidency?

1 A. Madam Jewel Howard-Taylor was.

2 Q. And did she accompany you and the others to Paris on this
3 trip?

4 A. Yes.

10:39:40 5 Q. You see number 31, the name Andrew Koinah is present?

6 A. That's correct.

7 Q. Security also assigned to the First Lady?

8 A. Correct.

9 Q. Was Madam Jewel Howard-Taylor the only First Lady of
10:40:00 10 Liberia during President Taylor's regime?

11 A. Yes.

12 Q. Where is Madam Taylor today?

13 A. Madam Taylor is a senator in Liberia today.

14 Q. A senior senator?

10:40:14 15 A. Senior senator, okay.

16 MR ANYAH: Madam President, may the witness be shown the
17 photograph in tab 35, please. We do have the original of this in
18 court.

19 PRESIDING JUDGE: Is the original the one on the overhead?

10:40:58 20 MR ANYAH: No. I can produce that.

21 PRESIDING JUDGE: Because this is a very poor copy. I can
22 hardly see it.

23 MR ANYAH: Yes, I appreciate that.

24 PRESIDING JUDGE: Mr Anyah, are you sure this is the best
10:41:53 25 copy that you can come up with?

26 MR ANYAH: I agree, Madam President, it is not at all as
27 visible as the original.

28 PRESIDING JUDGE: I mean, it's up to you. If you want it
29 later admitted in evidence, it just is quite - you can't see the

1 faces of these people. It would not be very useful in evidence.

2 MR ANYAH: I am hesitant to suggest that I will be capable
3 of providing a better copy. I think we used the same copying
4 facility and if we were to request another copy I do not know if
10:42:33 5 it would be improved or better.

6 PRESIDING JUDGE: Could we for now on the overhead use the
7 original, please. Is there a way in which that shine could be
8 shaded off? Please proceed.

9 MR ANYAH:

10:43:37 10 Q. Mr Smythe, do you see the photograph there?

11 A. Yes.

12 Q. What is that a photograph of?

13 A. This was a photograph of Mr Taylor emerging from his hotel
14 suite in Abuja.

10:43:49 15 Q. And in what year was this photograph taken?

16 A. This photograph was taken in 1999.

17 Q. And what was the purpose of that trip to Abuja?

18 A. This trip was to an ECOWAS conference.

19 Q. Now, who is pictured in this photograph?

10:44:10 20 A. I can see myself; I can see President Taylor. I don't
21 know, I am not really seeing behind him. That's is an
22 ai de-de-camp behind him.

23 Q. Can you switch seats and take a look at the original,
24 please. And if you could use a pen and indicate to whom you
10:44:34 25 refer when you mention a name.

26 A. This is me.

27 Q. Yes.

28 A. This is President Taylor.

29 Q. Yes.

1 A. This is General Dgi ba.

2 Q. Yes.

3 A. And this is Joseph Jangar, a photograph.

4 Q. Can you spell Jangar for us.

10:45:09 5 A. J-A-N-G-A-R, I think.

6 Q. And for how long were you and Mr Taylor in Abuja during
7 this ECOWAS summit or conference?

8 A. I can't remember how long, but it was not too long.

9 Q. What role or function were you serving during this ECOWAS
10 trip?

10:45:32

11 A. I was serving as assistant director for operation for the
12 SSS.

13 MR ANYAH: Madam President, I would like the witness, as we
14 did with the other photographs, to identify persons by writing
15 their names and to sign and date them. The problem with this one
16 is the visibility or quality of the copy, and I am hesitant not
17 to use this opportunity now and to allow it to pass, hoping that
18 we will get a better copy and then by then the witness may not be
19 available.

10:46:09

20 PRESIDING JUDGE: Mr Anyah, you proceed as you see fit.

21 MR ANYAH: Thank you, Madam President.

22 Q. Mr Smythe, using the copy and not the original, can you
23 draw an arrow from your name and the names from the other persons
24 pictured and name each respective person. Can you also give a
25 description as in the year and month, if you know, when this
26 summit or conference took place, and also indicate Abuja,
27 Nigeria, and can you please sign and date it, today being 25
28 February 2010. And with respect to the documents behind - well,
29 I will allow you to finish to allow the judges to see what you

10:46:57

1 have written.

2 PRESIDING JUDGE: I think the witness is through.

3 MR ANYAH: Yes, Madam President:

4 Q. With respect to the documents in tab 1 and 2, can you
10:49:56 5 circle where your name appears in each of those documents, sign
6 and date each of them, please. Can you sign next to your name -
7 draw an arrow, sign next to your name and date it.

8 Madam Court Uher, can you show the Justices what he has
9 signed and dated, please?

10:51:17 10 MR KOUMJIAN: [Microphone not activated].

11 PRESIDING JUDGE: Mr Anyah, I note that the document behind
12 tab 1 is already MFI-133, and the only mark that the witness has
13 done is to circle his name, which doesn't really add much value
14 to the document. In my opinion, it should remain as MFI-133 with
10:51:42 15 the record of the evidence the witness has given about it, rather
16 than it being marked or given a different MFI.

17 MR ANYAH: I appreciate your observations, Madam President,
18 and of course we are at the liberty of the Court. The reason for
19 having him sign and date it is to support his oral testimony that
10:52:04 20 he did in fact go to this meeting. There was a programme
21 prepared in which his name appears and he has come here and
22 testified, identified that programme and confirmed that he went.
23 But we are in the Court's hands.

24 [Trial Chamber conferred]

10:52:32 25 PRESIDING JUDGE: Was this originally a Defence MFI? I
26 think so.

27 MR ANYAH: I believe it was MFI-ed during Mr Griffiths's
28 examination of Mr Taylor, I believe.

29 PRESIDING JUDGE: Mr Anyah, we are of the view - I mean, we

1 have a lot of documents to deal with. MFI-133 is a Defence
2 document to which this witness has now spoken, and what he has
3 said - his evidence is part of the record in any event, and the
4 only marking is to draw our attention to his name, which he has
10:54:45 5 done anyway. So for me there is no value added in marking an
6 identical document again as an MFI.

7 MR ANYAH: That's fine.

8 PRESIDING JUDGE: There is nothing further that he has done
9 other than to show us the obvious.

10:55:02 10 MR ANYAH: We appreciate that.

11 PRESIDING JUDGE: But the other documents that have not yet
12 been marked, what would you wish --

13 MR ANYAH: I respectfully request that they be marked, and
14 there are two of them; the document in tab 2 and the photograph
10:55:16 15 in tab 35.

16 PRESIDING JUDGE: I will give them two different MFI
17 numbers because I think they are not related, if that's okay with
18 you.

19 MR ANYAH: Yes, it is, Madam President.

10:55:28 20 PRESIDING JUDGE: The document in tab 2 entitled, "Official
21 Delegation of President Taylor to Paris Summit 1998", that is
22 marked MFI-425; and the photograph marked as DP-235 is now marked
23 for identification 426.

24 MR ANYAH: Thank you, Madam President. And may the witness
10:56:05 25 remain seated where he is just to answer a few more questions?
26 Because I have a few more photographs to show him.

27 PRESIDING JUDGE: Yes, certainly. Certainly, as long as
28 the microphone is working - the witness's microphone is working.

29 MR ANYAH:

1 Q. Mr Smythe, can you hear me?

2 A. Yes, I can hear you.

3 Q. Now, Mr Smythe, you told us that you left Liberia in July
4 2000?

10:57:07 5 A. That's correct.

6 Q. What was the reason for you leaving Liberia?

7 A. I left Liberia to honour my appointment as the charge
8 d'affaires to the embassy of the Republic of Liberia in Tripoli,
9 Libya.

10:57:26 10 Q. When were you appointed charge d'affaires for Libya?

11 A. I was appointed in July 2000.

12 Q. And who gave you that appointment?

13 A. President Taylor did.

14 Q. Do you have - well, let me ask you one more question. Were
10:57:51 15 you sworn in in an official ceremony conducted by someone?

16 A. Yes, I was.

17 Q. Do you have any photographs of that swearing-in ceremony?

18 A. Yes.

19 Q. Was there any kind of public comment by the Liberian
10:58:08 20 government at the time of your appointment as charge d'affaires
21 to Libya?

22 A. Yes.

23 Q. And was there a document prepared in relation to that?

24 A. Yes.

10:58:18 25 Q. What kind of document?

26 A. It was published, you know, as a press release.

27 Q. Did you, in fact, go to Libya?

28 A. Yes, I went to Libya.

29 Q. Before you went to Libya, did Liberia have a charge

1 d'affaires to Libya in service before you went there?

2 A. Before I went there, yes, somebody was there acting.

3 Q. And who was that person?

4 A. That person was George Pattern.

10:58:49 5 Q. And was there somebody in that position before George
6 Pattern?

7 A. There was an ambassador who was Moses Blah.

8 Q. First of all, can you spell Pattern for us.

9 A. P-A-T-T-E-R-N.

10:59:07 10 Q. Moses Blah, the same person who later became Vice-President
11 and President of Liberia?

12 A. That's correct.

13 Q. How long, to your knowledge, was Moses Blah ambassador to
14 Libya?

10:59:19 15 A. Moses Blah was ambassador to Libya from 1997 to 2000.

16 Q. And for how many months did George Pattern serve as acting?

17 A. I don't know for how many months, but he served as acting
18 up to the time of my arrival.

19 Q. Do you have any photographs of your time in Libya as charge
10:59:53 20 d'affaires of Liberia?

21 A. Yes, I have photographs.

22 Q. Can you give us an indication of what they depict?

23 A. Well, I can - I don't - I can't remember. Maybe if I see
24 the pictures. But I took a lot of pictures in Libya. I also
11:00:13 25 took a picture when I was being sworn in.

26 MR ANYAH: Madam President, with leave of the Chamber, may
27 the witness be shown the document in tab 3 and the photographs in
28 tabs 32, 33 and 34. The one in tab 32 should be DP-232, the one
29 in 33 is DP-233 and the one in 34 is DP-234. Tab 3 first,

1 please:

2 Q. Mr Smythe, can you see this document?

3 A. Yes.

4 Q. And what is at the top of the document?

11:01:50 5 A. The document is "Republic of Liberia, Ministry of State for
6 Presidential Affairs, Executive Mansion". You have "Office of
7 the Deputy Minister of State For Public Affairs and press
8 secretary to the President".

9 Q. Now, who occupied that position at that time?

11:02:09 10 A. Reginald Goodridge.

11 Q. Is Reginald Goodridge still alive today?

12 A. Yes, he is still alive in Monrovia.

13 Q. For how long did he serve as Deputy Minister of State, if
14 you know?

11:02:24 15 A. He served in this capacity for some time and later became
16 the Minister of Information.

17 Q. And what is the title of this document at the top?

18 A. "Press Release".

19 Q. And to what does this document pertain?

11:02:42 20 A. This document pertains to appointments made by
21 President Taylor.

22 Q. Do you see your name on this document?

23 A. Yes.

24 Q. And next to your name, what is the appointment reflected on
11:02:56 25 this document?

26 A. "Charge, embassy of Liberia in Tripoli, Libya".

27 Q. Do you know some of the people whose names appear on this
28 document?

29 A. Yes.

1 Q. Let's start with the top, Martin O George. Who is Martin
2 George?

3 A. Martin George was one time commissioner of immigration.

4 Q. And after that?

11:03:22 5 A. Manneh Paybaye.

6 Q. Well, what I meant about Martin George, was his only
7 position commissioner of immigration or did he assume this
8 position, Minister of State without portfolio --

9 A. Yes, yes, he was Minister of State without portfolio.

11:03:37 10 Q. Besides those two positions, did he have any other
11 positions within President Taylor's administration?

12 A. Beside these two positions?

13 Q. Yes.

14 A. Well, I can't actually remember. I don't know.

11:03:56 15 Q. The second person, Manneh Paybaye, who is that?

16 A. Paybaye is a Liberian. I'm not too familiar with him. I
17 know him casually, but I'm not too familiar with him.

18 Q. The third person, Varmuyan Konneh, who is that?

19 A. Varmuyan Konneh is a Liberian. I know him also.

11:04:26 20 Q. And do you see here reference to something called "Liberia
21 Free Zone Authority"?

22 A. Yes.

23 Q. What was that authority about?

24 A. The Liberia Free Zone Authority is the authority that took
11:04:38 25 care of the free zone of Liberia. It's an agency within the
26 government set-up.

27 Q. What is the free zone of Liberia?

28 A. Free zone, well, I might not be correct in, how do you call
29 it - but it's a government - it's an agency within the

1 government.

2 Q. The fourth name there, do you know that person?

3 A. Yes.

4 Q. And who is that?

11:05:02 5 A. Murphy Anderson.

6 Q. Did that person serve the Bureau of Immigration and
7 Naturalisation service?

8 A. Yes, he served the Bureau of Immigration and Naturalisation
9 service from the national police.

11:05:15 10 Q. What was he within the national police, if you know?

11 A. He was chief intelligence officer in the national police.

12 Q. During what period of time?

13 A. During the directorate of the late Joseph Tate.

14 Q. Is Mr Anderson alive?

11:05:37 15 A. Yes, Mr Anderson is alive in Monrovia. He is a pastor now
16 in fact.

17 Q. He is a what?

18 A. A pastor. A church pastor.

19 Q. The next name, name 5, Edward Thomas, do you know him?

11:05:55 20 A. Yes, Edward Thomas succeeded me as assistant director for
21 operations.

22 Q. Is Edward Thomas alive today?

23 A. Yes, he is alive in Monrovia working with UNMIL, United
24 Nations Mission in Liberia.

11:06:09 25 Q. And then the name below, Patricia Flomo, who is that?

26 A. Patricia Flomo was an SS officer and later became assistant
27 director for administration.

28 Q. And who did Ms Flomo replace in that position?

29 A. Ms Flomo replaced Mr Lewis, James Lewis.

1 Q. Thank you, Mr Smythe. May the witness first be shown the
2 photograph in tab 34, please.

3 PRESIDING JUDGE: I'm sorry, when the witness said Edward
4 Thomas succeeded him, was that Edward Thomas who succeeded him
5 or --

6 MR ANYAH:

7 Q. Mr Smythe, who did Edward Thomas succeed?

8 A. Edward Thomas succeeded me as assistant director.

9 Q. Of operations?

11:07:30 10 A. For the SSS, yes.

11 Q. Mr Smythe, what is this a photograph of?

12 A. This photograph was of me being sworn in as charge by the
13 Minister of Foreign Affairs.

14 Q. Now, can you use your pen and indicate who is pictured in
11:07:54 15 this photograph.

16 A. This is me raising my hand, my hand's raised.

17 Q. Yes?

18 A. This is Honourable Monie Captan, Minister of Foreign
19 Affairs.

11:08:08 20 Q. Yes?

21 A. This is Honourable Adolphus During, chief of protocol of
22 the Republic of Liberia.

23 Q. Can you slow down and say that name.

24 A. Honourable J Adolphus During.

11:08:19 25 Q. Can you spell Mr During's last name for us?

26 A. D-U-R-I-N-G.

27 Q. What was his position?

28 A. Chief of protocol of the Republic of Liberia.

29 Q. Did he hold that position throughout Mr Taylor's

1 administration?

2 A. That's correct.

3 Q. And how was that position different from the one that was
4 held by Musa Cisse, if you know?

11:08:45 5 A. Musa Cisse was chief of protocol to the President assigned
6 at the Executive Mansion.

7 Q. And Mr During was assigned to where?

8 A. At the Foreign Ministry.

9 Q. Do you know when this photograph was taken?

11:09:00 10 A. This photograph was taken immediately after my appointment
11 and confirmation in July.

12 Q. And in which location was it taken?

13 A. At the office of the Minister of Foreign Affairs.

14 Q. Do you see something above your head to the right of that
11:09:21 15 photograph?

16 A. Are you referring to this?

17 Q. Yes.

18 A. Yes.

19 Q. Can you tell us what that is.

11:09:27 20 A. This is a portrait of - I mean, arms that were disarmed -
21 that were taken during the disarmament process. This was a gift
22 presented to him by the then special representative of the
23 Secretary-General, Ambassador Downes-Thomas.

24 Q. Who presented a gift to whom?

11:09:50 25 A. Downes-Thomas presented this as a gift to Minister Monie
26 Captan.

27 Q. And what was the symbolism of this gift, if you know?

28 A. The symbolism was that, you know, the war in Liberia has
29 been over, there was disarmament and the arms were destroyed.

