



Case No. SCSL-2003-01-T

THE PROSECUTOR OF
THE SPECIAL COURT
V.
CHARLES GHANKAY TAYLOR

WEDNESDAY, 3 MARCH 2010
9.00 A.M.
TRIAL

TRIAL CHAMBER II

Before the Judges:

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

For Chambers:

Mr Artur Appazov

For the Registry:

Ms Rachel Irura
Ms Zainab Fofanah

For the Prosecution:

Mr Nicholas Koumjian
Ms Kathryn Howarth
Ms Maja Dimitrova

For the accused Charles Ghankay
Taylor:

Mr Courtenay Griffiths
Mr Morris Anyah
Mr Terry Munyard
Mr Silas Chekera

1 Wednesday, 3 March 2010

2 [Open session]

3 [The accused present]

4 [Upon commencing at 9.02 a.m.]

09:02:20 5 PRESIDING JUDGE: Good morning. We'll take appearances
6 first, please.

7 MR KOUMJIAN: Good morning, Madam President. Good morning,
8 your Honours. Good morning, counsel opposite. For the
9 Prosecution this morning, Kathryn Howarth, Maja Dimitrova and
09:04:26 10 Nicholas Koumjian.

11 MR ANYAH: Good morning, Madam President. Good morning,
12 your Honours. Good morning, counsel opposite. Appearing for the
13 Defence this morning are Terry Munyard, Morris Anyah, and Silas
14 Chekera. Thank you, Madam President.

09:04:41 15 PRESIDING JUDGE: I want to remind you, Mr Witness, of your
16 oath as your testimony continues in re-examination.

17 WITNESS: YANKS SMYTHE [On former oath]

18 MR ANYAH: Madam President, in the first instance,
19 yesterday I indicated that I would seek leave of Court to have
09:05:03 20 marked as an MFI the witness's statement. The first page of that
21 document contains biographical and personal information of the
22 witness and one possibility could be a request on application
23 that that be marked confidentially. But my application for
24 purposes of the statement is that the balance of it, that is,
09:05:28 25 separate and apart from the first page, be marked with a single
26 identification number, if it please your Honours.

27 PRESIDING JUDGE: Normally when we mark documents for
28 identification, this is internal to the Court. It's not a public
29 document per se.

1 MR ANYAH: Yes.

2 PRESIDING JUDGE: So I'm inclined to give the whole
3 document one number, which would be MFI-442.

4 MR ANYAH: Thank you, Madam President.

09:06:03 5 RE-EXAMINATION BY MR ANYAH: [Continued]

6 Q. Good morning, Mr Smythe.

7 A. Good morning, counsel.

8 Q. I have a few more questions for you before I conclude my
9 re-examination. You recall you were asked questions by learned
10 counsel opposite on 1 March about when exactly it was that you
11 became assistant director for operations. Do you recall those
12 questions?

13 A. Yes, I recall the questions, yes.

14 Q. May the witness be shown MFI-425, please. Mr Smythe, can
09:07:28 15 you see that document?

16 A. That's correct. I can see it, yes.

17 Q. The document bears a date at the top.

18 A. That's correct.

19 Q. What date is that?

09:07:37 20 A. That date is 11/23/98.

21 Q. And we've gone over this before and counsel opposite has
22 gone over it with you. Your name appears at number 34?

23 A. That's correct.

24 Q. And the title assigned to your name, right to the right of
09:07:54 25 number 34 says special agent to the President?

26 A. That's correct.

27 Q. You've told us that you went to Paris in advance of the
28 delegation that travelled with President Taylor?

29 A. That's correct.

1 Q. Now, what was your official assignment - rather, what was
2 your official position within the SSS at that time?

3 A. My official position at that time was special agent to the
4 President.

09:08:29 5 Q. When did you become appointed assistant director for
6 operations?

7 A. I became --

8 MR KOUMJIAN: Objection. That's been covered in direct
9 examination.

09:08:35 10 PRESIDING JUDGE: How do you know there's not something
11 that counsel wants to clarify that turned up in
12 cross-examination?

13 MR ANYAH: There was, indeed, a dispute on the basis of
14 questions asked by learned counsel opposite indicating that -
09:08:53 15 well, I'll proceed.

16 PRESIDING JUDGE: The objection is overruled.

17 MR ANYAH: Thank you, Madam President:

18 Q. Now, Mr Smythe, this trip took place in November?

19 A. That's correct.

09:09:02 20 Q. December is the last month of the year?

21 A. That's correct.

22 Q. So when between this trip and the end of 1998 were you
23 appointed assistant director for operations of the SSS?

24 A. I was appointed right after this trip. After this trip,
09:09:19 25 when we returned to Monrovia, that was the time I was appointed,
26 because at that time the position of assistant director was
27 vacant. So it was right after this trip that I was appointed.

28 Q. And in what year was that appointment made?

29 A. That was in 1998.

1 Q. Thank you. Thank you, Madam Court Officer. May the
2 witness be shown Prosecution exhibit P-28, please. May he also
3 be shown what has been marked as MFI-420A and 420B, please. May
4 you show him, first of all, the back or the second part of
09:10:47 5 MFI-420, which will be 420B. Mr Smythe, this document, in
6 actuality the reverse or backside of your SSS ID card, was shown
7 to you by learned counsel opposite on 1 March. Do you remember
8 that?

9 A. That's correct, yes.

09:11:25 10 Q. The signature that appears on the back, whose signature is
11 that?

12 A. That's the signature of the director of the Special
13 Security Service.

14 Q. And what is that person's name?

09:11:34 15 A. Benjamin Yeaten.

16 Q. Madam Court Officer, could you show us Prosecution exhibit
17 P-28, please. First, can you show the entire document so that
18 the witness familiarises himself again with the document. From
19 the top, please. Mr Smythe, do you see that document?

09:12:31 20 A. That's correct.

21 Q. Do you know somebody by the name of Abu Keita?

22 A. I don't know anybody by the name of Abu Keita.

23 Q. When you look at what is numbered as number 4 or item
24 number 4 in that document, do you see the name Major General
09:12:52 25 Keita?

26 A. Yes, I do see that, yes.

27 Q. Do you know --

28 MR KOUMJIAN: Your Honour, excuse me. I do have an
29 objection related to the scope of cross-examination. As

1 your Honour knows, the only item that was mentioned in
2 cross-examination was the signature of Benjamin Yeaten. The
3 issue is, if counsel goes into more of the document, will I be
4 allowed to then question the witness about the document? I
09:13:24 5 didn't on cross-examination, so for that reason he should be
6 limited to the signature, which was the only aspect of the
7 document that I went into in cross-examination.

8 PRESIDING JUDGE: Mr Anyah, I want your response on that.

9 MR ANYAH: Yes.

09:13:37 10 PRESIDING JUDGE: The submission.

11 MR ANYAH: Your Honour saw what I just did. I went through
12 the document that was marked for identification regarding the
13 signature. It's logical that when I come to this document we
14 will be considering the signature. What is at issue is not just
09:13:55 15 whether this witness can look at two signatures and give us his
16 opinion. What is at issue is the authenticity of P-28. To the
17 extent that the Prosecution is asserting that the signature on
18 P-28 is of a particular person, the entire authenticity of this
19 document is called into question and the witness before
09:14:15 20 your Honours can shed some light.

21 PRESIDING JUDGE: We're of the view, Mr Anyah, this is a
22 Prosecution exhibit as you rightly point out. Indeed the
23 authenticity of it is in issue. But we're also of the view that
24 if the Defence wanted to call the authenticity of this document,
09:14:58 25 this is a matter that should have been raised with this witness
26 in chief; the authenticity part of it. Now what you are doing
27 actually is going beyond the issue of the signature and going
28 back into the authenticity which was a matter for
29 examination-in-chief. So I do uphold the objection. Please

1 restrict your re-examination to the issue of the signature.

2 MR ANYAH: Very well:

3 Q. Mr Smythe, let's look at the bottom of the document.

4 Mr Smythe, have you ever seen Benjamin Yeaten's handwriting on a
09:16:01 5 piece of paper?

6 A. Yes, I saw his handwriting.

7 Q. Do you see below where it says "Approved" and a signature
8 there is something written "General Yeaten". Do you see that?

9 A. That's correct.

09:16:13 10 Q. Do you see below that there is something written "Benjamin"
11 and it looks like "D" for David?

12 PRESIDING JUDGE: Could you raise this don't up a bit,
13 please. We're straining to see what's at the bottom of it.

14 Thank you.

09:16:36 15 MR ANYAH:

16 Q. Mr Smythe, do you see that part of the bottom right-hand
17 corner of the document is missing?

18 A. That's correct.

19 Q. Now, where you see where is written "General Yeaten", to
09:16:53 20 your knowledge and on the basis of having previously seen

21 Benjamin Yeaten's handwriting, is that Benjamin Yeaten's
22 handwriting?

23 MR KOUMJIAN: Your Honour, again the Prosecution objects
24 that this goes beyond. There are questions I would like to ask
09:17:08 25 in follow-up if this question is allowed.

26 MR ANYAH: Madam President, this cannot simply be reduced
27 to an exercise of is this his signature or is this not. Your
28 Honours have discretion in this issue. The Rules, when you look
29 at the parts of the Rules dealing with examination of witnesses,

1 this Court does not have an explicit rule that says that the
2 scope of re-examination must be limited to the scope of
3 cross-examination. It's a jurisprudential principle. In several
4 jurisdictions sometimes that rule applies and sometimes another
09:17:43 5 rule called the wide-open rule applies.

6 In this instance what I'm proposing to your Honours is that
7 the entire circumstances surrounding the inscription of this
8 signature is subject to challenge by us on the basis of what the
9 Prosecution attempted to do in cross-examination.

09:18:00 10 PRESIDING JUDGE: Very well. Just give me a moment,
11 please.

12 JUSTICE LUSSICK: Mr Anyah, when questioned on this in
13 cross-examination what did the witness say? I can't quite
14 remember now.

09:18:12 15 MR ANYAH: My recollection is that he said that this -
16 there was - I'll find the reference to the transcript just to be
17 precise. My recollection is that he said it looks like it but it
18 could be a fake. He is not sure how this was done.

19 I have found the reference in the transcript and the
09:19:38 20 witness said, "I can't confirm that." This starts at page 36322
21 of the transcript of 1 March and it goes to the next page, page
22 36323. A question was asked at line 24 by learned counsel
23 opposite. It actually starts at line 20 at page 36322. The
24 question was:

09:20:03 25 "Q. Without taking the document off, could the witness
26 please be shown P-28 - without taking it too far away, I
27 should say. We see at the top it's called 'Operation order
28 20 January 2001'. Go down, please.

29 Sir, this morning you have identified on two documents the

1 signature of Benjamin Yeaten. Here we see at the very
2 bottom of this document, 'Approved director Benjamin
3 Yeaten' and then printed again 'Benjamin D Yeaten' and then
4 there is a signature above it. That's the same signature
09:20:53 5 that you have identified twice before, correct?

6 A. I can't confirm that.

7 Q. Sir, let's look at the - you were certain of your
8 identification card being signed by Yeaten, correct?

9 A. That's correct, yes.

09:21:13 10 Q. And you were certain of the voucher being signed by
11 Yeaten, correct?

12 A. That's correct.

13 Q. Well, let's look at the identification card now side by
14 side if that's possible. The signature with that on this
09:21:27 15 document.

16 A. Those documents are official documents. That's why,
17 you know, I recognise his signature there. But this is not
18 an official document so I can't say. Somebody can forge
19 somebody's signature, so I can't say this is his signature.
09:21:44 20 I can't say that."