1 Q. When was the destruction of arms undertaken?

2 A. It was undertaken by ECOMOG and the United Nations.

3 Q. When?

11:10:27

4 A. I can't be very precise, but - I can't be very exact on the
5 time.

6 Q. Was it before President Taylor's presidency?

7 A. Yes, it was before President Taylor's presidency.

8 MR ANYAH: May the witness please be shown the photograph

11:11:20

9 behind tab 32. Madam Court Usher, I don't know if you wish to
10 display the original instead because the copy may not be as clear
11 as the original:

12 Q. Mr Smythe, you see the photograph?

13 A. Yes.

14 Q. What is it a photograph of?

11:12:05

15 A. This photograph was Mr President Taylor and myself.

16 Q. Where were you when this photograph was taken?

17 A. We were at the airport in Sirte, Libya.

18 Q. The airport in where?

19 A. Sirte, S-I-R-T-E. It's a town in Libya.

11:12:28

20 Q. And in what year was this photograph taken?

21 A. This photograph I think is in 2002.

22 Q. And under what circumstances did President Taylor visit
23 Libya?

24 A. He came to attend an AU conference.

11:12:44

25 Q. AU as in?

26 A. African Union conference.

27 Q. Was that conference held in Sirte or in Tripoli?

28 A. It was held in Sirte at the Ouagadougou conference complex.

29 Q. And what was your position at this time?

1 A. At this time I was charge in Libya.

2 Q. How long was Mr Taylor in Libya during this visit?

3 A. I think for like three - I think between three and four
4 days.

11:13:23 5 Q. Was Colonel Gaddafi present in Libya at the time?

6 A. Yes, that's correct.

7 Q. Were other African Heads of State present in Libya at the
8 time?

9 A. Yes.

11:13:32 10 Q. Did Mr Taylor come alone or did he come with a delegation?

11 A. Mr Taylor went with a delegation.

12 MR ANYAH: May the witness be shown the photograph behind
13 tab 33, please. Perhaps you could use the original; somebody
14 perhaps is not shown visibly on the coloured copy.

11:14:38 15 Well, Madam President, I should make a point, and I am in
16 the Court's hands. Our originals are glued on to a document that
17 the witness already wrote on during the time he went through this
18 with members of the Defence, and his testimony in Court should,
19 of course, come from his memory and not having availed himself of
11:15:04 20 something else written outside. So we could remove the original
21 and operate with the clean coloured copy, but all he wrote below
22 was a description of what the photograph was. So I am in the
23 Court's hands. We could remove the original if it will be
24 tantamount to leading the witness.

11:15:24 25 PRESIDING JUDGE: Well, he has already seen it anyway and
26 he is the person depicted in the photograph, so let's have the
27 benefit of a photo that we can all see.

28 MR ANYAH: Thank you, Madam President:

29 Q. Mr Smythe, you see the photograph there. What is that a

1 photograph of?

2 A. This is a photograph of me shaking the hands of
3 Colonel Gaddafi.

4 Q. This is Muammar Gaddafi of Libya?

11:15:51 5 A. That's correct.

6 Q. And under what circumstances were you shaking his hands?

7 A. It was during one of President Taylor's visits. We went to
8 Colonel Gaddafi's residence to speak to him, and I was shaking
9 his hands as I was being introduced by the chief of protocol.

11:16:12 10 Q. In what year did that visit take place?

11 A. This should be - I think it's in 2002 also.

12 Q. Was this the same visit as the one in which
13 President Taylor was pictured in the other photograph in Sirte,
14 Libya?

11:16:30 15 A. That's correct.

16 Q. Do you see the other persons pictured on this photograph?

17 A. Yes.

18 Q. Do you know any of them?

19 A. Yes, I know the one behind me.

11:16:41 20 Q. Can you point to that person and tell us his or her name?

21 A. His name is Honourable Lewis Brown.

22 Q. And we have come across that name before?

23 A. Yes.

24 Q. What was his position at this time?

11:16:53 25 A. At this time he was special assistant and adviser to the
26 President.

27 Q. There is a man to the left of Colonel Gaddafi.

28 A. Yes.

29 Q. And do you know who that person is?

1 A. Yes. He is Nuri Mesmare, the chief of protocol - the
2 Minister of Protocol Administration in Libya.

3 Q. The Minister of what?

4 A. Protocol Administration.

11:17:17 5 Q. And his name is?

6 A. Nuri Mesmare.

7 Q. Do you know how to spell that for us?

8 A. Nuri, N-U-R-I; Mesmare is M-E-S-M-A-R-E.

9 Q. Thank you, Mr Smythe. Now, there is one else that's barely
11:17:37 10 visible with his back to the photograph. I see military - I see
11 something that looks like military boots. Do you know who that
12 person is?

13 A. That should be one of the securities for Colonel Gaddafi.

14 Q. And in what city was this photograph taken?

11:17:53 15 A. This photograph was taken in the City of Surt.

16 Q. Thank you, Mr Smythe. Now, in relation to these and the
17 other photographs, if they could be shown again to the witness.

18 I want you, Mr Smythe, please, to draw arrows from the depicted
19 persons, write their names, write a date or period when the
11:18:20 20 photograph was taken, and sign and date it for us, please.

21 Madam Court Officer, can we see what is written also at the
22 bottom of the photograph? Could we adopt the same practice with
23 respect to the other one.

24 PRESIDING JUDGE: I can't quite read the words. "Future"
11:21:38 25 something - oh, "picture taken". Yes, I think everybody has
26 taken note.

27 MR ANYAH: And then the last photograph, tab 34, please.

28 JUDGE DOHERTY: [Microphone not activated].

29 PRESIDING JUDGE: Can we proceed, please.

1 MR ANYAH: Madam President, with leave of your Honours, I
2 would request that the three photographs, as well as the document
3 behind tab 3, all be marked for identification.

4 PRESIDING JUDGE: The document entitled "Press Release By
11:25:14 5 Minister Reginald Goodridge" dated 13 July 2000 is marked
6 MFI-427.

7 MR ANYAH: Thank you, Madam President.

8 PRESIDING JUDGE: The three photographs, that is, DP-232,
9 DP-233 and DP-234 are marked MFI-428A to C respectively.

11:25:44 10 MR ANYAH: Thank you, Madam President:

11 Q. Mr Smythe --

12 MR KOU MJIAN: My microphone is not working.

13 PRESIDING JUDGE: Mr Koumjian, you would like to see the
14 originals - all the originals?

11:26:10 15 MR KOU MJIAN: Yes, thank you, your Honour, please.

16 MR ANYAH: Madam President, I have originals of the photos
17 but, of course, not of the press release. So I am handing over
18 the photographs.

19 MR KOU MJIAN: I would like to see the documents that were
11:26:31 20 marked and the press release.

21 PRESIDING JUDGE: Including the press release?

22 MR KOU MJIAN: Yes, just to make sure it's identical with
23 what I have.

24 PRESIDING JUDGE: The press release does not exist in its
11:26:42 25 original form, I am told.

26 MR KOU MJIAN: I don't want stop the proceedings. If
27 your Honours want to continue examination --

28 PRESIDING JUDGE: Mr Anyah, if you are going to go into a
29 different exhibit matter, we are just thinking maybe it wouldn't

1 be a bad idea to break now for the mid-morning break to enable
2 the technical staff to put these microphones and other issues,
3 you know, in order, including Mr Taylor's LiveNote.

4 MR ANYAH: That's fair enough. I am not moving to a new
11:27:33 5 subject. I am about to wrap this one up, but we can --

6 PRESIDING JUDGE: Would you rather wrap it up? You can
7 wrap it up.

8 MR ANYAH: Well, the questions will go beyond, what, I
9 think - I suspect --

11:27:44 10 PRESIDING JUDGE: We take it up after the morning break at
11 12 o'clock.

12 [Break taken at 11.28 a.m.]

13 [Upon resuming at 12.00 p.m.]

14 PRESIDING JUDGE: Mr Anyah, has Mr Taylor's LiveNote been
12:01:20 15 rectified?

16 MR ANYAH: Yes, it has, Madam President. We are pleased to
17 report that.

18 I would also ask your Honours to note the presence at the
19 Defence side of the bar of Mr Simon Chapman, who has just joined
12:01:34 20 us. He's a legal assistant with our office.

21 PRESIDING JUDGE: Mr Chapman is welcome to the Court.

22 MR ANYAH: Thank you, Madam President.

23 PRESIDING JUDGE: Please proceed.

24 MR ANYAH:

12:01:43 25 Q. Mr Smythe, at some point yesterday or the day before when
26 you were testifying, there was a reference to you being
27 ambassador not only to Libya, but also Tunisia. Do you recall
28 that?

29 A. Yes.

1 Q. Were you, on the basis of the appointment you've told us a
2 few minutes ago, also Liberian ambassador to Tunisia?

3 A. Yes. A person accredited - Tunisia is under Libya, so the
4 person accredited to Libya is also automatically accredited to
12:02:23 5 Tunisia as well.

6 Q. Going back to some answers you gave in response to
7 questions about Sam Bockarie visiting - well, coming to Liberia
8 in December 1999, you made reference to him coming with some
9 boys. Now, I seek clarification from you regarding that term
12:02:44 10 "boys". When you say someone came with boys, can you tell us if
11 you know the ages of these boys?

12 A. Normally for us, you know, people that are with us, we
13 refer to them as boys. But these are not small boys; these are
14 men.

12:03:05 15 Q. Do you know the ages of those men?

16 A. No, but they are adults. I don't know their ages, you
17 know, specifically, but they are adults.

18 Q. Did you see those men?

19 A. Yes, I saw some of them.

12:03:15 20 Q. Did any of them appear to you to be below the age of 18?

21 A. No.

22 Q. When you went to Libya in July 2000, for how long did you
23 remain in your post as charge d'affaires?

24 A. I remained there up to 2005.

12:03:36 25 Q. Can you tell us the month in 2005?

26 A. I returned to Liberia in February 2005, yes.

27 Q. During that period of time, July 2000 and February 2005,
28 when you were stationed in Libya did you have any opportunities
29 to visit Liberia?

1 A. Yes, I did.

2 Q. How often, would you say, during that period of time you
3 visited Liberia?

12:04:07

4 A. I think it probably it might be once, twice a year. Any
5 time I obtained permission from the Foreign Minister.

6 Q. While you were stationed in Libya, did you have the
7 opportunity to know what was going on in relation to the
8 Government of Liberia in Liberia?

12:04:32

9 A. Well, at times I will call home sometimes. Certain things
10 I will be told by friends, but not everything.

11 Q. Have you ever heard the acronym LURD?

12 A. Yes, I heard LURD - the name of LURD.

13 Q. Under what circumstances did you hear that acronym LURD?

12:04:54

14 A. LURD, I hear that name - that acronym LURD when they
15 started to attack the position of the government.

16 Q. Were you in Liberia when they started to attack the
17 position of the government?

18 A. Yes. Yes, I was in Liberia, yes, when it started
19 initially, yes.

12:05:09

20 Q. And can you tell us, if you remember, when LURD started
21 attacking the positions of the government?

22 A. 1999 going to 2000.

23 Q. When you were in Libya, do you know if LURD continued to
24 attack the positions of the government?

12:05:28

25 A. Yes, I did.

26 Q. When you were in Libya did you hear anything about Sam
27 Bockarie's stay in Liberia?

28 A. When I was in Libya, yes - when I left, I left him here but
29 at some point --

1 Q. You left him here, you said?

2 A. I left him in Liberia, sorry. At some point I learned he
3 has left Liberia.

4 Q. At what point was that?

12:05:52 5 A. I think around December 2000.

6 Q. And from whom did you hear that?

7 A. When I went to Libya I stayed there, I think - I went July,
8 August, September, October, November. I think around December I
9 came to get my family to join me over there, and when I came, I
12:06:12 10 heard that he has left.

11 Q. You came to where?

12 A. I came to Liberia.

13 Q. And from whom did you hear Sam Bockarie had left Liberia?

14 A. Sometimes, you know, I would still have - I still have
12:06:26 15 contact with the security and sometimes, you know, I would visit
16 them, you know, with lecture. So through those kind of lectures,
17 I heard he had left.

18 Q. Did you hear to where he had gone?

19 A. Yes, I heard - I learned he has gone to the Ivory Coast.

12:06:41 20 Q. Did you learn anything else about the whereabouts of Sam
21 Bockarie when you came to visit Liberia in December 2000?

22 A. Since he left I have not heard of him.

23 Q. Do you know whether Sam Bockarie is alive?

24 PRESIDING JUDGE: I didn't think the witness had answered
12:07:06 25 the question that you asked, but perhaps it doesn't matter.

26 MR ANYAH: I can re-ask it:

27 Q. Mr Smythe, my question was, page 65 my line 11 of the
28 LiveNote transcript:

29 "Q. Did you learn anything else about the whereabouts of

1 Sam Bockarie when you came to visit Liberia in December
2 2000?

3 A. Since he left I have not heard of him."
4 Since he left where?

12:07:34 5 A. Since he left Liberia.

6 Q. My next question was, "Do you know whether Sam Bockarie is
7 alive or dead?"

8 A. Some time ago I read in the newspapers that he was dead.

9 Q. And when did you read that?

12:07:51 10 A. I think that should be around - I think 2003, I think.

11 Q. Did you ever have an occasion to discuss with any member of
12 the Liberian government the circumstances surrounding Sam
13 Bockarie's death?

14 A. No.

12:08:14 15 Q. Now, you said you heard of the acronym LURD. Do you know
16 what it stands for?

17 A. LURD, I think it's Liberia United for Reconciliation and
18 Democracy.

19 Q. To your knowledge, from where was LURD attacking the
12:08:37 20 Government of Liberia?

21 A. LURD were attacking the Government of Liberia from
22 positions in Guinea.

23 Q. To your knowledge what, if any, response was there by the
24 Government of Liberia to the attack from LURD?

12:08:49 25 A. The Government of Liberia would fight back.

26 Q. To your knowledge, who was the general or person
27 responsible for fighting LURD within the structures of the
28 Government of Liberia?

29 A. There were several commanders, but at one point I learned

1 Roland Duo was one of - was the commander, you know, fighting
2 LURD on the Lofa side.

3 Q. Was it only from Guinea, to your knowledge, that LURD
4 attacked Liberia?

12:09:28 5 A. Yes. What I can recall, yes.

6 Q. At the time LURD starting attacking Liberia was Liberia
7 under, to your knowledge, a UN arms embargo?

8 A. Yes, yes, Liberia was still under UN arms embargo.

9 Q. Do you know when that arms embargo was initially imposed?

12:09:55 10 A. No, I can't recall the year, but Liberia was placed under
11 UN arms embargo.

12 Q. By the time you left for Libya in July 2000, was Liberia at
13 that time still under a UN arms embargo?

14 A. Yes, that's correct.

12:10:11 15 Q. During the period of time you were in Libya up until
16 February 2005, did it remain the case that Liberia was still
17 under an arms embargo?

18 A. That's correct.

12:10:28 19 Q. Do you know whether Liberia - I'm referring to the
20 Government of Liberia - secured any arms during this period of
21 time from the beginning of the LURD attack until February 2005
22 during the UN arms embargo?

23 A. Not that I know of.

12:10:50 24 Q. Would you have been in a position to know if the Government
25 of Liberia secured any arms during that period of time?

26 A. If I was present in Liberia I would have known.

27 Q. While you were charge d'affaires for Liberia to Libya, did
28 you at any time during that five-year period of time or
29 thereabouts facilitate the attainment of arms from Libya for

1 Liberia?

2 A. No, at no time did I facilitate - facilitated that.

3 Q. You mentioned previously somebody called Johnny Paul
4 Koroma?

12:11:26 5 A. Yes, I did.

6 Q. Do you know whether that person is alive or dead?

7 A. I don't know whether he is alive or dead.

8 Q. After you saw Johnny Paul Koroma in Monrovia in late 1999,
9 did you ever see him again?

12:11:41 10 A. No, I never saw him again.

11 Q. Did you ever hear anything about him after that time?

12 A. Yes, at some point I heard, during conversation with some
13 friends, that he was killed by LURD in Lofa or something,
14 somewhere.

12:12:00 15 Q. What point in time was that?

16 A. That was during the LURD incursion. I don't know the
17 specific time, but it was just during a conversation I heard -
18 overheard. I heard, you know, that he was killed by LURD in
19 Lofa.

12:12:14 20 Q. And you cannot remember the year when you heard this?

21 A. No, I can't remember, actually.

22 Q. I want to ask you about somebody named Isaac Mongor. Have
23 you ever heard that name before?

24 A. I never heard the name Isaac Mongor before.

12:12:38 25 Q. When you were in Libya training as a Special Forces with
26 Kukoi Samba Sanyang, did you ever hear of an Isaac Mongor?