21 Now, they read the title of this document in chief. They
22 read what I am reading now, "Approved by director Benjamin
23 Yeaten." Why can we not in re-examination consider the same
24 issue?

09:22:03 25 [Trial Chamber conferred]

26 PRESIDING JUDGE: We are of the view, having looked at the
27 document in question, exhibit P-28, there is a signature that
28 purports to be of Benjamin Yeaten and underneath it are the words
29 - one of the words I think was scored out. It looks like

1 "director". And then there are two definitely different
2 handwritings purporting to be - to complement the signature, so
3 to speak, or to authenticate the signature. The words are
4 firstly "General Yeaten" which has been torn off and then below
09:23:33 5 that in a different handwriting "Benjemand Yeaten".

6 So we're of the view that this is relevant. It's not a
7 matter that's been covered before and it's an admissible
8 question. So the objection is overruled.

9 MR ANYAH: Thank you, Madam President:

09:23:53 10 Q. Mr Smythe, let's look at what is written around this
11 purported signature of Benjamin Yeaten. Let's consider the
12 writing that reads "General Yeaten". Do you see that, Mr Smythe?

13 A. That's correct, yes.

14 Q. On how many documents during the time period you were
09:24:17 15 assistant director for special operations would you say you have
16 seen the handwriting of Benjamin Yeaten?

17 A. So many times.

18 Q. When you look at that writing that says "General Yeaten"
19 with the "N" missing, is that to your knowledge the handwriting
09:24:33 20 of Benjamin Yeaten?

21 A. Presumably --

22 MR KOUMJIAN: Excuse me, to be precise this is printing.
23 Counsel is saying handwriting. I know that may include both, but
24 there is a distinction.

09:24:45 25 MR ANYAH: We can argue on semantics between capital
26 letters and --

27 PRESIDING JUDGE: I think the witness knows what has been
28 asked of him. Please continue.

29 MR ANYAH:

1 Q. Mr Smythe, in your experience and to your knowledge, is
2 that the printing or handwriting of Benjamin Yeaten?

3 A. I can't - this is not the writing of Benjamin Yeaten that I
4 know.

09:25:07 5 Q. Do you see right below it it says "Benjemand" or you could
6 read it as "Benjeman D Yeaten". Do you see that?

7 A. Yes, I see it.

8 Q. Do you know how to spell Benjamin, Mr Witness?

9 A. Yes, I can spell Benjamin.

09:25:26 10 Q. Can you spell Benjamin for us, please?

11 A. B-E-N-J-A-M-I-N. J-E-M-I-N I mean. J-A-M-I-N, yeah.

12 Q. Can you say that again?

13 A. B-E-N-J-A-M-I-N.

14 Q. Do you see how "Benjemand" or "Benjeman" is spelt in this?

09:25:48 15 Can you say what you see there for us?

16 A. I'm seeing B-E-N-J-E-M-A-N or H, I don't know what - it
17 looks like N or it looks like H, I don't know.

18 Q. Is Benjamin Yeaten's name spelt as it appears on this
19 document, the first name Benjamin?

09:26:04 20 A. No, it is not spelt that way.

21 Q. Have you ever known Benjamin Yeaten to sign a document
22 containing an error in the spelling of his name?

23 A. Benjamin will always authenticate a document to be correct
24 before he signs it because I can only remember him signing
09:26:17 25 official documents.

26 Q. Where you see that name --

27 PRESIDING JUDGE: Sorry, Mr Anyah, the witness has not
28 answered your question. Have you ever known Benjamin Yeaten to
29 sign a document containing an error in the spelling of his name?

1 The answer should be yes, or no, or you don't know.

2 MR ANYAH:

3 Q. Mr Smythe, do you understand the question?

4 A. Please repeat your question.

09:26:40 5 Q. In the time you were assistant director for operations when
6 you worked with Benjamin Yeaten have you ever known him to sign a
7 document containing an incorrect spelling of his name?

8 A. No, I have never known him to sign any document containing
9 an incorrect spelling of his name.

09:26:57 10 Q. When you look at what is written there below "Benjemand" or
11 "Benjeman D Yeaten", in your experience does that appear to be
12 Benjamin Yeaten's handwriting?

13 A. That doesn't look like Benjamin Yeaten's handwriting.

14 Q. Do you see where it reads "General Essa Sesay"? Do you see
09:27:21 15 that?

16 A. Yes, I see General Issa Sesay.

17 Q. What is the spelling you see of the first name of that
18 person?

19 A. I see E-S-S-A.

09:27:31 20 MR KOUMJIAN: Again, your Honour, I'm happy to go into this
21 but I need to be allowed to ask questions also. This is far
22 beyond the signature of Benjamin Yeaten that was directed - that
23 was the only subject of the cross-examination on this document.

24 PRESIDING JUDGE: Yes, I would be inclined to agree. Our
09:27:47 25 earlier ruling on the scope of your re-examination of this
26 document is pertinent. You can't go into matters beyond that
27 signature of Benjamin Yeaten, please.

28 MR ANYAH: I appreciate that:

29 Q. Mr Smythe, what colour of ink is used to write where you

1 see the name General Yeaten?

2 A. I see a blue ink.

3 Q. And right below that where you see the other name "Benjeman
4 D Yeaten", what colour of ink does it appear to be?

09:28:25 5 A. Appears to me to be a black ink.

6 Q. Thank you. Do you know why the word that appears to be
7 "director" underneath Yeaten's signature is scratched off in this
8 document?

9 A. I don't know why.

09:28:44 10 MR KOUMJIAN: Again, your Honour, I'm happy to go into this
11 on recross but this is beyond the spoke of the cross-examination.

12 MR ANYAH: Madam President, this is still in relation to
13 the authenticity of the signature.

14 PRESIDING JUDGE: Yes, I do agree. It's still in regards
09:28:57 15 to the authenticity of the signature. I overrule that objection.

16 MR ANYAH:

17 Q. Mr Smythe, in your experience working for Benjamin Yeaten,
18 and we saw the back of your SSS ID card where it said "director",
19 have you known him to scratch off the words "director" and yet
09:29:18 20 sign his signature on a document?

21 A. No, I have not known him to be doing that.

22 Q. An official document, that is?

23 A. I have not known him to be doing that on any official
24 document.

09:29:29 25 MR ANYAH: Thank you. Thank you, Madam Court Officer.
26 Thank you, Mr Witness. May the witness please be shown what has
27 been marked as MFI-415, please. Madam President, if it could be
28 helpful, I have the original of this photograph and that might
29 actually be helpful because a question arose last week by

1 your Honour Justice Lussick about something in the photograph.

2 So may I hand it to Madam Court Officer, please.

3 PRESIDING JUDGE: Why do you not give the original to the
4 witness and put the copy on the overhead?

09:31:14 5 MR ANYAH:

6 Q. Mr Smythe, do you have the photograph?

7 A. Yes, I do.

8 Q. Can you examine it closely, please.

9 A. Yes.

09:31:22 10 Q. You identified this photograph last week and, again, you
11 were asked questions about it on 1 March by counsel opposite. Do
12 you recall last week that his Honour Justice Lussick asked a
13 question about the - what appears to be an object at the top
14 left-hand corner of General Jackson's hat?

09:31:49 15 A. Yes.

16 Q. Do you see that?

17 A. Yes.

18 Q. Now, when you look at the original, what sort of object
19 does that appear to be to you?

09:31:58 20 A. I can't tell what kind of object it is because it can look
21 like a stick, it can look like an iron. I don't know.

22 Q. You said this photograph was taken --

23 PRESIDING JUDGE: Sorry, I beg your pardon? It can look
24 like a stick and it can look like a what?

09:32:14 25 THE WITNESS: An iron. I-R-O-N. A piece of iron, I mean.

26 MR ANYAH:

27 Q. What were the circumstances under which this photograph was
28 taken, 6 April 1996 incident involving Roosevelt Johnson?

29 A. That is correct.

1 Q. Questions were asked of you yesterday whether or not
2 ULIMO-K was aligned with the NPFL - actually, the questions were
3 asked on 1 March - whether ULIMO-K was aligned with the NPFL when
4 this event occurred. Do you recall that?

09:32:47 5 A. Yes.

6 Q. The Council of State, its membership, did it include most
7 of the warring factions who took part in the war in Liberia?

8 A. That's correct.

9 Q. And what were those warring factions again?

09:33:03 10 A. The warring factions were the NPFL, ULIMO, and LPC.

11 Q. Was ULIMO one entity or was it split by then?

12 A. ULIMO was split, but on the Council of State, ULIMO-K was
13 represented on the Council of State.

14 Q. Whose orders were being carried out when it was said
09:33:24 15 Roosevelt Johnson should be arrested?

16 A. It was the order of the Council of State.

17 Q. And whose orders were you executing or attempting to
18 execute when you and General Jackson were in this location at
19 that time?

09:33:37 20 A. I was executing the orders of the Council of State.

21 Q. Were there ULIMO-K fighters or members involved in
22 attempting to arrest Roosevelt Johnson?

23 A. Yes, ULIMO-K fighters were involved.

24 Q. Was it a collaborative or joint venture between the
09:33:56 25 ex-combatants or fighters of members of the Council of State?

26 A. I didn't understand that question quite well.

27 Q. I appreciate that. When you went to the area of Roosevelt
28 Johnson's place, did you go alone or were there representatives
29 there from ULIMO-K and others working in concert or together with

1 the NPFL representatives?

2 A. There were ULIMO-K, NPFL.

3 Q. Do you know whether any of these persons pictured in this
4 photograph were also members of ULIMO-K or the LPC?

09:34:28 5 A. I don't know. I don't know.

6 Q. As you look at that photograph, do you know whether any of
7 the persons pictured in that photograph appear to be under the
8 age of 15?

9 A. No, I can't really tell. But I can't say they are below
09:34:44 10 the age of 15.

11 Q. What do you mean by you can't say they are below the age of
12 15?

13 A. I can't look at them and think they are below the age of
14 15. I don't know their ages, but not - looking at them, I can't
09:34:53 15 say they are below the age of 15.

16 Q. Looking at them, are they older or younger than the age of
17 15, in your opinion?

18 A. To me they are older.

19 Q. Looking at those pictured there, are they older or younger,
09:35:03 20 in your opinion, than the age of 18?

21 A. To me they are older than 18.

22 Q. Thank you. May the witness be shown, please, MFI-436.
23 Mr Smythe, you recall drawing most of this diagram for us on
24 1 March, Monday, this week?

09:36:24 25 A. That's correct.

26 Q. And you recall yesterday adding to it in relation to
27 something called the special agent unit?

28 A. That's correct.

29 Q. When you testified yesterday, you said the special agent

1 unit was dissolved before you assumed the position of assistant
2 director for operations.

3 A. That's correct.

4 MR ANYAH: Madam President, with leave of your Honours, may
09:36:51 5 I ask that some indication be made at the box with the dash to
6 confirm that this unit was dissolved vis-a-vis the title of this
7 entire document? Because as it is now, the title says "SSS
8 structure when witness served as assistant director for
9 operations" and yesterday in the transcript a different
09:37:15 10 qualification was given to this document when the witness said
11 the special agent unit was dissolved before he assumed the
12 position assistant director of operations.

13 PRESIDING JUDGE: Can we see what's written at the bottom
14 of this document in relation to that red box, if anything? Is
09:37:35 15 there anything written? There's nothing written. I can't read
16 what is in the red box.