27 A. No, I never heard of an Isaac Mongor.

28 Q. When you were in Burkina before going to Liberia to work as
29 a security for Charles Taylor, did you ever hear of an Isaac

1 Mongor?

2 A. No, I never heard of Isaac Mongor.

3 Q. When you arrived in Liberia in March or April 1990 and
4 commenced working for Charles Taylor, did you ever hear of an
12:13:15 5 Isaac Mongor?

6 A. No, I never heard of Isaac Mongor.

7 Q. Did you ever hear of someone called CO Isaac?

8 A. No, I don't know anybody by the name of CO Isaac.

9 Q. When you went to Gbarnga sometime in July or August of
12:13:33 10 1991, did you hear of an Isaac Mongor?

11 A. No, I never heard of Isaac Mongor.

12 Q. When you went to visit Camp Naama in 1991, did you ever
13 hear of an Isaac Mongor?

14 A. No, I never heard of Isaac Mongor in Camp Naama.

12:13:50 15 Q. Have you ever heard that any of the trainers who were at
16 Camp Naama was called Isaac Mongor?

17 A. No, I never heard of any of the trainers in Camp Naama
18 called Isaac Mongor.

19 Q. Do you know whether whoever is called Isaac Mongor is
12:14:05 20 Liberian or Sierra Leonean?

21 A. I don't know him in the first place. I've never heard of
22 that name, so I would not know whether he's Sierra Leonean or
23 Liberian.

24 Q. Have you ever seen or heard of someone named Isaac Mongor
12:14:18 25 being in the vicinity of President Taylor during the period of
26 time you worked for President Taylor?

27 A. Never saw anybody or never heard of anybody called Isaac
28 Mongor around President Taylor during the time I was with
29 President Taylor.

1 Q. And before the time he became President, did you ever see
2 or hear of someone named Isaac Mongor being in his company?

3 A. No, I never heard of any name Isaac Mongor in the company
4 of Mr Taylor.

12:14:49 5 Q. Now, another name. Have you heard the nickname Jack the
6 Rebel before?

7 A. Yes, I heard the name Jack the Rebel.

8 Q. In what context did you hear that name?

9 A. Somebody gave himself that name.

12:15:05 10 Q. And who was that person, if you know?

11 A. There were two Jack the Rebels. There were two people that
12 called themselves Jack the Rebel.

13 Q. Can you tell us the first person who had that name Jack the
14 Rebel?

12:15:21 15 A. The first person I know is Mamoud Jack.

16 Q. Can you spell Mamoud for us?

17 A. M-A-M-O-U-D, I think.

18 Q. And the last name?

19 A. Jack, J-A-C-K.

12:15:41 20 Q. And who was that person?

21 A. Mamoud Jack I know is a Senegalese.

22 Q. Have you ever met that person?

23 A. Yes, I met the person.

24 Q. When did you meet that person?

12:15:59 25 A. You mean for the first time?

26 Q. Yes.

27 A. I first met him in Buchanan in 1990.

28 Q. Under what circumstances did you meet that person?

29 A. When the NPFL took over Buchanan, he was a resident in

1 Buchanan. You know, when he heard about Gambians being part of
2 the NPFL, he came and came across some of our brothers, the
3 Gambian brothers, like Domingo, and that's how I came to know
4 about him.

12:16:30 5 Q. Let me ask you this: When the NPFL was making its way into
6 Gbarnga, starting from Gborplay, Tappita, you've come to Harbel,
7 LAC, Buchanan, in Liberia in that time were there residents of
8 other West African countries that were not participating in the
9 fighting?

12:16:52 10 A. Yes, there were other residents, yes.

11 Q. Were there Nigerians residing in Liberia who were not
12 participating in the fighting?

13 A. Yes, there were Nigerians.

14 Q. Were there Burkinabes residing in Liberia who were not
12:17:08 15 participating in the fighting?

16 A. Yes, there were Burkinabes.

17 Q. Were they Ghanaians residing in Liberia who were not
18 participating in the fighting?

19 A. Yes, there were Ghanaians.

12:17:19 20 Q. Were there Senegalese residing in Liberia who were not
21 participating in the fighting?

22 A. Yes, there were Senegalese.

23 Q. And Gambians, were there Gambians in Liberia as residents
24 who were not participating in the fighting?

12:17:31 25 A. Yes, there were Gambians.

26 Q. So this person Mamoud Jack you say was Senegalese?

27 A. Yes.

28 Q. And you say he came and associated with some of the
29 Gambians that were there with you in Buchanan?

1 A. That's correct.

2 Q. You said, "He came across some of our brothers, the Gambian
3 brothers, like Domingo."

4 A. Yes, that's correct.

12:17:52 5 Q. And what relationship, if any, did he have with those
6 Gambian brothers?

7 A. They were brothers, you know. Since he saw them, he was
8 happy to see them. And since it was a war situation, so he
9 attached himself to them.

12:18:07 10 Q. Incidentally, when you say brothers, you are not referring
11 to blood brothers, are you?

12 A. No, no, no. I mean brothers from West Africa or from
13 neighbouring countries.

14 Q. To your knowledge, was this person --

12:18:21 15 PRESIDING JUDGE: What does "attached himself to them"
16 mean?

17 MR ANYAH: Yes, Madam President:

18 Q. Mr Smythe, you've heard the question by the President.
19 What do you mean when you say he attached himself to some of your
12:18:35 20 brothers?

21 A. He became close to them, you know, for protection purposes.

22 Q. Do you know if that person, Jack the Rebel, was employed at
23 that time?

24 A. At the time we met him there, I don't know whether he was
12:18:50 25 employed at that time.

26 Q. Do you know how he made his living or livelihood?

27 A. I don't know how he made his livelihood.

28 Q. That person, Jack the Rebel, Mamoud Jack, did you ever see
29 that person in Libya when you trained as a Special Forces?

1 A. I never saw Jack in Libya during my training as Special
2 Forces.

3 Q. Did you ever see that person at Camp 2nd March when you
4 received training in Libya?

12:19:24 5 A. I never saw Jack at Camp 2nd March. He was never there
6 during the time I was there.

7 Q. Have you seen a photograph of this person, Jack the
8 Rebel --

9 A. Yes.

12:19:37 10 Q. -- that you referred to?

11 A. Yes, yes, I saw a photograph of him.

12 Q. And when was that?

13 A. I can't recall when was that, but I saw a photograph of
14 him, you know.

12:19:51 15 Q. Now, you said there was another person called Jack the
16 Rebel.

17 A. Yes.

18 Q. Who was that person?

19 A. Jack the Rebel, one of our commanders called George

12:20:04 20 Duawana. He also used to call himself Jack the Rebel.

21 Q. The first name was George?

22 A. George Duawana.

23 Q. Can you spell the last name for us?

24 A. D-U-A-W-A-N-A.

12:20:13 25 Q. When you say "one of our commanders", whose commander was
26 he?

27 A. He was one of the NPFL commanders.

28 Q. What is his nationality?

29 A. Liberian.

1 Q. Where is George Duawana today?

2 A. He is late.

3 Q. What was under his command in the NPFL?

4 A. At one point he was commander of the Marine unit.

12:20:49 5 Q. Yes?

6 A. At one point he was also in Gbarnga in charge of the - in
7 the employ of the Executive Mansion Guard brigade.

8 Q. At what point was he in charge of the Marine unit or Marine
9 division?

12:21:06 10 A. He was not the commander. He was - I think he was one of
11 the commanders but not the overall commander. That was during
12 the war in 19 - that was during the fighting in 1990 onwards.

13 PRESIDING JUDGE: Mr Anyah, by the phrase "he is late", the
14 witness I presume means he is deceased.

12:21:28 15 MR ANYAH: Yes.

16 THE WITNESS: That's correct, your Honour.

17 MR ANYAH: I will ask about that:

18 Q. When did George Duawana die, Mr Witness?

19 A. George Duawana, when he died, I was not in Liberia. But
12:21:42 20 after I came back, I was told that he died during the fighting
21 with LURD.

22 Q. You said he was also in the employ of the Executive Mansion
23 Guard brigade.

24 A. Yes. I mean he was assigned - at one time assigned with
12:21:59 25 the Executive Mansion Guard brigade.

26 Q. And this was in Gbarnga?

27 A. That's quite correct.

28 Q. And what year was that?

29 A. This year was between - in '92, '93.

1 Q. To your knowledge, did George Duawana remain with the NPFL
2 until President Taylor was elected in July 1997?

3 A. That's correct, yes, he remained with the NPFL.

12:22:33

4 Q. To your knowledge, during that period of time, if you know,
5 did George Duawana frequent Sierra Leone?

6 A. I never heard of George Duawana going to Sierra Leone.

7 Q. And, incidentally, in respect of yourself, I haven't asked
8 you this question yet, but have you ever been to Sierra Leone?

12:22:51

9 A. I never set foot in Sierra Leone - on Sierra Leone soil
10 before.

11 Q. Have you ever passed through Sierra Leone?

12 A. Yes, on two occasions.

13 Q. And when was the first occasion?

12:23:02

14 A. The first occasion, I was coming from Libya and I passed
15 through Ghana, by Ghana Airways, passed through Freetown, Lungi,
16 to Monrovia.

17 Q. Did you disembark from the plane or did you stay in the
18 plane when you were at Lungi?

19 A. I stayed in the plane.

12:23:13

20 Q. And what was the second occasion?

21 A. The second occasion was by Sabena. I came from Zurich to
22 Freetown - via Freetown to Monrovia.

23 Q. And that occasion, did you ever disembark from the
24 airplane?

12:23:32

25 A. I never disembarked from the airplane.

26 Q. When you say Sabena, are you referring to the former
27 Belgian airlines?

28 A. That's correct.

29 Q. Now, going back to Mamoud Jack, the other person you say

1 was known as Jack the Rebel, when you and your other Gambians
2 moved from place to place - from Buchanan I believe you told us
3 you went to Harbel, was that the case, Mr Smythe?

4 A. That's correct.

12:24:02 5 Q. Did this fellow Mamoud Jack move along with you?

6 A. No, he stayed in Buchanan.

7 Q. By the time you got to Gbarnga, did you ever see Mamoud
8 Jack again?

9 A. I would see him only when I go to Buchanan.

12:24:14 10 Q. Have you seen him since you left Libya in 2005?

11 A. No, I never saw him since I left Libya in 2005.

12 Q. At any point in time, did he ever play any role in
13 President Taylor's administration, to your knowledge?

14 A. No, I'm not aware of any role he played in President

12:24:39 15 Taylor's administration.

16 Q. Now, you said you had seen a photograph of this fellow.

17 Madam President, with leave of the Chamber could the
18 witness be shown the photograph behind tab 37. It's actually
19 several photographs, but there is only one of relevance. Well,
12:25:02 20 we shall see.

21 PRESIDING JUDGE: Could the witness tell us where he saw
22 this photograph. I don't think he's told the Court yet.

23 MR ANYAH: Yes:

24 Q. Mr Smythe, this photograph, was it - do you remember how
12:25:17 25 you saw it? Did you see it - well, I'll let you answer the
26 question.

27 A. Yes, I saw this photograph, yes. I can remember seeing a
28 photograph of Jack. I don't know which one you're talking about,
29 but I can remember seeing a photograph of Jack.

1 MR ANYAH: Madam President, this is - well --

2 PRESIDING JUDGE: The question was where did he see a
3 photograph. It's a simple question.

4 MR ANYAH:

12:25:39 5 Q. Do you remember how you saw this photograph?

6 PRESIDING JUDGE: Where?

7 THE WITNESS: I saw a photograph of Jack in Liberia.

8 MR ANYAH:

9 Q. And was that shown to you by the Defence?

12:25:53 10 A. Yes, it was shown to me by the Defence.

11 MR ANYAH: Madam President, this is something disclosed to
12 us by the Prosecution and if it could be shown to the witness,
13 please.

14 PRESIDING JUDGE: Is it in a tab in the bundle?

12:26:12 15 MR ANYAH: Yes, Madam President. It's behind tab 37 and it
16 is DP-237:

17 Q. Mr Smythe, if you could switch seats for us, please. And
18 we do not have the original because, as I indicated, the
19 Prosecution disclosed this to us. We do not have a better copy
12:26:44 20 than this version that is present here. We see a number written
21 at the top which I think is the way the Prosecution ERNs their
22 photographs and that number is P0000925.

23 PRESIDING JUDGE: I don't know why there's a big chunk of
24 the evidence missing from the record. I thought at first that
12:27:42 25 LiveNote had frozen and I thought that when it returns we'll have
26 that evidence, but it's not there. So I think, Mr Anyah, to be
27 quite safe, you may repeat your reference to this picture.

28 MR ANYAH: I can't even - I don't remember what I was
29 saying.

1 PRESIDING JUDGE: I don't either.

2 MR ANYAH: I will try and ask him again:

3 Q. Mr Smythe, you told us you saw a photograph of this fellow
4 Jack?

12:28:18 5 A. Yes.

6 Q. Now, was that photograph part of your private photo
7 collection?

8 A. No, it was not part of my private photo collection.

9 Q. Was that photograph shown to you?

12:28:30 10 A. Yes, it was shown to me, yes.

11 Q. And was that in a meeting with the Defence?

12 A. That's quite correct.

13 Q. What you're looking at now, is that the same collage of
14 photographs you saw?

12:28:51 15 A. Yes.

16 Q. Is this one photograph as you look at it, or does it look
17 like more than one photograph?

18 A. This is more than one photograph.

19 Q. What does it look to you as far as the number of
12:28:58 20 photographs are that you're looking at?

21 A. This looks like three or even maybe four different
22 photographs.

23 Q. All on one sheet of paper?

24 A. That's correct.

12:29:14 25 Q. Do you know where the originals are?

26 A. No, I don't know. I don't have any idea where the
27 originals are.

28 Q. Do you see yourself pictured in this photograph?

29 A. Yes, I saw myself pictured in this photograph.

1 Q. Can you take a pen and point on the photograph to the image
2 of yourself?

3 A. Yes.

4 Q. Now, who else - let's focus on the photograph on the right
12:29:51 5 top corner. Since there are all these images, someone has put
6 them all together. The photograph on the top right-hand corner,
7 besides yourself who is depicted in that photograph?

8 A. I can see the late General Jackson.

9 Q. Is this the same person - we saw a photograph of him and
12:30:12 10 you in respect of the 6 April 1996 incident involving Roosevelt
11 Johnson?

12 A. That's correct.

13 Q. His full name is?

14 A. Jukudeh Mendy, alias Jackson.

12:30:32 15 Q. To your right in the photograph, and to your left as you
16 look at it, appears to be another gentleman?

17 A. You mean towards my left?

18 Q. Yes.

19 A. Yes.

12:30:39 20 Q. Can you point to that person so we know who we're talking
21 about?

22 A. It's this person you're talking about?

23 Q. Yes.

24 A. Yes.

12:30:45 25 Q. Do you know the name of that person?

26 A. I don't know that person, no.

27 Q. Do you know when this photograph was taken?

28 A. No, I don't know when this photograph was taken.

29 Q. Do you know where you were when this photograph was taken?

1 A. I can't remember the location where I was when the
2 photograph was taken.

3 Q. As you look at yourself and as you look at Jukudeh Mendy,
4 General Jackson, do you have an idea of how old you were when
12:31:17 5 this photograph was taken?

6 A. I can't say how old I was when the photograph - because I
7 don't know exactly when it was taken.

8 Q. Do you know by whom this photograph was taken?

9 A. No, I can't remember. I don't know when - I don't know who
12:31:31 10 took this photograph.

11 Q. Now, there are other photographs that have been placed
12 adjacent to this photograph depicting you. Do you see that?

13 A. That's correct.

14 Q. Let's start with the photograph on the top left. Do you
12:31:53 15 recognise anybody that is depicted in that photograph?

16 A. Yes, I recognise somebody, yes.

17 Q. And who do you recognise?

18 A. I recognise this man as Mamoud Jack.

19 Q. Is this the same person to whom you've been referring as
12:32:10 20 Jack the Rebel?

21 A. That's correct.

22 Q. Is this the same person you said was of Senegalese
23 nationality?

24 A. That's correct.

12:32:16 25 Q. And is this the same person you said you met in Buchanan in
26 1990?