17 MR ANYAH: Can you magnify the red box, please, Madam Court
18 Officer.

19 PRESIDING JUDGE: Mr Koumjian, do you have any objection to
09:37:59 20 the proposal made?

21 MR KOUMJIAN: No.

22 PRESIDING JUDGE: Let the document be given back to the -
23 Let the witness indicate - Mr Anyah, perhaps you could repeat to
24 the witness what you want exactly indicated.

09:38:19 25 MR ANYAH: Yes. Could he be given a red pen, again,
26 please. Or you could give him the MFI to write where he is
27 seated:

28 Q. Mr Smythe, could you find some space on that paper and draw
29 an arrow very near the red box and write --

1 PRESIDING JUDGE: There's no need to draw an arrow. The
2 document is already complicated enough. Let him write beneath
3 the red box the words you want him to write.

4 MR ANYAH:

09:38:52 5 Q. Mr Smythe, can you write "The SSA was dissolved before I
6 became assistant" --

7 PRESIDING JUDGE: SSU?

8 MR ANYAH: SSU, I apologise. SSU, special agent unit:

9 Q. Mr Smythe, can you write that the SAU, the special agent
09:39:19 10 unit, was dissolved. Are you writing, Mr Smythe? "SAU was
11 dissolved before I became assistant director of operations."

12 MR KOUMJIAN: Your Honour, just to be clear, I'm reading
13 from the transcript of yesterday where the witness actually
14 talked about this. I think it's a bit less clear than counsel is
09:40:02 15 saying. On page 36431, line 24, the witness said:

16 " That special unit was not in existence when - how do you
17 call it - it was dissolved later on during the presidency of
18 Mr Taylor. "

19 The question was, "At what point was it dissolved? The
09:40:24 20 witness says, "I can't remember actually at what point." The
21 question was, "When you were promoted to assistant director of
22 operations, did it exist?" Answer, "No, it didn't exist that I
23 know of. I didn't know of its existence after my elevation to
24 assistant director position. "

09:40:41 25 MR ANYAH: I'm reading the same transcript and our
26 interpretation is that he said, "I don't know of its existence
27 after my elevation to assistant director. "

28 PRESIDING JUDGE: What you have just asked him to write is
29 that the unit was dissolved before he became assistant director.

1 Now, what is objectionable about that?

2 MR KOUMJIAN: It is inaccurate. The witness testified - or
3 it's leading. The witness testified yesterday that it wasn't in
4 existence sometime during the presidency. He does not know if it
09:41:20 5 existed when he was appointed to the assistant director position.

6 MR ANYAH: He may not remember when it was actually
7 dissolved, but what he is clear about is that it was not - he
8 does not know of its existence when he was assistant director for
9 operations and that's at page 364 --

09:41:43 10 PRESIDING JUDGE: Mr Anyah, for the sake of clearing this -
11 for me it's very simple to clear. The witness is sitting here.
12 You can ask him again --

13 MR ANYAH: Yes.

14 PRESIDING JUDGE: -- in relation to this unit so that the
09:41:57 15 record is accurate as to his evidence.

16 MR ANYAH:

17 Q. Mr Smythe, was there a unit called the special agent unit
18 in late 1998 when you were appointed assistant director for
19 operations of the SSS?

09:42:13 20 A. Prior to my appointment, the SSU - I mean, the SAU was
21 dissolved. It was not in existence when I became assistant
22 director of operations.

23 Q. Can you write the indication I have asked, which is "SAU
24 was dissolved before I became assistant director of operations"?

09:42:30 25 A. That's what I wrote. "SAU was dissolved before I became
26 assistant director of operations."

27 Q. Can you hand it over to Madam Court Officer, please. Let's
28 see what was written, please. Mr Smythe, you referred previously
29 in relation to the Paris trip that there was something called an

1 advance team. Do you remember telling us that?

2 A. That's correct.

3 Q. Was the advance team part of this special agent unit, to
4 your knowledge?

09:43:20 5 A. Well --

6 MR KOUMJIAN: Objection. That is leading and suggestive.

7 MR ANYAH: I can rephrase it:

8 Q. Which part of the organisational structure, to your
9 knowledge, was the advance team a part of, please, Mr Smythe?

09:43:34 10 A. Part of the operations.

11 Q. And which specific part of the operations section was the
12 advance team a part of?

13 A. Can be - the part of operations, as I say, it can be the
14 advance team, which is written here, advance team, under the
09:43:50 15 chief of protective services.

16 PRESIDING JUDGE: Please, your answer is not - when you say
17 "it can be", it's as if you are not sure what it was.

18 THE WITNESS: Sorry, your Honour. Advance team fall under
19 CPS. That's the chief of protective service.

09:44:04 20 MR ANYAH:

21 Q. To your knowledge, and bearing in mind your knowledge of
22 the SSS structure, is the advance team the same thing as a
23 special agent unit?

24 A. No, it's not the same thing. Advance team means a team
09:44:19 25 that will go ahead of the security team, that will go ahead of
26 the President before he arrives at wherever he is going.

27 Q. Have you ever heard of something called the long guard?

28 MR KOUMJIAN: Again counsel is leading the witness and
29 suggesting answers.

1 MR ANYAH: This is unnecessary. What is leading about
2 asking him if he's ever heard of a name?

3 PRESIDING JUDGE: I have no idea what the long guard is or
4 where this question is leading. I would like to know where the
09:44:48 5 question is leading before I even can rule on any objection or
6 otherwise. Please continue, Mr Anyah.

7 MR ANYAH:

8 Q. Have you ever heard of something called the long guard,
9 Mr Smythe?

09:45:04 10 A. Long guard was - that's the name - what is the name of that
11 - name of a person or what? Try to be specific, please.

12 Q. Within the organisational structure of the SSS, during the
13 time period when you were assistant director for operations, was
14 there ever a unit called the long guard unit?

09:45:21 15 A. The long guard unit, if I will consider that, that's the
16 unit maybe in the - how do you call it, not within the close
17 proximity of the President.