27 A. That's correct, yes.

28 Q. And who else can you identify, if anyone, in that
29 photograph?

- 1 A. No, the next person - I can't identify the next person.
- 2 Q. Do you know where that photograph was taken?
- 3 A. I have no idea where the photograph was taken.
- 4 Q. Do you see anything in that picture that can give you some
12:32:51 5 indication of the location those men were when it was taken?
- 6 A. No, I can't really tell where it was, no, actually.
- 7 Q. Do you see the photograph below at the bottom?
- 8 A. Yes, I do.
- 9 Q. Can you identify anyone in that photograph?
- 12:33:14 10 A. Yes, I can.
- 11 Q. Please do so for us.
- 12 A. This is General Musa N'jie.
- 13 Q. And who is Musa N'jie?
- 14 A. Musa N'jie was senior aide-de-camp to President Taylor.
- 12:33:28 15 Q. And of what nationality is he?
- 16 A. He's a Gambian.
- 17 Q. And anybody else you can identify in that photograph?
- 18 A. Yes, I can identify this man as Jack - Mamoud Jack.
- 19 PRESIDING JUDGE: Please point again.
- 12:33:45 20 THE WITNESS: This.
- 21 MR ANYAH:
- 22 Q. Now, is that the same person that's depicted in the
23 photograph at the top left-hand corner?
- 24 A. Yes, that's correct.
- 12:33:56 25 Q. And that is one and the same Jack the Rebel you were
26 talking about?
- 27 A. That's correct, yes.
- 28 Q. Is there anyone else you can identify in that photo?
- 29 A. No, I can't identify any other - I don't know any other

1 person in that photo.

2 Q. As you look at that photograph is there anything that's
3 pictured in the photograph that allows you to know where it was
4 taken?

12:34:20 5 A. No, I don't know where this photograph was taken. I don't
6 know.

7 Q. This fellow Jack the Rebel, do you know whether he was
8 friends with Musa N'jie?

9 A. I can't say they are friends. He know Musa N'jie, but I
12:34:44 10 can't say if they are friends.

11 Q. Besides this fellow Jack the Rebel, were other Gambians
12 resident in Liberia attaching themselves to the Gambian members
13 of the NPFL?

14 A. That's quite correct, yes.

12:35:00 15 PRESIDING JUDGE: I thought you said Jack the Rebel was a
16 Senegalese.

17 MR ANYAH: Yes, I misspoke. I appreciate that:

18 Q. Mr Smythe, what is the relationship between people from the
19 Senagambia - what used to be the called Senagambia. I'm
12:35:23 20 referring to tribal relationship. What is the primary
21 predominant tribe in that region?

22 A. The tribes are Mandingo and Wolof; you have the Serer; you
23 have the Jolas; you have the Serahules; you have the Fulani. You
24 have so many other tribes.

12:35:41 25 Q. And do those tribes exist cross-border; that is, you go to
26 Gambia, and Senegal, Guinea-Bissau and you can find people from
27 those tribes?

28 A. That's quite correct, yes.

29 Q. Do those tribes have a common language?

1 A. Yes, they have common language, yes.

2 Q. To your knowledge and in your experience, can someone from
3 Guinea-Bissau who is Mandingo refer to someone from Casamance,
4 Senegal, as their brother?

12:36:09 5 A. Yes. Not blood brothers. Yes, they can refer to them as
6 brothers because of the same tribe.

7 Q. Now, when you and the other Gambian Special Forces were in
8 Liberia, did other West African nationals, specifically from the
9 region of Senegal, Gambia, Guinea-Bissau, to your knowledge

12:36:36 10 attach themselves to any of your fellow Gambians?

11 A. Yes, that's correct.

12 Q. And did that continue throughout the time period when your
13 Gambian - I see counsel rising, but let me finish my question,
14 because I've not finished the question.

12:36:57 15 PRESIDING JUDGE: Does this relate to the previous
16 question?

17 MR KOUMJIAN: It relates to this question and the previous
18 questions, but it specifically relates to this question. There's
19 a series of leading questions. If I allow counsel to complete
12:37:10 20 the leading, then the suggestion is out there. So my objection
21 is to suggesting answers to the witness.

22 MR ANYAH: I will continue. I will not lead if he says I'm
23 leading. It's not a problem:

24 Q. Mr Witness, to your knowledge for how long was this fellow
12:37:30 25 Jack the Rebel attached - or did he attach himself to your fellow
26 Gambian - I believe you said it was - who was it? Was it Musa -
27 Mustapha Jallow, was it?

28 A. Who are you referring to?

29 Q. Jack the Rebel. You said he attached himself to somebody

1 in Buchanan?

2 A. I said Domingo. General Domingo, yes.

3 Q. Yes. For how long, to your knowledge, did he attach
4 himself to General Domingo Ramos?

12:38:06 5 A. We left Jack in Buchanan and, you know, we proceeded ahead
6 and he remained in Buchanan.

7 Q. Was there ever a case when a Gambian, Senegalese or
8 Guinea-Bissau residing in Liberia that was not a member of the
9 fighting forces attached themselves to a Gambian?

12:38:30 10 A. To a Gambian or to the Gambian --

11 Q. To the Gambian Special Forces as the Special Forces moved
12 from place to place?

13 A. Yes.

14 Q. My question is did they come along once they attached
12:38:45 15 themselves to a Special Forces as that Special Forces would move
16 from one location within Liberia to another?

17 A. Yeah. I think I can remember one of them, yes.

18 Q. Can you tell us to whom you refer?

19 A. One Papa Nyang.

12:39:01 20 Q. Can you spell the name for us?

21 A. P-A-P-A N-Y-A-N-G.

22 Q. Papa Nyang was who?

23 A. Papa Nyang was a Gambian we met in Buchanan also.

24 Q. Was he part of the NPFL, to your knowledge?

12:39:17 25 A. When we met him, we met him in Buchanan.

26 Q. When you met Papa Nyang, was that the same period of time
27 that Domingo Ramos met, to your knowledge, Jack the Rebel?

28 A. That's quite correct, yes.

29 Q. What was Papa Nyang doing in Buchanan when you met him?

1 A. Papa Nyang then - according to what he said he was a
2 sailor, and he came and signed off in Buchanan and he remained
3 there.

4 Q. He was a sailor?

12:39:47 5 A. Yes, he was a seaman.

6 Q. To your knowledge, was Papa Nyang a military man?

7 A. No, he was not a military man to my knowledge.

8 Q. To your knowledge, this fellow Jack the Rebel, also known
9 as Mamoud Jack, was he ever a military man?

12:40:03 10 A. Yes, one time when we met him he told us that he was one
11 time in the Senegalese army.

12 Q. Other than him saying that, did you hear from any source at
13 any time that he was a member of the Senegalese army?

14 A. No, I only heard from himself.

12:40:17 15 Q. Well, you said Papa Nyang attached himself to somebody. To
16 whom are you referring?

17 A. I'm referring to Domingo.

18 Q. So Papa Nyang and this fellow Mamoud Jack attached
19 themselves to General Domingo Ramos?

12:40:32 20 A. That's quite correct, yes.

21 Q. When Domingo Ramos moved from Buchanan, did he go with Papa
22 Nyang?

23 A. No, all these people stayed in Buchanan where they were
24 resident.

12:40:45 25 Q. Did you at any time see Papa Nyang in Gbarnga?

26 A. Yes, Papa Nyang at some point came to visit Gbarnga.

27 Q. At what point?

28 A. While we were there, you know, he used to come to Gbarnga
29 on occasions - numerous occasions to visit us, Domingo and

1 others.

2 Q. And when he would come, where would he stay typically?

3 A. He would stay at Domingo's house.

4 Q. When you were in Gbarnga, did this fellow Jack the Rebel

12:41:17 5 also come to visit?

6 A. When I was in Gbarnga, I never saw Jack in Gbarnga.

7 Q. Did you ever see Jack anywhere else in Liberia?

8 A. During this period are you referring to?

9 Q. Yes.

12:41:30 10 A. Yes, I would see in him Buchanan any time we would go to

11 Buchanan - or any time I'd go to Buchanan.

12 Q. Let's just take it through the years. Let's say for the

13 period of time when you arrived in Liberia in March, April 1990

14 through the period of time of the Council of State, which is in

12:41:48 15 1995, where else besides Buchanan, if any, did you see Jack the

16 Rebel?

17 A. I saw Jack the Rebel in Monrovia.

18 Q. When was that?

19 A. That was in 1997, yes.

12:42:07 20 Q. Before that did you see him anywhere else besides Buchanan?

21 A. Before that, no, I didn't see him anywhere else.

22 Q. In 1997 under what circumstances did you see this fellow

23 Jack the Rebel in Monrovia?

24 A. He came to Monrovia, and he had a girlfriend there he was

12:42:27 25 staying with. He was living with the girlfriend.

26 Q. How did you see him?

27 A. I saw him because the area he was living is an area that,

28 you know, I frequently visit.

29 Q. Were there other Gambians resident in the area where he was

1 staying?

2 A. No, there were no other Gambians there.

3 Q. When you saw him, did you have occasion to speak with him?

12:42:52

4 A. Yes, I would talk to him. We would speak, it was - I mean,
5 exchange greetings.

6 Q. And do you know what, if anything, he was engaged in during
7 that period of time?

8 A. No, I don't know what he was engaged in at that period of
9 time.

12:43:04

10 Q. Do you know whether he had any business dealings with the
11 Government of Liberia?

12 A. No, I don't know of any of his business dealings with the
13 Government of Liberia.

12:43:17

14 Q. Did he remain in Monrovia after you saw him in 1997, to
15 your knowledge?

16 A. No, he didn't remain in Monrovia. He left later on.

17 Q. How do you know that?

18 A. Because I didn't see him again and when I asked, they say -
19 somebody - they told me - I was told that he left.

12:43:29

20 Q. Do you know to where he went?

21 A. According to information, he went to Burkina Faso.

22 Q. According to which information?

23 A. The information - the source that told me he left Liberia
24 told me he had gone to Burkina Faso.

12:43:45

25 Q. And who was that source?

26 A. I don't - I can't remember who was the source.

27 Q. Did you hear anything about what he was doing in Burkina
28 Faso?

29 A. No, I have no idea what he was doing in Burkina Faso.

1 Q. Did you ever hear of him again after that?

2 A. No, I never heard of him after that.

3 Q. During the entire period of time that you were near
4 President Taylor, did you ever see this person Jack the Rebel in
12:44:12 5 the vicinity of President Taylor?

6 A. No, I never saw Jack the Rebel in the vicinity of President
7 Taylor.

8 Q. Did you ever know of President Taylor having any other form
9 of contact, written or oral, with this person Jack the Rebel
12:44:27 10 during the time period you were close to President Taylor?

11 A. No, I never know of such contacts.

12 MR ANYAH: Madam President, with leave of your Honours, can
13 I ask - I'm sorry, I apologise - can I ask that the witness
14 identify persons pictured in that photograph by drawing an arrow
12:45:14 15 and indicating their name and also signing and dating that
16 photograph, please.

17 THE WITNESS: Should I write my name and sign this here?

18 MR ANYAH: Yes, please. I wonder if the witness could
19 write "General Jackson Mendy aka Jukudeh Jackson". This
12:47:09 20 information is already in the transcript.

21 PRESIDING JUDGE: I think we've all had a look.

22 MR ANYAH: Madam President, may I request that this
23 document be marked for identification, please.

24 PRESIDING JUDGE: The photo DP-237 is marked MFI-429.

12:48:16 25 MR ANYAH: Thank you, Madam President:

26 Q. Mr Smythe, you told us I believe on Tuesday - on Monday you
27 told us you were employed as a foreign service officer, yes?

28 A. Yes.

29 Q. And I told you we will come back to your employment in that

1 capacity. What exactly do you now do?

2 A. I'm a foreign service - recalled foreign service officer
3 without an assignment.

4 Q. For how long have you been in that capacity?

12:48:55 5 A. Since my recall from Libya in 2005.

6 Q. Besides yourself, are there others presently in Liberia who
7 are recalled foreign service officers?

8 A. Oh, yes. A lot of them, yes.

9 Q. Are these persons who served as foreign officers - well, I
12:49:19 10 should rephrase that. Are any of these persons who served as
11 foreign officers during the presidency of Charles Taylor?

12 A. Yes, a lot of them.

13 Q. Can you give me the names of any other such persons?

14 A. Your Honour, I don't know whether the people, you know,
12:49:35 15 would appreciate their names being mentioned in the court, but
16 there are a lot of them. I don't know whether they would
17 appreciate their names being mentioned in court.

18 Q. Fair enough. You know these people personally?

19 A. Yes, I do.

12:49:48 20 Q. To your knowledge, do any of those people currently have
21 assignments from the foreign office?

22 A. The ones I know of are still - are all recalled foreign
23 service officers without assignment.

24 Q. Do you have any explanation for why you have not received
12:50:12 25 an assignment?

26 A. Well, I don't know. I can't give myself an assignment.
27 The government has to give me an assignment. So I can't question
28 them why they never gave me an assignment.

29 Q. The government, who is currently at the head of that

1 government?

2 A. Madam Ellen Johnson-Sirleaf.

3 Q. What is the consequence of you not receiving an assignment?

12:50:42

4 A. Well, I don't know. I was in Libya. Probably because I
5 served under President Taylor, that's why I'm not given an
6 assignment.

7 Q. Are you speculating when you say that or do you know that
8 to be the case?

12:50:55

9 A. I'm not 100 per cent sure that's the case, but I don't see
10 any other reason why I shouldn't be given an assignment because
11 I've not been dismissed from the service.

12 PRESIDING JUDGE: Mr Anyah, you asked what is the
13 consequence of you not receiving an assignment.

14 MR ANYAH: I will come back to it.

12:51:09

15 PRESIDING JUDGE: The consequence is not the reason, it's,
16 if you like, the result.

17 MR ANYAH: Yes. I will clarify.

18 PRESIDING JUDGE: So he hasn't answered that question.

19 MR ANYAH: Yes:

12:51:20

20 Q. Mr Smythe, what is the consequence of you not having an
21 assignment? Let's start with your daily routine. How does it
22 affect your daily routine that you have no assignment?

23 A. It affects my daily routine because the salaries I'm
24 supposed to receive as foreign service officer, I'm not receiving
12:51:46 25 it.

26 Q. Are you saying you are not being paid?

27 A. Yes, I'm not being paid.

28 PRESIDING JUDGE: Is that at all?

29 MR ANYAH:

1 Q. Mr Smythe, are you saying that you're not being paid at
2 all?

3 A. I'm not being paid a monthly salary currently.

4 Q. Are you being paid anything at all?

12:52:02 5 A. Yes, I was paid not too long for some arrears from 2003 -
6 between the period 2003-2005.

7 Q. Are you, in addition to that, supposed to receive a monthly
8 allowance or salary?

9 A. No. I'm supposed to receive a monthly salary as a foreign
12:52:20 10 service officer, but I'm not receiving any.

11 Q. Is your salary in any way tied to whether or not you
12 receive assignments?

13 A. No. When you are recalled as a foreign service officer,
14 you come back to the Foreign Ministry. Your names will be
12:52:36 15 removed from the foreign list and put on the domestic list where
16 you're supposed to receive the domestic salary.

17 Q. In addition to receiving the domestic salary, are you
18 supposed to perform functions in your capacity as a recalled
19 foreign officer?

12:52:50 20 A. Yes, functions that are assigned would be assigned to you
21 by the ministry.

22 Q. Do you know whether any other recalled foreign service
23 officer who served under President Taylor presently receives a
24 salary during the administration of President Ellen

12:53:07 25 Johnson-Sirleaf?

26 A. The recalled foreign service officers that I know, all of us
27 are not on salary currently.

28 Q. All of you are what?

29 A. All the recalled foreign service officers that I know are

1 not on salary currently.

2 Q. Well, I'm speaking about those who served under President
3 Taylor, in particular.

4 A. Yes, all these people I'm referring to served under
12:53:32 5 President Taylor, yes.

6 Q. Do you know if any of them currently have received any
7 assignments from the Ministry of Foreign Affairs?

8 A. Yes, some foreign officers - foreign service officers that
9 served under President Taylor, yes, have assignments, yes, now.

12:53:52 10 Q. Now, you were saying to us previously that - I want to - I
11 asked you about how it affected your daily routine.

12 PRESIDING JUDGE: Mr Anyah, I would like to know why he's
13 not, if he knows, why he's not - him and others are not receiving
14 salaries. What are the reasons for that.

12:54:15 15 MR ANYAH:

16 Q. Mr Smythe, can you answer the question?

17 A. I don't know the reasons. Maybe the Foreign Ministry would
18 be in a better position to explain that. I don't know the
19 reasons why.

12:54:24 20 Q. Well, previously you said something about perhaps it had
21 something to do with your service. Let me find the precise
22 language. At my page 93, line 4, a question is posed:

23 "Q. Do you have any explanation for why you have not
24 received an assignment?

12:55:53 25 A. Well, I don't know. I can't give myself an assignment.
26 The government has to give me an assignment. So I can't
27 question them why they never gave me an assignment."

28 And I asked you at some point whether you were just
29 speculating.

1 JUDGE DOHERTY: Line 14 on the same page, Mr Anyah.

2 MR ANYAH: Yes, I see it:

3 Q. A question was asked of you at line 12:

12:56:37

4 "Q. What is the consequence of you not receiving an
5 assignment?"

6 A. Well, I don't know. I was in Libya. Probably because
7 I served under President Taylor, that's why I'm not given
8 an assignment."

12:56:56

9 I asked you if you were speculating. What did you mean
10 when you said probably because you served under President Taylor?

11 A. Yes, that is what I'm saying, what I'm saying, I am saying
12 probably the reason is because I was close to President Taylor
13 and I served him under his government, probably this is the
14 reason why. Because there is no other reason that I know of that
15 I would not be assigned, because I have not committed a crime, I
16 have not been dismissed. So as a foreign service officer, I
17 should be given an assignment, but I don't know the reason why.
18 That's why I said maybe because of my affiliation with President
19 Taylor.

12:57:23

20 Q. To your knowledge, are you the only person who served
21 Mr Taylor that finds yourself in this situation with the foreign
22 office?

23 A. No, I'm not the only person.

12:57:41

24 Q. Can you give us a rough idea of the number of others who
25 face a similar situation currently?

26 A. Currently we have a Foreign Service Association which I'm
27 the chairman of and we have about 28 to 30 members, and all the
28 members of that organisation served as foreign service offices
29 during the period President Taylor was President.

1 Q. And out of those 28 to 30 foreign service officers, how
2 many of them find themselves, to your knowledge, in the same
3 situation you now find yourself?

4 A. I think about 18 to 19 persons.

12:58:23 5 Q. And let's be clear, when I say the same situation, does
6 that mean they have no assignments?

7 A. That's correct, yes.

8 JUDGE DOHERTY: Mr Anyah, before you move off this topic,
9 could we clarify. At page 94, lines 15 and 16 of the LiveNote
12:58:39 10 Mr Witness said, "I was not paid not long ago for some arrears
11 2003 to 2005." Does that mean you received a lump sum covering
12 two years of monthly salaries?

13 THE WITNESS: May I explain, your Honour?

14 JUDGE DOHERTY: Yes, please. Please do.

12:58:59 15 THE WITNESS: Yeah, what I'm trying to explain was that,
16 you know, not too long ago the government - this present
17 government committed themselves to paying the arrears of foreign
18 service officers between the period 2003 and 2005, and not too
19 long I was paid, you know, an amount as part of my arrears - as
12:59:16 20 part of the arrears covering that period.

21 PRESIDING JUDGE: Is there not a possibility, Mr Witness,
22 that the government or the civil service in Liberia is actually
23 having financial problems and that may be the reason why your
24 salaries are not paid promptly?

12:59:35 25 THE WITNESS: Your Honour, I'm saying my name is not on the
26 foreign service payroll as we speak.

27 PRESIDING JUDGE: That's not what I asked. I'm now asking
28 a question relating to payment of salary.

29 THE WITNESS: Are you referring to arrears?

1 PRESIDING JUDGE: Yes. Because you said you've not
2 received - you've not been paid from 2005 up to currently.

13:00:03 3 THE WITNESS: No, I'm saying - I said the government - the
4 present government committed themselves to pay arrears covering
5 the period 2003 to 2005 to recalled - to foreign service
6 officers, not only recalled.

7 PRESIDING JUDGE: Which they did. They paid you.

8 THE WITNESS: They paid some, yes.

13:00:16 9 PRESIDING JUDGE: And I'm suggesting to you, and I want
10 your response, isn't it possible that the reason for this late
11 payment of arrears was because the government in Liberia was
12 short of funds, was underfunded?

13 THE WITNESS: Well, it's possible, your Honour.

14 PRESIDING JUDGE: The other clarification I wish to seek
13:00:37 15 from you - because I have some working knowledge of how
16 Ministries of Foreign Affairs work with their civil servants.
17 Some of their staff are based domestically at home.

18 THE WITNESS: That's correct.

19 PRESIDING JUDGE: While others are posted.

13:00:50 20 THE WITNESS: Yes.

21 PRESIDING JUDGE: Are you saying that in Liberia, all civil
22 servants working domestically are supposed to be posted?

23 THE WITNESS: No, that's not what I'm saying. Foreign
24 service officers, sometimes you are recalled. If you are
13:01:09 25 recalled as a foreign service officer to the home office, you're
26 supposed to be given an assignment. That assignment should
27 entail that your name should be placed on the local payroll.

28 PRESIDING JUDGE: And you're saying that in your case this
29 has not happened.

1 THE WITNESS: This has not happened in my case.

2 PRESIDING JUDGE: That since you were recalled in 2005, you
3 have not been given a domestic assignment.

13:01:35

4 THE WITNESS: No, I've not been given a domestic assignment
5 yet.

6 PRESIDING JUDGE: In other words, you sit generally and do
7 nothing.

8 THE WITNESS: Yes, I go to the Foreign Ministry almost on a
9 daily basis just to make my presence felt over there.

13:01:46

10 PRESIDING JUDGE: I understand, thank you.

11 MR ANYAH:

12 Q. Mr Smythe, just to clarify. The arrears you were paid,
13 were you paid in full what you were owed?

13:02:02

14 A. No, I was paid - according to the records, I was paid 30
15 per cent of what I was owed.

16 Q. You were paid 30 per cent of arrears covering the period
17 2003 through 2005?

18 A. That's quite correct, yes.

13:02:20

19 Q. Since - for the period February 2005, when you no longer
20 served in Libya, until now, have you received any payment from
21 the Ministry of Foreign Affairs for that period of time?

22 A. Yes, when I came home in 2005 I received two months'
23 salaries, yes.

13:02:41

24 Q. Was that an arrearage, or was that two months' salary
25 commensurate to your return as a domestic foreign service
26 officer?

27 A. No, that was because as a foreign service officer when you
28 return at a certain time, you're supposed to be receiving -
29 you're supposed to - normally you're supposed to receive salaries

1 for six months. But in my case it was only two months' I
2 received.

3 Q. Is that a different payment rate than you would have - you
4 received when you were in Libya?

13:03:05 5 A. That would be the same rate that you receive when you are
6 abroad.

7 Q. For the period since you received that two months' income
8 in 2005 up until now - from when you received the two months'
9 salary in 2005 until now, have you received, except for that
10 arrearage payment, any payments from the Ministry of Foreign
11 Affairs?

12 A. No, I never received any payment besides that.

13 Q. Do you know when the balance of the 70 per cent of the
14 arrearage will be paid to you?

13:03:39 15 A. According to the authorities, it will be paid when
16 government gets money.

17 Q. You said your name is not even on the payroll of the
18 Ministry of Foreign Affairs?

19 A. That's correct.

13:03:51 20 Q. This association of recalled foreign service officers you
21 mentioned, are all of its members recalled officers?

22 A. Yes.

23 Q. I'm referring particularly now, in light of the question
24 posed by Madam President, that some foreign service officers are
25 domestic, that is, they remain within the country. Are all the
26 members of your association all recalled foreign service
27 officers?

28 A. Yes, they are all recalled foreign service officers.

29 Q. Are you, to your knowledge, the only member of that

1 association whose name is not on the payroll?

2 A. No, I'm not the only person in the association whose name
3 is not on the payroll.

13:04:34

4 Q. Of the 28 to 30 members you referred to previously, how
5 many, if you know, do not have their names on the payroll of the
6 Ministry of Foreign Affairs?

7 A. As I said previously, maybe 18 or 19 persons or even more.

13:05:03

8 Q. Thank you, Mr Smythe. Now, I made reference on Monday, the
9 22nd, to the opening statement of the former Chief Prosecutor in
10 this case, Mr Stephen Rapp, and I want to go back to that
11 document. I said we would come back to it. That is from 4 June
12 2007, and it might be best if I follow Madam Court Manager's
13 version. The relevant page was 282. I believe I stopped at line
14 29 at the bottom of the page, but I will read that last sentence
15 again.

13:05:58

16 Mr Smythe, the Chief Prosecutor of the Special Court for
17 Sierra Leone, Mr Stephen Rapp, told the Justices this on 4 June
18 2007, line 26:

13:06:15

19 "As we've indicated many times, access to Sierra Leone's
20 abundant resources was a primary objective, but Sierra Leone
21 would also be a source of manpower. And, as we've noted, the RUF
22 and NPFL personnel were at various times interchangeable, with
23 the NPFL sometimes fighting in Sierra Leone and the RUF sometimes
24 in Liberia and even elsewhere."

13:06:50

25 Let's pause for a second. What the Chief Prosecutor
26 appears to be saying here is that the RUF and NPFL personnel were
27 at various times interchangeable. They fought for each other and
28 sometimes they fought even outside Liberia and Sierra Leone.
29 Now, let's consider that for a second.

1 Mr Smythe, given your entire period of time in Liberia, and
2 in particular the period of time you spent with President Taylor,
3 starting in 1990 all the way through when you left to go to Libya
4 in July 2000, to your knowledge was it the case that the
13:07:44 5 personnel of the NPFL was interchangeable with the personnel of
6 the RUF?

7 A. No, not to my knowledge.

8 Q. I appreciate the fact that the NPFL was no longer in
9 existence after the NPP - or the elections of 1997, so let me ask
13:08:08 10 it this way: Since President Taylor took office in 1997 through
11 when you left Liberia to go to Libya, did you know
12 representatives of the Government of Liberia to be
13 interchangeable with members of the RUF?

14 A. No, I'm not aware of that. I don't know of it.

13:08:29 15 Q. Given the period of time we're talking about, starting
16 first from 1990 through President Taylor's election in July 1997,
17 do you know - apart from the period of time when there was
18 cooperation between the two groups, you said August 1991 to
19 sometime in May or June 1992 - do you know whether the two groups
13:08:56 20 fought together?

21 A. No, I don't know of any time the two groups fought
22 together.

23 Q. Do you know whether the two groups ever fought together in
24 Liberia?

13:09:06 25 A. No, I don't know of any time the two groups fought together
26 in Liberia.

27 Q. Do you know whether the two groups ever fought together in
28 Sierra Leone?

29 A. No, I don't know of the two groups fighting together in

1 Sierra Leone.

2 Q. Do you know whether the two groups ever fought together in
3 some place else besides Liberia or Sierra Leone?

13:09:26

4 A. No, I don't know of the two groups fighting in anywhere
5 else besides Liberia and Sierra Leone.

6 Q. Next paragraph, paragraph 4, same page, the Chief
7 Prosecutor continued:

13:09:45

8 "Some say that the RUF was fighting in Sierra Leone for a
9 kind of national liberation, for the betterment of the people of
10 that country. But we submit that the evidence will show that
11 there was really only one thin veneer of ideology that masked the
12 real motives of destruction and exploitation.

13:10:15

13 At the very end of 1989, the relevant events began to
14 unfold in the region. On 24 December 1999, Christmas Eve, there
15 was the beginning of the Liberian civil war with the attack of
16 NPFL in Nimba County in Liberia from across the border in Ivory
17 Coast. Help was provided even at this very early stage by RUF
18 forces."

13:10:40

19 Pause there. Mr Smythe, the Chief Prosecutor told this
20 Court that during the Liberian invasion of Liberia - sorry,
21 during the NPFL invasion of Liberia, even as far back as
22 Christmas Eve, 24 December 1989, the RUF provided assistance, RUF
23 forces, even at that early stage. To your knowledge, was there
24 something called an RUF on 24 December 1989, Mr Smythe?

13:11:15

25 A. No, to my knowledge there was nothing called the RUF on
26 December 24th, 1989.

27 Q. When you joined the NPFL, restricted to providing security
28 for Mr Taylor a few months after the invasion, when you did so in
29 March or April 1990, did you ever hear from anyone that RUF

1 forces from Sierra Leone played any role whatsoever in the
2 invasion of Liberia by the NPFL?

3 A. No, I never heard of anything like that.

4 Q. Let's scroll down to the next page, which would be 284, and
13:12:08 5 I believe I want line 18 in the middle of the page. Yes. The
6 Chief Prosecutor continues at line 18:

7 "It's also important to note during this 1989-1991 period
8 that there was training in the areas of Liberia controlled by
9 Sierra Leone - controlled by Taylor of Sierra Leoneans at Camp
13:12:43 10 Naama specifically, or Naama, outside Gbarnga in Bong County.
11 Gbarnga had become Taylor's headquarters. That training was done
12 mainly by NPFL Liberians as instructors. But in that training
13 certain individuals from Sierra Leone became known as the
14 vanguards. These included Issa Sesay, Morris Kallon, Augustine
13:13:18 15 Gbao; leaders of the RUF during the 1990s and even into this
16 century in Sierra Leone."

17 Let's pause there. Mr Smythe, you heard what I've just
18 read. The period in question is 1989 through 1991. When you
19 came to Liberia in early 1990, did you meet any Sierra Leonean
13:13:46 20 members of the NPFL?

21 A. No, I never saw any Sierra Leone member of the NPFL. Never
22 met them.

23 Q. When you were in Gbarnga and when you went to Camp Naama,
24 at either place during this period of time, were you aware of
13:14:05 25 Sierra Leoneans being trained at Camp Naama?

26 A. No, I was not aware of Sierra Leoneans being trained at
27 Camp Naama.

28 Q. Were you aware of Liberians instructing Sierra Leoneans in
29 military exercises during this period of time at Camp Naama or

1 Gbarnga?

2 A. No, I'm not aware of that, either in Camp Naama or in
3 Gbarnga.

4 Q. I've asked you previously about Morris Kallon and Augustine
13:14:33 5 Gbao and you said you didn't know them. How about this fellow
6 Issa Sesay? When you were at Camp Naama and Gbarnga between 1990
7 and 1991 - well, with respect to Gbarnga - well, I withdraw that.
8 You said you were there starting about August 1991. When you
9 were in the vicinity of Gbarnga and Camp Naama starting in August
13:14:58 10 1991, did you ever hear of somebody called Issa Sesay?

11 A. No, during that, I never heard of anybody by that name.

12 Q. Let's continue. Line 28, the Chief Prosecutor continues:
13 "Of course as could be expected from that radio broadcast
14 and as could be expected as well from the plan that had been
13:15:40 15 developed to move next on Sierra Leone, on 23 March 1991 there
16 was a cross-border attack on Bomaru Town, the Upper Bambara
17 Chiefdom, by NPFL forces, an attack from Liberia into Sierra
18 Leone.

19 On 27 March 1991, a group of RUF and NPFL entered Kailahun
13:16:05 20 District from Liberia through the town of Koindu in the north of
21 the district.

22 On 28 March 1991, another RUF/NPFL crossed the Moa River
23 forming the border between Liberia and Sierra Leone in the
24 southeast part of the country. They immediately occupied Zimmi,
13:16:31 25 the southern-most town on the road network in Pujehun District in
26 the south of Sierra Leone.

27 Early in April 1991, the Liberians launched an attack on a
28 full scale with their RUF allies, and by mid-April had joined
29 their fronts in Sierra Leone."

1 Let's consider this, Mr Smythe. The Chief Prosecutor first
2 says that there was a plan. The plan developed was that there
3 would be a move on to Sierra Leone. Did you know of the
4 existence of any plan between the NPFL and RUF that there would
13:17:23 5 be a move on Sierra Leone in March 1991?

6 A. No, I never know of any plan of such.

7 Q. To your knowledge, in 1991, did the NPFL forces attack a
8 place in Upper Bambara Chiefdom in Sierra Leone from Liberia?

9 A. No. I don't know even know the area you're talking about,
13:17:53 10 so I don't know of any NPFL attack to that area.

11 Q. Did you ever hear of any NPFL attack into Bomaru?

12 A. I never heard of any NPFL attack into Bomaru.

13 Q. On 27 March 1991, do you know whether the RUF and NPFL
14 entered Kailahun District of Sierra Leone from Liberia?

13:18:16 15 A. No, I don't know of that.

16 Q. If such an event took place, would you have known about it?

17 A. Yes, I would have known because the report would have come
18 to Mr Taylor and I would know, because I was close to Mr Taylor
19 at the time.

13:18:32 20 Q. Do you know whether on 28 March 1991 NPFL and RUF crossed
21 the Moa River and they occupied a place called Zimmi in Pujehun
22 District, Sierra Leone? Do you know whether any of this
23 happened?

24 A. No, I don't know of any of this happening.

13:18:55 25 Q. Were you aware in April 1991 of the NPFL or RUF launching a
26 full scale attack into Sierra Leone?