18 PRESIDING JUDGE: I don't understand. The question was
19 simple. Have you ever heard of something called the long guard
09:45:37 20 or the long guard unit? You either have heard or you haven't.

21 THE WITNESS: I have not heard of long guard unit.

22 MR ANYAH:

23 Q. Were there persons or members within the SSS who performed
24 functions that were described as long guard functions?

09:45:56 25 A. Yes, I could - yes, yes.

26 Q. And which person or persons within the structure of the SSS
27 performed such functions, if you know?

28 A. It would be people under operations.

29 Q. And what do you know that to mean, a function called a long

1 guard function?

2 A. The long guard function, as I can recollect, is the
3 security that will be not within the close proximity of the
4 President but within the surrounding of the President.

09:46:21 5 Q. If the President, for example, were travelling from
6 Monrovia to Gbarnga, would his security detail include those who
7 performed long guard functions?

8 A. Definitely, yes.

9 Q. Now, we spoke yesterday about something called the SSU. Do
09:46:39 10 you recall that?

11 A. That's correct.

12 Q. And counsel asked you several questions about the SSU and
13 can you tell us what SSU stands for again?

14 A. SSU stands for Special Security Unit.

09:46:53 15 Q. Was that a unit within the structure of the SSS when you
16 were assistant director for operations?

17 A. SSU, no, when I was assistant director it was not.

18 Q. Do you have any knowledge about the structure of the ATU?

19 A. I was not in the ATU. I don't have know the structure of
09:47:16 20 the ATU.

21 Q. Did you hear anyone discuss the structure of the ATU at any
22 time?

23 A. Well, ATU, I mean, provided security for the President
24 sometimes when we are travelling out of the country - excuse me,
09:47:28 25 when we are travelling out of Monrovia with the President ATU
26 securities will be involved, so in those cases we can coordinate
27 with them in providing security for the President.

28 Q. You told us that the SSU was not part of the SSS when you
29 became assistant director, is that what you said?

1 A. Yes, SSU was not part of the - it was - the time - sorry
2 excuse me. When I served as assistant director, during my period
3 I can say it was dissolved. SSU was dissolved.

09:48:02 4 Q. And do you know the circumstances that led to its
5 dissolution?

6 A. Well, I can't say for sure but because the ATU was being
7 formed, so maybe because of that is why the SSU was dissolved.

8 PRESIDING JUDGE: Excuse me, Mr Witness, are you saying the
9 SSU was dissolved during your assistant directorship?

09:48:19 10 THE WITNESS: Yes, sometime.

11 PRESIDING JUDGE: So when you became assistant director it
12 was actually in existence?

13 THE WITNESS: That's correct, yes.

14 PRESIDING JUDGE: Are you able to tell us exactly precisely
09:48:29 15 when the SSU was dissolved?

16 THE WITNESS: In the early part of the time I served as
17 assistant director ATU was not in existence.

18 PRESIDING JUDGE: That early part meaning what?

19 THE WITNESS: Well, after my appointment. That's what I'm
09:48:44 20 trying to say. It's not one year into my appointment.

21 PRESIDING JUDGE: You are not able to be precise as to the
22 year or the date or the month?

23 THE WITNESS: Well, it's - how do you call it. I think it
24 should be in 1999 or so because I was appointed at the end of
09:49:02 25 1998, so obviously I think it should be that time.

26 MR ANYAH:

27 Q. Responding to the President's questions you said ATU in
28 your response. Which unit was dissolved after you became
29 assistant director for operations?

1 A. I mean the SSU.

2 Q. To your knowledge were any members of that dissolved unit
3 retained within the SSS after its dissolution?

4 A. Yes.

09:49:31 5 Q. Were all of them retained within the SSS or were some of
6 them sent elsewhere?

7 A. Some of them were retained as SSS and some of them were
8 sent elsewhere.

9 Q. In respect of those who were sent elsewhere, do you know to
09:49:44 10 where they were sent?

11 A. They were sent to - they formed part of the ATU.

12 Q. Are you saying that members of the dissolved SSU ended up
13 forming part of the ATU?

14 A. That's correct.

09:49:58 15 Q. When was the ATU formed? That is, when did this exchange
16 or transfer of personnel take place?

17 A. That's correct.

18 Q. No, when? What year, if you recall?

19 A. I could recall maybe in 1999.

09:50:24 20 Q. Mr Smythe, yesterday we all listened to a radio broadcast
21 from a BBC interview. I think it's Prosecution exhibits - the
22 audio being 279 and the transcript being 279B. Do you recall
23 that, Mr Smythe?

24 A. Yes.

09:50:42 25 Q. This was in relation to an invasion in Freetown in the
26 early part of 1999. Do you remember that?

27 A. Yes.

28 Q. You and I never covered the Freetown invasion when we
29 undertook your examination-in-chief but it was raised in the

1 first instance during cross-examination. Now I ask you where
2 were you during the first week of January 1999?

3 A. During the first week of January 1999?

4 Q. Yes.

09:51:13 5 A. I should be in Monrovia.

6 Q. Were you then engaged as assistant director for operations
7 of the SSS?

8 A. Yes, I was assistant director for operations for the SSS.

09:51:29 9 Q. Were you part of the intelligence apparatus of the
10 Government of Liberia at that time?

11 A. Intelligence?

12 Q. Yes.

13 A. No, I was serving as assistant director. I was not
14 intelligence.

09:51:38 15 Q. Were you privy, as in did you have knowledge of
16 intelligence information that was gathered by the technical and
17 intelligence services section of the SSS during that period of
18 time?

19 A. Pardon me again? Come again with that question.

09:51:56 20 Q. Yes. One of the components or units in the SSS you said
21 was, I believe, technical services and intelligence?

22 A. That's correct.

23 Q. And those persons there gathered intelligence, yes?

24 A. Yes.

09:52:11 25 Q. When they would gather intelligence would that be something
26 that would be shared with you in your capacity as assistant
27 director for operations?