27 A. No, I'm not aware of - I've never heard of that.

28 Q. Thank you, Mr Smythe. Thank you, Madam Court Manager.

29 There is one more document I wish to refer to. There is a

1 document that is public in this case and I want to get your views
2 on it. It is something called case summary accompanying the
3 second amended indictment. The date of this document filed by
4 the Prosecution is 3 August 2007, and that's when it was file
13:20:00 5 stamped by the Registry of the Court. In this document,
6 Mr Witness, the Prosecution made certain allegations that I want
7 to get your comment. Paragraph 1 of the document --

8 MR KOUMJIAN: Excuse me, your Honours, the Prosecution
9 doesn't believe that there's anything served by having a witness
13:20:24 10 comment on a charging document. The witness can comment on facts
11 put before the Court, but unless the case summary is evidence in
12 the case, then it shouldn't be commented upon by witnesses.

13 MR ANYAH: May I respond, Madam President?

14 PRESIDING JUDGE: Of course, Mr Anyah.

13:20:36 15 MR ANYAH: I have two responses. One, with respect, I'm
16 entitled to undertake my examination so long as I don't run afoul
17 of any of the Court rules as we in our discretion see fit.
18 Second of all, the case summary is replete with factual
19 allegations that the witness, who is in a position to know, can
13:21:01 20 of course comment on, and that is the entire purpose in this
21 case, indeed.

22 PRESIDING JUDGE: Mr Anyah, we are of the view that you are
23 entitled to do what you're doing.

24 MR ANYAH: Thank you, Madam President. It seems the Court
13:21:30 25 Manager wants the CMS number, which is 327, and it could be
26 broadcast for everybody. It's a public document. I will be at
27 what is CMS page number 1130.

28 MR KOUMJIAN: Can I inquire again as to the CMS number?

29 MR ANYAH: Yes, it's at the top of the page. It's 11310.

1 Q. Paragraph 1 of this document, before that paragraph you see
2 the title "Case summary accompanying the second amended
3 indictment":

4 "The Prosecution tells the Court the Prosecution evidence,
13:23:26 5 including expert witnesses, witnesses of fact and documentary
6 evidence will prove the following allegations:

7 1. In the late 1980s the accused received military
8 training in Libya from representatives of the government of
9 Muammar al-Gaddafi. While in Libya the accused met Foday Saybana
13:24:00 10 Sankoh. The two made common cause to assist each other in taking
11 power in their respective countries."

12 Let's pause there. Mr Smythe, let's take them one at a
13 time. This says in the late 1980s the accused received military
14 training in Libya. The man seated behind me, President Taylor,
13:24:39 15 former President of Liberia, to your knowledge, did he receive
16 military training in Libya?

17 A. Not to my knowledge, he didn't receive any military
18 training in Libya.

19 Q. Did you see Charles Taylor receive military training at
13:24:54 20 Camp 2nd March?

21 A. No, I never saw Charles Taylor receiving military training
22 at Camp 2nd March.

23 Q. Did you see Charles Taylor receiving military training at
24 Camp Tajura?

13:25:06 25 A. No, I never saw Charles Taylor receiving military training
26 at Camp Tajura.

27 Q. Have you ever heard that President Taylor, Charles Taylor,
28 was a trained military man?

29 A. No, I never heard of former President Taylor being a

1 trained military man.

2 Q. Next part of this: That he met Foday Saybana Sankoh while
3 in Libya. Are you aware of Charles Taylor having met Foday
4 Sankoh in the late 1980s in Libya, Mr Smythe?

13:25:39 5 A. I was never aware of Charles Taylor meeting Foday Saybana
6 Sankoh in Libya.

7 Q. If such a meeting had taken place, would you have known
8 about it?

9 A. Well, I'm not aware of it.

13:25:50 10 MR KOUJIAN: Excuse me, that does not answer the question.

11 PRESIDING JUDGE: I agree. Mr Witness, I think you know
12 what the question is. Please answer the question asked.

13 THE WITNESS: If such a meeting had taken place would I
14 have known about it?

13:26:03 15 PRESIDING JUDGE: That is the question.

16 THE WITNESS: I would not have known about it because I'm
17 not always in their company.

18 MR ANYAH:

19 Q. You told us Foday Sankoh was at Camp Tajura in Libya?

13:26:13 20 A. Yes, he was at Camp Tajura in Libya.

21 Q. Where was Charles Taylor staying then?

22 A. Charles Taylor was staying - the time he would come to
23 Libya, he would be the Mataba.

24 Q. Was he permanently resident in Libya at that time?

13:26:25 25 A. No, he was not permanently resident there.

26 Q. The last sentence says, "The two made common cause to
27 assist each other in taking power in their respective countries."
28 Are you aware of such common cause being reached or agreement
29 being reached between Foday Sankoh and Charles Taylor, Mr Smythe?

1 A. I have never been aware of that.

2 Q. When you joined the NPFL to provide security for Mr Taylor,
3 did you ever hear that there was some kind of agreement between
4 him and Foday Sankoh when they were in Libya?

13:27:04 5 A. No, I never heard of any agreement between Taylor and
6 Sankoh.

7 Q. Now, paragraph 2:

8 "While in Libya, the accused formed or joined the National
9 Patriotic Front of Liberia and became the leader or head of that
10 organised armed group."

13:27:29

11 Let's pause there. Do you know as you sit there now,
12 Mr Smythe, where the NPFL was formed?

13 A. I don't know where the NPFL was formed.

14 Q. Do you know whether it was formed in Libya in the late
15 1980s?

13:27:46

16 A. No, I don't know whether it was formed in Libya.

17 Q. Do you know when Charles Taylor became head or leader of
18 the NPFL?

19 A. The time I knew Charles Taylor to become the leader of the
20 NPFL was when the revolution was launched when I heard on the
21 news.

13:28:03

22 Q. Do you know whether he assumed the leadership of the NPFL
23 when he was in Libya?

24 A. The time in Libya I don't know, I didn't hear of an NPFL.

13:28:20

25 I heard of Liberians training in Libya but I didn't hear of NPFL.
26 I heard of NPFL when Mr Taylor made a radio - I mean broadcast
27 that the NPFL, his organisation, has attacked Liberia.

28 Q. Paragraph 3:

29 "In December 1989 the NPFL, led by the accused, began

1 conducting organised armed attacks in Liberia. The accused and
2 the NPFL were assisted in those attacks by Foday Saybana Sankoh
3 and his follows."

4 Mr Smythe, this case summary is saying when the NPFL
13:29:04 5 started attacking Liberia in December 1989 both Taylor and the
6 NPFL were assisted by Foday Sankoh and his followers. Are you
7 aware of Foday Sankoh providing such assistance to Charles Taylor
8 in December 1989?

9 A. No, I'm not aware of any such assistance being offered to
13:29:28 10 Charles Taylor by Foday Sankoh in 1989.

11 Q. Shall we go to paragraph 8, please, first sentence. It is
12 there alleged:

13 "The organised armed group that became known as the RUF led
14 by Foday Saybana Sankoh, aka Popay, aka Papa, aka Pa, was founded
13:30:02 15 about 1988 or 1989 in Libya."

16 Let's pause there. Mr Smythe, you were residing in Libya
17 and receiving military training in 1988?

18 A. Yes, that's correct.

19 Q. You also stayed in Libya until November 1989, you tell us?

13:30:22 20 A. That's quite correct, yes.

21 Q. Are you aware of the founding of the group that became
22 known as the RUF in Libya during this time period?

23 A. No, I was not aware of that during that time period.

24 PRESIDING JUDGE: Mr Anyah, it would appear to me that
13:30:47 25 we're up to our time limit on the tape. I think we'll take our
26 luncheon break now and reconvene at 2.30.

27 [Lunch break taken at 1.31 p.m.]

28 [Upon resuming at 2.30 p.m.]

29 PRESIDING JUDGE: Good afternoon. Mr Anyah, please

1 proceed.

2 MR ANYAH: Madam President, may it be noted for the record
3 that Mr Griffiths has left the Defence side of the Bar, please.

4 Thank you, Madam President:

14:32:25 5 Q. Mr Smythe, before lunch we were considering the case
6 summary that accompanied the second amended indictment filed by
7 the Prosecution in this case and I wonder if we could have that
8 broadcast for those that are able to see it on the monitors,
9 please. Yes, I was at paragraph 30. And that paragraph reads --

14:33:04 10 PRESIDING JUDGE: Can we see paragraph 30, please.

11 MR ANYAH: Actually, I think I stopped at paragraph 8.
12 Yes, I stopped at paragraph 8. Before we go to 30, may we go
13 back to 8. I have one more question about paragraph 8, please.
14 I apologise:

14:33:32 15 Q. Mr Smythe, I read you this sentence before the lunch
16 adjournment and it reads:

17 "The organised armed group that became known as the RUF led
18 by Foday Saybana Sankoh, aka Popay, aka Papa, aka Pa, was founded
19 about 1988 or 1989 in Libya."

14:33:58 20 This part of this allegation that reads that what became
21 known as the RUF was led by Foday Sankoh, do you agree with that,
22 Mr Smythe?

23 A. I'm not aware of the formation of the RUF, so I don't think
24 I agree with that.

14:34:22 25 Q. The group that you referred to as Sierra Leoneans that you
26 met in Libya, who was their leader?

27 A. Their leader that I knew was Ali Kabbah.

28 Q. Now, if we may go to paragraph 30, please. Paragraph 30
29 reads:

1 "From the beginning of and throughout the conflict in
2 Sierra Leone, the accused provided the RUF with assistance,
3 encouragement and direction. Prior to the initial attacks into
4 Sierra Leone, the accused provided military training, financial
14:35:12 5 support, arms and ammunition, and safe havens to Foday Saybana
6 Sankoh and his organised group. The accused provided personnel
7 for the initial attacks into Sierra Leone which began the armed
8 conflict in that country."

9 Let's pause. There are several allegations made here, the
14:35:39 10 first one being, from the beginning of the armed conflict in
11 Sierra Leone, Mr Taylor provided the RUF with assistance.
12 Mr Smythe, March 1991, when the armed conflict in Sierra Leone
13 commenced, are you aware of Mr Taylor providing the RUF with any
14 form of assistance?

14:36:03 15 A. No, I was not aware of any form of assistance being
16 provided by Mr Taylor to the RUF.

17 Q. Are you aware of Mr Taylor during that period of time
18 directing the RUF?

19 A. No, I'm not aware of Mr Taylor directing the RUF.

14:36:20 20 Q. Prior to March 1991 when there was an attack on Sierra
21 Leone by the RUF, are you aware of Mr Taylor providing military
22 training to Foday Saybana Sankoh and his organised group?

23 A. No, I'm not aware of Mr Taylor providing any training for
24 Foday Sankoh and his group.

14:36:45 25 Q. We're referring to the period before March 1991.

26 A. That's quite correct yes.

27 Q. Are you aware of Mr Taylor, during that period, providing
28 any sort of financial support to Foday Sankoh and his organised
29 group?

1 A. I'm not aware of Mr Taylor providing any financial support
2 to Foday Sankoh and his group.

3 Q. Are you aware of Mr Taylor providing, during that period of
4 time, any arms or ammunition to Foday Saybana Sankoh and his
14:37:13 5 organised group?

6 A. No, I'm not aware of Mr Taylor providing any arms and
7 ammunition to Foday Sankoh and his organised group.

8 Q. Did he provide any of those facilities - I'm referring to
9 financial support, military training, arms and ammunition - to
14:37:28 10 Foday Sankoh's organised group?

11 A. No, I'm not aware of that.

12 Q. Did he provide any of those forms of assistance not to the
13 organised group but to Foday Sankoh alone?

14 A. No, not to Foday. Not to my knowledge.

14:37:42 15 Q. I'm referring to the period now before the attacks in
16 Sierra Leone in March 1991. You understand that?

17 A. Yes, quite correct.

18 Q. For the initial attacks into Sierra Leone, are you aware
19 whether or not Mr Taylor provided any personnel to facilitate
14:38:03 20 those attacks by Foday Sankoh?

21 A. No, Mr Taylor didn't provide any personnel to facilitate
22 the attack by Foday Sankoh.

23 Q. Did he provide any personnel to facilitate attacks on
24 Sierra Leone by an organised armed group associated with
14:38:17 25 Foday Sankoh?

26 A. No, he didn't provide any armed group.

27 Q. Paragraph 31, there's a sentence there of interest. It
28 starts:

29 "Throughout the armed conflict in Sierra Leone, the

1 accused's positions as leader or head of the NPFL and President
2 of Liberia, combined with his close association with Foday
3 Saybana Sankoh and other senior leaders of RUF and AFRC, AFRC/RUF
4 junta or alliance, provided the accused with the authority and
14:39:02 5 the means to participate in the crimes alleged in the second
6 amended indictment."

7 Let's pause there. Mr Smythe, you have been with Mr Taylor
8 since March, April 1990, and even during his presidency you were
9 made ambassador to Libya and you remained in that position until
14:39:28 10 after he left the presidency. How would you describe the
11 relationship, if any, between Foday Sankoh and Charles Taylor
12 during that period of time?

13 A. The only period of time that I know Foday Sankoh and
14 Charles Taylor had anything to do with one another was the period
14:39:47 15 1991 to 1992. Apart from that period I've never seen
16 Foday Sankoh, I've never heard of him, I've never seen him in our
17 territories and I've never seen him in the company of Mr Taylor
18 anywhere.

19 Q. When you heard the phrase "with his close association with
14:40:08 20 Foday Saybana Sankoh", are you aware of Mr Taylor having a close
21 association separate and apart from the period of time you
22 mentioned where there was cooperation between the RUF and the
23 NPFL with Mr Sankoh?

24 A. No, there was no close collaboration with Mr Sankoh during
14:40:26 25 those periods you are talking about.

26 Q. Do you know what relationship, if any, Mr Taylor had with
27 members of the AFRC?

28 A. Mr Taylor has no relation with the members of the AFRC.

29 Q. How do you know that?

1 A. If it happened I would know because I was always with
2 Mr Taylor.

3 Q. Paragraph 32:

14:40:59

4 "The accused's participation in the crimes alleged in the
5 second amended indictment took a variety of forms - planning,
6 instigating, ordering, committing, otherwise aiding and abetting
7 in the commission of the alleged crimes, and participating in a
8 common plan, design or purpose."

14:41:32

9 Let's pause there. Mr Smythe, this is suggesting that
10 Mr Taylor participated in crimes that involved Sierra Leone. And
11 one form of participation it suggests is that he planned or took
12 part in the planning of some of those crimes. Did you understand
13 what I just said?

14 A. Yes.

14:41:48

15 Q. Are you aware of Mr Taylor during the period of time that
16 you were with him from 1990 through his departure from office in
17 2003 participating in any plan regarding attacks on Sierra Leone?

18 A. No, I'm not aware of any plan of Mr Taylor regarding the
19 attack in Sierra Leone.

14:42:09

20 Q. Are you aware of Mr Taylor during that period of time
21 instigating or inciting or encouraging anyone to engage in
22 attacks on Sierra Leone?

23 A. No, I'm not aware of Mr Taylor doing any of those on the
24 attack on Sierra Leone.

14:42:29

25 Q. Are you aware of Mr Taylor during that period of time
26 himself committing any crimes within the territory of Sierra
27 Leone?

28 A. During this period I was with Mr Taylor he never stepped
29 foot in Sierra Leone so he couldn't have committed those crimes

1 in Sierra Leone.

2 Q. Are you aware during that period of time of Mr Taylor
3 ordering anyone to commit any offence or crime in Sierra Leone?

14:42:57

4 A. I was never aware of any time when Mr Taylor ordered
5 anybody of committing such crimes in Sierra Leone.

6 Q. Are you aware of Mr Taylor during that period of time being
7 part of some sort of criminal enterprise or conspiracy, the
8 purpose of which was to commit a crime in Sierra Leone?

14:43:23

9 A. No, I was never aware of Mr Taylor being part of any of
10 that to commit crimes in Sierra Leone.

11 Q. Are you aware of Mr Taylor during that period of time in
12 any way aiding and abetting, facilitating, or furthering the
13 commission of any crime in Sierra Leone?

14:43:39

14 A. I'm not aware of Mr Taylor doing any of those to commit
15 crimes in Sierra Leone.

16 Q. May we go to paragraph 42, please. Paragraph 42 the
17 caption "Participation in a common plan, design or purpose" and
18 it reads:

14:44:14

19 "Between about 1988 and about 18 January 2002, the accused
20 and others agreed upon and participated in a common plan, design
21 or purpose to carry out a criminal campaign of terror, as charged
22 in the second amended indictment, in order to pillage the
23 resources of Sierra Leone, in particular the diamonds, and to
24 forcibly control the population and territory of Sierra Leone."

14:44:48

25 Let's consider that, Mr Smythe. This is suggesting that
26 there was a purpose behind all of this; that Mr Taylor
27 participated with others in an enterprise or some kind of group
28 and that they had an agreement to carry out a campaign of terror
29 in Sierra Leone. Mr Smythe, to your knowledge are you aware of

1 Mr Taylor participating with others in a group to undertake such
2 a purpose?

3 A. No, I was never aware of that.

4 Q. This suggests that one of the reasons behind this alleged
14:45:38 5 campaign of terror was to pillage the resources of Sierra Leone,
6 in particular diamonds. Mr Smythe, during the entire time when
7 you served as Mr Taylor's bodyguard, during the time when you
8 served as his radio operator, during the time when you served as
9 assistant director of operations for SSS and during your period
14:46:09 10 as ambassador to Libya did you ever see Mr Taylor with diamonds?

11 A. I've never seen Mr Taylor with diamonds.

12 Q. Have you heard of Mr Taylor receiving diamonds from anyone
13 during those periods of time?

14 A. I never heard of Mr Taylor receiving diamonds from anyone
14:46:23 15 during those periods.

16 Q. Have you ever seen Mr Taylor receive a mayonnaise jar of
17 diamonds?

18 A. I've never seen Mr Taylor receiving a mayonnaise jar of
19 diamonds.

14:46:36 20 Q. Have you heard or did you hear during that period of time
21 of Mr Taylor receiving diamonds in particular from any member of
22 the RUF?

23 A. I never heard of Mr Taylor receiving diamonds from any
24 member of the RUF.

14:46:50 25 Q. During the time you were with Mr Taylor did you ever hear
26 of him receiving diamonds from any member of the AFRC?

27 A. I never heard of Mr Taylor receiving diamonds from any
28 members of the AFRC.

29 Q. There's another part to this last sentence. It says, "To

1 forcibly control the population and territory of Sierra Leone."

2 Let's pause. I asked you a question yesterday whether Mr Taylor

3 to your knowledge has ever been to Sierra Leone and you said no.

4 Do you know whether during the period of time you worked for

14:47:31 5 Mr Taylor he harboured any objective or desire to use force in

6 controlling the population or the citizens of Sierra Leone?

7 A. No, I'm not aware of Mr Taylor using any of those means to
8 control the population of Sierra Leone.

9 Q. Are you aware of Mr Taylor during the time period that you

14:47:55 10 worked for him harbouring any desire to control the territory of

11 the Republic of Sierra Leone?

12 A. No, I'm not aware of any desire by Mr Taylor to control the
13 territory of Sierra Leone.

14 MR ANYAH: Thank you, Mr Smythe. Madam President, may I

14:48:18 15 have a moment, please.

16 PRESIDING JUDGE: Yes, certainly.

17 MR ANYAH: Madam President, we have no further questions
18 for the witness in chief.

19 PRESIDING JUDGE: Thank you. Ms Hollis, may I know who is

14:48:58 20 going to undertake the cross-examination?

21 MR KOU MJIAN: I am, your Honour, Nicholas Koumjian.

22 PRESIDING JUDGE: So, Mr Witness, Mr Koumjian has some
23 questions for you.

24 MR KOU MJIAN: Your Honour, before I begin the

14:49:13 25 cross-examination I have an application and I think it would be

26 better done outside the presence of the witness.

27 PRESIDING JUDGE: Mr Koumjian, I'm going to trust your

28 judgment on this and I will ask that the witness be momentarily

29 escorted out. Mr Witness, we will call you back again when we're

1 ready.

2 THE WITNESS: Thank you, your Honour.

3 [In the absence of the witness]

4 PRESIDING JUDGE: Yes, Mr Koumjian, please continue.

14:50:20 5 MR KOUMJIAN: Your Honour, the application of the
6 Prosecution is for the Trial Chamber to order the Defence - we're
7 requesting copies of the statements of this witness. The
8 application is based on the prior rulings of your Honours in
9 regards to this procedure that you would consider this as
14:50:48 10 permitted in the Rules, I believe it's 73 ter that allows the
11 Trial Chamber to order the Defence to produce witness statements.

12 In this particular case we do have - the reasons we believe
13 it's absolutely in the interests of justice and necessary for the
14 Prosecution in order to conduct a cross-examination of this
14:51:15 15 witness and for the Trial Chamber to get all relevant information
16 relevant to making a determination of the truth of the testimony
17 is that first of all, as I'm standing up here, our preparation
18 for this witness was based on a witness summary and a short
19 letter from the Defence. I think if you put the two together
14:51:37 20 it's about one page. There are several facts or topics - several
21 sentences that are virtually identical between the summary and
22 the letter. So the letter does not add as much information as it
23 purports to add because it repeats some information and topics
24 that are listed in the summary. In the last four days I think if
14:52:05 25 we totalled it we easily have well over 500 pages, close to 600
26 pages of transcript.

27 Of course, there's a difference between the Prosecution's
28 burden to disclose evidence and the Defence, but you'll recall
29 for Prosecution witnesses often we had produced - and the Defence

1 gave you copies of the bundles that they had of Prosecution
2 disclosure - 100 pages or so of witness statements and yet
3 sometimes when a proofing note had been given before the witness
4 started to testify that was for example five pages in the case of
14:52:38 5 TF1-375, the Defence applied for more time to study that and to
6 prepare for the cross-examination - apply for an adjournment.
7 I'm not applying for an adjournment, I'm just applying for the
8 witness statements.

9 The reason I asked the witness to go out is that there's an
14:52:56 10 additional factor that's critical as to why we should receive
11 this information for this particular witness. I'm looking now at
12 the fourth version of the Defence witness summaries, page 101,
13 DCT-179, and it goes over to page 102 and finishes on 103. The
14 summary is in the middle box of the five boxes. The critical
14:53:44 15 paragraph for us for this application is on page 102, the fourth
16 paragraph wherein this witness was - according to the summary,
17 "Witness was present when CT" - Charles Taylor - "travelled to
18 Voinjama in March 1991."

19 Now, your Honours understand the critical aspect of when
14:54:09 20 Mr Taylor went to Voinjama. March 1991 was when the attack on
21 Sierra Leone was launched. There has been evidence in this case
22 from both protected witnesses and open witnesses about
23 Mr Taylor's presence in Voinjama in March 1991 before the attack;
24 one of them open that I can say off the top of my head was Isaac
14:54:33 25 Mongor. This information about March was repeated in the other
26 witness summaries and even in the letter that we received from
27 the Defence a few days ago, or maybe a week or two ago. It's
28 critical for us to cross-examine on the sudden change in the
29 witness's testimony to October 1991 that has occurred since

1 Mr Taylor testified that in fact he didn't go to Voinjama in
2 March 1991, he didn't go until the end of 1991.

3 PRESIDING JUDGE: Before I call on the Defence to respond,
4 you mentioned the Chamber's prior rulings. Could you cite some
14:55:14 5 of those for us, please.

6 MR KOUJIAN: The ruling that I'm thinking of was when the
7 Court - I'm sorry, I don't have the CMS number - when the Court
8 ordered the Defence to prepare the summaries for the pre-trial
9 conference. I'll try to find that. My colleagues will try to
14:55:38 10 find that.

11 PRESIDING JUDGE: Was that in this trial?

12 MR KOUJIAN: Yes, of course. In this trial you referred
13 back to your ruling in the AFRC trial, and I believe that was -
14 you referred to pages 114 and 115, and I don't recall the date
14:55:53 15 off the top of my head and, unfortunately, I didn't bring it with
16 me at this moment.

17 PRESIDING JUDGE: Mr Koumjian, you have a whole team behind
18 you. How can you fail to cite a Chamber's prior ruling properly?
19 In any event, let me request the Defence to respond.

14:56:17 20 MR ANYAH: Madam President, thank you. I was struggling
21 with my computer to send an email to Madam Court Manager. I have
22 done so. Attached to that email is a copy of the letter referred
23 to by counsel that the Defence wrote to the Prosecution regarding
24 this witness, DCT-179, and the letter is dated 11 February.

14:56:39 25 There is a history here and I will repeat that history and I will
26 cite relevant jurisprudence that does not entitle the Prosecution
27 to this witness's statement.

28 The history here is that at a status conference on 7 May
29 2009, learned counsels opposite made a request of this Court for

1 Defence witness statements. Your Honours considered that
2 request. Your Honours came back with a decision on a variety of
3 subjects. And with respect to that particular request, your
4 Honours spoke as follows. This is the transcript - I wonder if
14:57:30 5 Madam Court Manager can pull it up - from a status conference on
6 7 May 2009. Ms Hollis, learned counsel opposite, was counsel for
7 the Prosecution. At page 24236, learned counsel opposite
8 addressed the Bench as follows:

9 "In addition to that, the Prosecution would ask that the
14:58:04 10 Trial Chamber also exercise its discretion which is provided to
11 it under sub-rule (B) to order the Defence to provide the Trial
12 Chamber and the Prosecutor - we would ask simply that they
13 provide the Prosecutor - with copies of the written statements of
14 each witness the Defence intends to call at the time they would
14:58:31 15 call the witness for direct examination. We say this keeping in
16 mind that in our view the Defence will act in good faith and give
17 us a very concise and comprehensive summary of what the witness
18 will testify to.

19 We do not believe that that would infringe on any rights of
14:58:54 20 the accused in that the witness is being called to testify, so it
21 is no longer privileged, and any statements they may have given
22 would then become relevant in terms of testing the evidence of
23 the witness and weighing the credibility of the witness. So we
24 would ask for that."

14:59:14 25 Now, I believe I was counsel during that status conference
26 and I responded at line 7 on page 24238. The response was as
27 follows:

28 "With respect to the second issue about copies of written
29 statements, the law of the Special Court controls this issue I

1 would submit. It is in the rare case that the Prosecution is
2 entitled to receive the statements of witnesses. It is not in
3 Rule 73 ter. It gives your Honours discretionary authority to
4 order it, but the presumption is that they will receive summaries
15:00:00 5 of a witness's statement. The principal case on this issue is
6 the Norman et al case and the standard enunciated there is a
7 twofold standard. The Prosecution actually has to demonstrate a
8 prima facie standard that it would either face undue or
9 irreparable prejudice should it not receive statements made by
15:00:23 10 Defence witnesses. The decision in that case was given on 21
11 February 2006, Prosecutor versus Norman et al, the case number
12 SCSL-01-14-T.

13 It is not a matter of right that enures the Prosecution to
14 receive Defence witness statements. There is no correlative rule
15:00:55 15 vis-a-vis the reciprocal disclosure provisions calling for the
16 Prosecution to disclose witness statements to the Defence. There
17 is no correlative rule asking the Defence to do the same with
18 respect to the Prosecution. So in order for them to receive the
19 statements, your Honours, they have to make the showing. It is
15:01:17 20 not for us to disclose those statements without them making the
21 appropriate showing."

22 We go to your Honours' decision on this issue back in May
23 2009. That commences at page 24243 starting at line 24 and it
24 goes over to page 24244. The Presiding Judge said:

15:01:43 25 "It can be seen from these orders that the Trial Chamber
26 has rejected the Prosecution's request for the Defence to provide
27 the Prosecution with copies of each statement of the witness the
28 Defence intends to call at the time the Defence calls the witness
29 on direct examination.

1 The basis for this decision is the Trial Chamber's decision
2 in the AFRC case on 11 July 2006 at pages 115 and pages 116,
3 where the Trial Chamber held that there is no blanket right for
4 the Prosecution to see the Defence statement of a Defence
15:02:32 5 witness. The Prosecution has the power only to apply for
6 disclosure of a statement after the witness has testified with
7 the Trial Chamber retaining the discretion to make a decision
8 based on the particular circumstances of the case at hand."

9 That's the history we have in this case about disclosure of
15:02:51 10 Defence witness statements. We come to this particular witness,
11 DCT-179. We filed our first witness summary regarding this
12 witness, I believe, on 29 May last year. Subsequent versions of
13 our witness summaries were filed, and I don't remember the dates
14 off the top of my head.

15:03:28 15 Now, we filed another version, if memory serves me, on 10
16 or 12 June 2009. We filed another version, if memory serves me
17 right, on 7 - on 10 or 11 July 2009. Those were versions 1, 2
18 and 3. In all those three versions, the content of this
19 witness's witness summary did not change. It was the same.

15:03:58 20 We filed our fourth version I believe on 11 December 2009.
21 In that fourth version, the contents of this witness's summary
22 did not change. It has been consistent from 29 May, in the first
23 version through the fourth version, on 11 December 2009. When
24 your Honours look at the witness summary for DCT-179 and you
15:04:30 25 compare it to the witness summaries for other witnesses in our
26 list, you will see how extensive it is vis-a-vis those other
27 summaries. Counsel's account just a few minutes ago confirms it
28 runs through three pages, from page 101 through page 103. So
29 this witness - the summary already given to the Prosecution in

1 relation to this witness was far more extensive than any summary
2 we've provided, in my submission.

3 Now, we come to the period leading up to the witness's
4 evidence. Learned counsel opposite, Ms Hollis, sent us a letter
15:05:09 5 addressed to Mr Griffiths. The first letter - and I have them
6 here on my USB stick. I don't remember the date of the first
7 one, but I think it was on 4 February - requested information
8 about the witness's aliases. It asked whether he had been known
9 by any other names. Actually, it was a letter dated 9 February.

15:05:41 10 It made two requests of us: Provide them with any aliases or
11 other names this witness has gone by and to provide the
12 Prosecution with an updated witness summary.

13 We responded to that letter, and in our response, a letter
14 from Mr Griffiths to lead Prosecution counsel, principal trial
15:06:01 15 attorney Ms Hollis, dated 11 February 2010, we copied your
16 Honours' senior legal officer Mr Simon Meisenberg on that letter.
17 I have emailed it to Madam Court Manager. Copies could be
18 printed for your Honours, if you need --

19 PRESIDING JUDGE: We have the letter you are referring to.

15:06:21 20 MR ANYAH: In that letter we provided this witness's
21 aliases. We said his Gambian name - we didn't say it was
22 Gambian, but we gave the name - was Yankuba Samateh. Indeed, in
23 the letter written to us from learned counsel opposite on 9
24 February, the Prosecution alluded to the fact that in the
15:06:43 25 transcript of proceedings in this case were references to another
26 name this witness had. So they knew he went by other names. We
27 nonetheless provided his Gambian name to them.

28 We also provided his radio operator code name Butterfly,
29 and in parenthesis we wrote "radio operator code name". So they

1 knew his Gambian name and they knew that he was a radio operator,
2 all of this done in the spirit of cooperation.

3 With respect to the witness summaries, this is what the
4 letter Mr Griffiths wrote reads. It says:

15:07:19 5 "We respectfully disagree with the characterisation that
6 the current summary of DCT-179's evidence contains topics rather
7 than facts as required by Rule 73 ter (B)(iii). The current
8 summary for DCT-179 is reproduced below and we have italicised
9 and bolded those portions that, contrary to the assertion in your
15:07:48 10 letter, clearly provide facts regarding which the witness will
11 testify."

12 What we did was we replicated at the bottom of the letter
13 the prevailing summary for the witness and we highlighted in bold
14 what we felt were facts the witness would testify to, as opposed
15:08:09 15 to the characterisation that they were just topics rather than
16 facts.

17 Mr Griffiths's letter continues:

18 "This notwithstanding, we are providing additional
19 information below regarding the expected testimony of DCT-179
15:08:28 20 notwithstanding that: One, the Prosecution does not have an
21 automatic legal right to the disclosure of Defence witness
22 statements and; two," and this is significant, "no new statement
23 has been obtained from the witness by the Defence since the
24 current summary of his evidence was first filed with the Court on
15:08:51 25 29 May 2009 in CMS 784."

26 The letter continues:

27 "We are hopeful that these efforts on our part would be
28 viewed in their proper light as having been undertaken in the
29 spirit of cooperation and efficiency of the trial process.

1 Thank you."

2 Also in the letter we provided the additional information
3 referred to. When you look at the additional information we
4 provided, it is quite extensive regarding this witness. Yes, it
15:09:28 5 does repeat much of what was in the original summary but we
6 included the fact that the witness was assistant director of the
7 SSS. And regarding the specific point of complaint by the
8 Prosecution, if you look at the last page of the letter, this
9 trip to Voinjama, here is where it turns on.

15:09:50 10 The Prosecution's complaint is that the summaries up to
11 that point referred to a meeting in March 1991. In the revised
12 summary we sent them in the third paragraph from the top we wrote
13 about that meeting and the word "March" doesn't appear there as
14 far as 1991 is concerned and there's a reason for that. Nothing
15:10:17 15 had changed in the witness's statement, the statement we had.