28 A. If it is something that threatens the life - I mean the
29 security of the President it will be shared with me but other

1 than that, no.

2 Q. When you were in Monrovia engaged in your function as
3 assistant director for operations in January 1999 did you notice
4 any overseas travel by Benjamin Yeaten during that period of
09:52:39 5 time?

6 A. No, Benjamin Yeaten would always travel with the President
7 that I know of.

8 Q. The question was to your knowledge did Benjamin Yeaten
9 travel overseas at any point in time around the first week of
09:52:52 10 January 1999?

11 A. I'm not aware of him making any trip outside of Liberia
12 during that time.

13 Q. To your knowledge, did Mr Taylor travel out of Liberia
14 during that period of time?

09:53:02 15 A. To my knowledge, no.

16 Q. To your knowledge, were any employees or members of the SSS
17 during that period of time engaged in any fighting in Sierra
18 Leone?

19 A. No, to my knowledge none of the SSS were involved in any
09:53:18 20 fighting in Sierra Leone.

21 Q. To your knowledge, were any members of the SSS, in
22 particular Benjamin Yeaten, engaged in any radio communications
23 with persons in Sierra Leone during that period of time?

24 A. To my knowledge, no.

09:53:32 25 Q. To your knowledge, did the SSS or any other branch of the
26 security apparatus of the Government of Liberia provide any arms
27 or ammunitions to any persons in Sierra Leone during that period
28 of time?

29 A. No, to my knowledge, no.

1 Q. As you sit there now, Mr Smythe, do you know whether
2 Mr Taylor or anyone who was working for Mr Taylor back in January
3 1999 played any role whatsoever in the invasion of Freetown in
4 January 1999?

09:54:08 5 A. No, I don't know of anybody working with Mr Taylor to have
6 played any role in that invasion.

7 Q. Did you hear of the involvement of Mr Taylor, or anyone
8 associated with him, in that invasion during the period when you
9 served as assistant director for operations?

09:54:25 10 A. No, I never heard of the involvement of Mr Taylor, neither
11 anyone associated with him.

12 MR ANYAH: May I have a moment, Madam President?

13 PRESIDING JUDGE: Yes.

14 MR ANYAH: Thank you. Madam President, we have no further
09:54:55 15 questions for the witness.

16 PRESIDING JUDGE: Thank you. Mr Witness, that is the end
17 of your testimony. I want to thank you for your time.

18 MR KOUMJIAN: Your Honour, I do have a request, if
19 your Honour would have the patience to hear me briefly.

09:55:11 20 Questions were asked about handwriting at the bottom of P-28 that
21 the Prosecution asserts is the handwriting of the adjutant. Both
22 under the names Issa Sesay and General Yeaten it shows it's the
23 same handwriting. And also we would like to ask questions about
24 the position of Benjamin Yeaten commanding various militia forces
09:55:30 25 beyond his position as SSS director on this document which is
26 dated 2001 when this witness was in Libya and ask this witness
27 about his knowledge. So that's our request to deal with items
28 that went beyond the scope of our cross-examination.

29 MR ANYAH: Is it necessary that I respond to this?

1 PRESIDING JUDGE: Yes, of course. It's an application.

2 MR ANYAH: We oppose the application on several grounds:

3 One, the Prosecution interjected this exhibit and placed it

4 before the witness. At that point no mention of concern was

09:56:03 5 indicated concerning the fact that it purports to have a date

6 when the witness was already in Libya. At the top the date is

7 January something, 20 January 2001. They did not complain then,

8 "Oh, by the way he was in Libya and he wouldn't know anything

9 about this document." They put the document before him.

09:56:21 10 Now that it has been subject to re-examination there

11 appears to be some concern on their part. Where does the

12 inference or suggestion that the same person wrote this come

13 from? It comes from counsel opposite. That's not sworn

14 testimony. And why didn't they raise all of that with the

09:56:35 15 witness? They brought the document, not us. And now they wish

16 to obviate what is the general practice procedurally that doesn't

17 allow for what would be recross-examination. We oppose it.

18 PRESIDING JUDGE: Mr Koumjian, if I understand, what you

19 want to ask relates to the handwriting of the adjutant under the

09:57:09 20 name of Issa Sesay? Is that one of the things you want to

21 address?

22 MR KOUMJIAN: Yes, the items dealt with in the redirect,

23 the handwriting under the signatures of both names and the

24 position.

09:57:21 25 PRESIDING JUDGE: I asked you one question. I'm the one

26 speaking. I'm not asking you to respond.

27 MR KOUMJIAN: Sorry.

28 PRESIDING JUDGE: You remember when counsel was about to

29 ask questions relating to the names Issa Sesay I ruled him out of

1 order and I said the question was impermissible at your request?
2 I said he couldn't ask questions relating to the name Issa Sesay
3 and that his questions were to be limited to the names below the
4 signature of - or the purported signature of General Yeaten. So
09:57:52 5 that first issue as relates to the name of Issa Sesay was not a
6 matter that arose in re-examination and I think is not a matter
7 that you can be permitted to open up again.

8 Now, relating General Yeaten, you are saying you want to
9 ask questions about the position of Benjamin Yeaten commanding
09:58:15 10 various militia forces. Is this a matter that arose in
11 re-examination? I don't think so.

12 MR KOUJIAN: It relates to the director title being below.

13 PRESIDING JUDGE: It did not arise in re-examination. But
14 let me consult my colleagues first.

09:58:34 15 [Trial Chamber conferred]

16 PRESIDING JUDGE: Mr Koumjian, we've noted that you have
17 diligently stood up and objected when you've thought that the
18 re-examination was going beyond the scope - the admissible scope,
19 but in this particular case you actually didn't stand up to
10:01:07 20 object when you now say that the re-examination went beyond the
21 scope on this respect relating to Benjamin Yeaten. So we will
22 not allow you to take a second bite at the apple, so to speak.
23 The questions are not allowed.