16 The reason for the change is when we reviewed the statement, it
17 turns out that the reference to March was in the question put to
18 the witness. It was not the witness who said March 1991. There
19 were parenthesis that said, referring to the transcript I read in
15:10:39 20 Court a few days ago about this particular meeting, the
21 Prosecution's witness said it was in March and for some reason we
22 made the error when we did the first witness summary and we
23 included the question that was posed to the Prosecution witness
24 and the answer they gave. This witness never said March in the
15:11:03 25 witness statement. May I finish, please.

26 The point is, Madam President, in a revised witness summary
27 given to the Prosecution we did not indicate that the witness
28 ever said the meeting took place in March 1991. We gave the
29 Prosecution an accurate account of what was reflected in the

1 witness's statement.

2 Now let's turn to the law. That's how we get to this point
3 as far as the procedural history of this issue.

4 With respect to the law, your Honours referred to the Brima
15:11:39 5 et al decision on 11 July 2006. In sum and substance, your
6 Honours, this same Bench of Justices - in that case your Honours
7 stated that the Chamber has discretion to order disclosure after
8 examination-in-chief but it is upon a showing of necessity by the
9 Prosecution. And in that case your Honours ruled this necessity
15:12:07 10 has not been shown. The decision is 11 July 2006, page 116.

11 Now, we've referred previously - I apologise, Justice
12 Doherty.

13 JUDGE DOHERTY: I haven't read the whole thing but I just
14 note in relation to what you say, and I may be looking at the
15:12:32 15 wrong thing - I'm just looking at what I think is the transcript
16 you are referring to and the ruling was, "In the present case we
17 are satisfied the summary produced by the Defence is insufficient
18 to enable the Prosecution ..." but I haven't had an opportunity
19 to read the whole thing.

15:12:56 20 MR ANYAH: I actually think you are right. I may have
21 misread it. This is a case where you found that - I believe in
22 the Brima decision your Honours found that there were seven new
23 topics or issues introduced in chief that the Prosecution was not
24 alerted to by the Defence I believe.

15:13:17 25 PRESIDING JUDGE: Mr Anyah, could you finish your
26 submissions so I can give an opportunity to the opposite side,
27 please.

28 MR ANYAH: Yes, Madam President. Well, that's the Brima
29 standard. They must have a showing of necessity. When I argued

1 in May last year we referred to the CDF case. I have all those
2 decisions in court. The Brima one I believe was an oral ruling
3 of the Court.

4 In the CDF case the Norman et al decision of 21 February
15:13:49 5 2006, the standard used by that Chamber was a prima facie
6 standard. That Chamber ruled the Prosecution must show by prima
7 facie evidence that by failure to disclose the Defence witness
8 statement the Prosecution would suffer undue or irreparable
9 prejudice. And in that case the Court found that the Prosecution
15:14:15 10 had not made the appropriate showing; prima facie showing of
11 undue or irreparable prejudice.

12 We come to your decision in Brima et al and your
13 observation your Honours made there, in particular the
14 observation made by the Presiding Judge in that case we think is
15:14:34 15 important for several reasons. Learned counsel opposite referred
16 to the brevity of a Defence summary vis-a-vis the extensive
17 information provided by the Prosecution in its case before
18 cross-examination was ever undertaken.

19 Well, first of all, an accused has no burden of proof.
15:14:55 20 Indeed, as your Honours are aware, an accused doesn't even have
21 to call a single witness. There is a policy and jurisprudential
22 issue behind this disclosure regime. When you start requiring
23 Defence witness statements to be disclosed it presumes that such
24 statements will be prepared. It presumes that the accused will
15:15:18 25 undertake to defend himself.

26 The law does not require him to do that. Mr Taylor could
27 have sat here and done nothing and we could have asked no
28 questions and the onus would still be on the Prosecution to prove
29 his guilt beyond a reasonable doubt. When you start asking that

1 Defence statements be disclosed it presumes their existence, it
2 presumes that the Defence must put up a defence. That is not
3 what the law is.

4 Now, the Presiding Judge in Brima et al made the
15:15:47 5 observation about the succinct nature of Defence witness
6 summaries. And there the Presiding Judge said, "The summary is
7 exactly what it says. It is not exhaustive. It is a summary."

8 And so to the extent our summaries do not amount to the
9 same amount of information qualitatively speaking as documents
15:16:13 10 disclosed by the Prosecution, it is of little moment. The
11 disclosure regime calls on us to provide summaries and we have
12 done so in this case.

13 There is also a case that is of relevance, Bagosora
14 ICTR-98-41-T, paragraph 6. I don't have the - I wonder - I might
15:16:46 15 have the decision in question because I just have an excerpt of
16 it. We can get that for your Honours. But in Bagosora the Trial
17 Chamber gave guidance as to the required standard of detail
18 required in Defence witness summaries:

19 "The Prosecution's disclosure obligations in the Rules and
15:17:09 20 the Statute are more detailed and specific than for the Defence.
21 The level of information about Prosecution testimony does not
22 necessarily provide useful guidance as to the standard of detail
23 required in Defence witness summaries. Testimony of Defence
24 witnesses, unlike the Prosecution witnesses, can be understood as
15:17:34 25 a response to the evidence that has already been presented."

26 This is very much in point in relation to the
27 examination-in-chief of this witness. Most of what your Honours
28 have seen me cover with this witness, what have I done? Read him
29 several transcripts about references to Butterfly. This is the

1 Prosecution's evidence. They know this evidence. Read him
2 several references to his name that the Prosecution witnesses
3 kept calling Yank Smith. Several days of reading transcripts
4 about that. Showed him exhibits presented by Prosecution
15:18:15 5 witnesses. Asked for his comments about the relevant exhibits.
6 Read to him information about radio communication and shown him
7 exhibits about those and obtained his comments about those.

8 So naturally, the nature of examination-in-chief in the
9 Defence case is guided by the evidence presented by the
15:18:39 10 Prosecution in its case in chief. The materials we are covering
11 are not necessarily new. They are allegations we are responding
12 to. Allegations initiated naturally by the Prosecution.

13 So I think your Honours in the totality of circumstances -
14 and let me add just one other important jurisprudential decision
15:19:01 15 in this field. Ms Hollis was learned counsel in the Tadic case.
16 This is an important decision in this field, Tadic. The Appeals
17 Chamber's decision in Tadic also in our view provides support for
18 this proposition that the Prosecution is not entitled
19 automatically to Defence witness statements. The relevant
15:19:25 20 paragraph of the 15 July 1999 Tadic Appeals Chamber judgment is
21 paragraph 319.

22 In concluding, Madam President, I would say that in the
23 totality of the circumstances, given the detail in this witness's
24 summary vis-a-vis other witness summaries we've filed, given no
15:19:55 25 showing of necessity in our view by the Prosecution, given no
26 showing of an undue burden or irreparable - well, undue or
27 irreparable prejudice by the Prosecution, I respectfully submit
28 they are not entitled in your Honours' discretion to receive this
29 witness's statement.

1 PRESIDING JUDGE: Thank you. Mr Koumjian, I would permit
2 you to reply only with regard to a point of law.

3 MR KOUMJIAN: Your Honour, frankly in regards to the law
4 that the statements are - the Trial Chamber has discretion, it's
15:20:42 5 not an automatic right, it depends upon whether or not the
6 Prosecution can show that it is going to be prejudiced
7 irreparably by not getting the statement. I'm in agreement with
8 the Defence and I think we can - I think the Bagosora, Tadic and
9 your Honours' decisions in the AFRC are consistent. And, as your
15:21:01 10 Honours ordered the disclosure of the statement in the AFRC, you
11 did that because the summary was inadequate.

12 In this case, to correct what Mr Anyah said, he said that
13 we received an amended summary without March '91 appearing as a
14 date, but that's not true. The fourth summary - your Honours
15:21:25 15 know no new summary was filed that corrects the date. Moreover
16 by testifying as to what was in the statement - excuse me, I
17 didn't mean to say that. By Mr Anyah telling the Court what was
18 in the statement, the sequence of how the witness was recorded as
19 answering, "Yes, Charles Taylor was in Voinjama in March 1991",
15:21:46 20 he has really illustrated why it's necessary for all of us to see
21 those statements so we can determine why there is a change in -
22 from the summaries, from the fourth summary that was filed that
23 says that the witness went with Charles Taylor in March 1991, why
24 there's a change between that and the testimony that has been
15:22:06 25 received in this Court. The testimony that took about 600 pages,
26 compared to a summary that's seven paragraphs if counsel is
27 saying the additional information includes most of the
28 information in the original summary. That's I believe - I think
29 it's eight paragraphs. Seven paragraphs.

1 PRESIDING JUDGE: What testimony are you referring to that
2 took 600 pages?

3 MR KOUMJIAN: This witness's direct examination.

4 PRESIDING JUDGE: Okay. Today's and - so far.

15:22:38 5 MR KOUMJIAN: Yes, so far. His direct examination. And
6 there was information that clearly the Defence had that the
7 Prosecution didn't. For example, we will recall the first day
8 there were several times the witness was asked for names and the
9 witness couldn't give any more or couldn't give the name. He was
15:22:55 10 asked which Sierra Leoneans were in Libya, he said Foday Sankoh.

11 PRESIDING JUDGE: Mr Koumjian, I'm going to stop you there.
12 I did say you could address us on points of law but these are not
13 points of law. If there's nothing further - is there anything
14 further on a point of law?

15:23:14 15 MR KOUMJIAN: Yes. I was just going to point out that
16 Bagosora does show that in the ICTR they do allow witness
17 summaries to be used and it's our understanding in current
18 practice in the ICTR the Trial Chambers are ordering the
19 disclosure of the witness statements at the beginning of the
15:23:33 20 Defence case.

21 Moreover in Tadic which was cited by counsel opposite, the
22 ICTY does not have the provision that this Special Court has in
23 73 ter that specifically provides its within the discretion of
24 your Honours to provide - to order witness statements to be
15:23:49 25 provided after the testimony, although Tadic even without that
26 provision reached the same conclusion in the ICTY; that when
27 necessary for the cross-examination, when that's shown to be
28 needed, the Trial Chamber can order the disclosure of witness
29 statements to the Prosecution.

1 PRESIDING JUDGE: Mr Anyah, really --

2 MR ANYAH: I merely wanted a citation to Bagosora. What
3 decision are we talking about, at what paragraph? And in respect
4 of Tadic --

15:24:23 5 PRESIDING JUDGE: Do you have citations?

6 MR KOUMJIAN: Yes, your Honour, that I can cite. Bagosora,
7 the Trial Chamber decision entitled "Decision on sufficiency of
8 Defence witness summaries, case number ICTR-98-41", the
9 transcript of 5 July 2005, paragraph 1, paragraph 5 and paragraph
10 6. Tadic, it's actually quoted in your Honours' ruling in July
11 2006. Tadic is case number IT-91-1-A. It's an Appeals Chamber
12 decision or judgment of 15 July 1999, paragraph 319.

13 PRESIDING JUDGE: Thank you. The Judges will retire to
14 consider a decision on this application and to carefully consider
15 the jurisprudence that the parties have quoted. We will let you
16 know when we're ready.

17 [Break taken at 3.25 p.m.]

18 [Upon resuming at 4.24 p.m.]

19 PRESIDING JUDGE: This is the ruling of the Chamber on the
16:24:30 20 application made orally by the Prosecution a few minutes ago:

21 The Prosecution has applied pursuant to Rule 73 ter that
22 the Trial Chamber order the Defence to disclose to the
23 Prosecution the witness statements of witness DCT-179
24 Yanks Smythe. This is at the stage where the witness has
16:24:55 25 concluded his testimony in chief and is awaiting
26 cross-examination.

27 Counsel for the Prosecution cites necessity and interest of
28 justice as the main reasons why the Prosecution requires this
29 disclosure. In particular, the Prosecution observes that in the

1 witness summaries provided by the Defence with regard to this
2 particular witness, the witness is stated as giving critical
3 evidence relating to the presence of the accused in Voinjama in
4 March 1991 when the attack on Sierra Leone was launched.

16:25:41 5 In the witness's evidence-in-chief, however, witness
6 DCT-179 has stated a different date, namely, October 1991, when
7 he says he travelled with the accused to Voinjama. It is this
8 apparent inconsistency, amongst other things, that has prompted
9 the Prosecution to request to see the witness's prior statement
16:26:08 10 before cross-examination can commence.

11 The Defence, on their part, argue that the reference in the
12 witness summary to the date of March 1999 - 1991 was an error by
13 counsel or the person who recorded the summary and is in fact not
14 what the witness stated in his statements.

16:26:35 15 We have considered all the authorities cited by the parties
16 in this application and agree in principle with the
17 jurisprudence. In particular, we agree with the principle laid
18 down by the Appeals Chamber of the ICTY in the Prosecutor
19 v Tadic, judgment of 15 July 1999 in paragraph 319 where the
16:27:05 20 Appeals Chamber held that there is no blanket right for the
21 Prosecution to see the witness statement of a Defence witness.
22 The Prosecution has the power only to apply for disclosure of a
23 statement after the witness has testified with the Chamber
24 retaining the discretion to make a decision based on the
16:27:29 25 particular circumstances in the case at hand.

26 Here I would like to note that the provision cited by
27 Mr Koumjian, that is, 73 ter, is not applicable in our view to
28 the circumstances of this particular case because that rule
29 applies to disclosures before the commencement of the Defence

1 case. It applies to witnesses that the Defence intends to call.
2 That's in the future. This particular circumstance, we're of the
3 view, falls back on the inherent powers of the Trial Chamber
4 instead.

16:28:24 5 We further agree with the principle in the Tadic judgment
6 that once a Defence witness has testified, it is for the Trial
7 Chamber to ascertain the credibility of his or her testimony. If
8 he or she has made a prior statement, a Trial Chamber must be
9 able to evaluate the testimony in light of this statement in its
16:28:52 10 quest for the truth and for the purpose of ensuring a fair trial.
11 The inherent power of the Court is - it's in the jurisdiction of
12 every international tribunal whether or not this power is
13 implicit or explicitly provided in the Statute or the Rules of
14 Procedure.

16:29:15 15 Furthermore, we agree that if there is a witness statement,
16 it would be subject to disclosure only if previously ordered so
17 by the Trial Chamber under Rule 73 ter, that is, before the
18 commencement of the Defence case, or, as in this case, if so
19 requested by the Prosecution and if the Trial Chamber considers
16:29:40 20 it right in the circumstances to order disclosure.

21 Now, in the present case, the Trial Chamber agrees with the
22 Prosecution that there is an apparent contradiction between the
23 information provided in this witness's summaries and in his
24 evidence-in-chief regarding a relevant period in the indictment.
16:30:06 25 The explanation given by Defence counsel explaining the apparent
26 contradiction is, in our view, insufficient, especially when
27 considering that it comes not from the witness himself but from
28 the Bar table. We agree with the Prosecution that in the
29 circumstances, it is in the interest of justice for the Defence

1 to disclose the witness statement or statements of witness
2 DCT-179 to the Prosecution before cross-examination can commence.
3 We order that the Defence do so forthwith. That is the ruling of
4 the Chamber.

16:30:48 5 Now, I am looking at the time. It is 4.30, the time we
6 would normally adjourn. I think this would be an appropriate
7 moment to adjourn unless either party has something to say.

8 MR ANYAH: I merely rise to indicate that we will comply
9 today with your Honours' ruling.

16:31:15 10 PRESIDING JUDGE: Thank you. It's just been drawn to my
11 attention, I think it would be appropriate for the witness to be
12 brought in and for me to caution the witness in the normal manner
13 before we adjourn. While the witness is coming in, I just wish
14 to remind the parties that tomorrow is a half-day sitting when we
16:31:45 15 commence at 9 o'clock.

16 [In the presence of the witness]

17 PRESIDING JUDGE: Mr Yanks Smythe, we have taken a bit of
18 time deliberating on a matter between the parties and giving our
19 ruling which deliberations have taken us up to the close of the
16:32:42 20 day's business. So we shall continue tomorrow at 9 o'clock in
21 the morning sitting half a day. I only wish to remind you, as we
22 normally do, that you are not to discuss your evidence with
23 anyone.

24 THE WITNESS: Thank you, your Honour.

16:32:59 25 PRESIDING JUDGE: And tomorrow you'll return to continue
26 your evidence.

27 THE WITNESS: Thank you, your Honour.

28 PRESIDING JUDGE: Thank you. Court adjourns until
29 tomorrow, 9 o'clock.

1 [Whereupon the hearing adjourned at 4.32 p.m.
2 to be reconvened on Friday, 26 February 2010 at
3 9.00 a.m.]
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I N D E X

WITNESSES FOR THE DEFENCE:

YANKS SMYTHE	35998
EXAMINATION-IN-CHIEF BY MR ANYAH	35998