24 And this brings us to the exhibits that were marked for
10:01:30 25 identification. Do you wish - before we look at the exhibits, it
26 occurred to me that my colleagues may have questions for
27 Mr Smythe.

28 JUDGE DOHERTY: Mr Smythe, have you had any training in
29 identifying handwriting and how to identify handwriting?

1 THE WITNESS: I'm a security personnel. I was trained in
2 security personnel, and some of my functions, you know - I mean,
3 some of my training, you know, include that. You know, so I've
4 been seen - I've been shown different handwritings to identify
10:02:21 5 them, yes. So, not extensively, but, yes, I did that.

6 JUSTICE LUSSICK: If that's the case, Mr Smythe, when
7 counsel for the Prosecution first asked you about Benjamin
8 Yeaten's signature on that document that's just been discussed,
9 you weren't able to say whether it was or not.

10:02:47 10 THE WITNESS: I said the reason being, that document was
11 not official and it doesn't look to me - I said in the testimony
12 that it doesn't look like his signature. It looks like it's
13 forged. I did say that. But being that the other signatures
14 that I identified were on official documents, I could attest, you
10:03:05 15 know, that, yes, indeed, it was his signature.

16 PRESIDING JUDGE: Are there any questions arising out of
17 the questions immediately asked?

18 MR ANYAH: Not from the Defence, Madam President.

19 MR KOUMJIAN: No, your Honour.

10:03:21 20 PRESIDING JUDGE: Thank you. I very quickly wanted to go
21 through the exhibits. I would like to know what exhibits, if any
22 - I assume, first of all, that all the exhibits marked for
23 identification are intended to be tendered. Is that a correct
24 assumption on my part?

10:03:45 25 MR ANYAH: We would like all of those requested to be
26 marked by us to be tendered save for the request I made earlier
27 in respect of MFI-442, the witness's statement. Our preference
28 would not be that the cover page, which contains his biographical
29 data, be included in the public exhibit.

1 PRESIDING JUDGE: Mr Koumjian, do I properly assume that
2 all the documents that you marked for identification are to be
3 tendered?

4 MR KOUMJIAN: Yes, your Honour. And perhaps to save a bit
10:04:19 5 of time, I can say that the Prosecution objects to none of the
6 Defence MFIs being admitted, save for the witness statement,
7 which of course contains information far beyond what was the
8 subject of direct or cross-examination. And if that's offered,
9 we have some case law on whether that should be admitted. I
10:04:41 10 don't know if you want argument on that now.

11 PRESIDING JUDGE: Are you saying that you wouldn't have
12 wanted the Defence statement to be admitted?

13 MR KOUMJIAN: Not in totality. If your Honours do admit
14 it, we want it clear that only the sections that were referred to
10:04:54 15 in testimony are being considered. And, in fact, we've marked
16 those, both the sections that were considered by - raised by the
17 Prosecution and by the Defence. But, actually, I don't think
18 it's necessary because the witness, for all sections of his
19 contradictory witness statement that I read to him, either said
10:05:14 20 he did say that or he said I was reading the statement correctly
21 and then denied saying it. So I think the record is clear that
22 what was put to him is in fact the witness statement from the
23 Defence.

24 If it's admitted, only those sections that were dealt with
10:05:31 25 in cross-examination or redirect should be considered because I
26 did not cross-examine this witness on everything in the witness
27 statement. It would be a statement being admitted without
28 cross-examination.

29 PRESIDING JUDGE: But you had the opportunity to do that.

1 That was the very purpose that the Court allowed you to see this
2 document. You had free hand to cross-examine this witness on his
3 statement.

10:06:01 4 MR KOUMJIAN: Your Honour, I had the witness testimony and
5 I used the statement in order to cross-examine him on his
6 testimony. I did not ever offer the statement into evidence, nor
7 was it offered during the direct examination, and I only dealt
8 with specific portions of the statement. So the statement, of
9 course, goes beyond - it has 200 and some paragraphs, although at
10:06:28 10 one point it jumps 100 numbers from 161 to 261, and it includes
11 information that was not dealt with by either party.

12 PRESIDING JUDGE: Mr Anyah, what is your view on the
13 submissions by counsel but also on the documents tendered by the
14 Prosecution? Do you have any objections?

10:06:55 15 MR ANYAH: Yes, I will take it in stages. With respect to
16 all documents tendered by the Prosecution, I have no objection to
17 any of them save for MFI-431, and it's only a partial objection.
18 MFI-431 is a photograph depicting Charles Taylor and my objection
19 is as to --

10:07:16 20 PRESIDING JUDGE: Can we put it on the overhead, please,
21 431.

22 MR ANYAH: My objection, Madam President, is only in
23 relation to the text that appears below the photograph. It says,
24 "Charles Taylor speaks to troops in Robertsfield on July 21,
10:08:17 25 1990." If the Prosecution is asking that that part be included
26 as part of this document when it's exhibited, I would have an
27 objection because there is no evidence corroborating that this is
28 the place Charles Taylor was on that particular date.

29 PRESIDING JUDGE: Mr Koumjian, do you insist on that

1 caption?

2 MR KOUMJIAN: Your Honour, I frankly do not insist,
3 although hearsay is admissible and written documents have been
4 submitted by the Defence without oral testimony to prove items.
10:08:50 5 It does help place the photograph, but, frankly, it's not a
6 critical matter to me.

7 PRESIDING JUDGE: Because the point is neither party put
8 this caption to the witness and, really, I think it's not fair to
9 include it as evidence in this Court when it hasn't been put to
10:09:07 10 the witness.

11 MR KOUMJIAN: Thank you.

12 PRESIDING JUDGE: So if you have no strong objections, then
13 the caption will be deleted and thank you.

14 MR KOUMJIAN: I would like to give the laws on the other
10:09:18 15 issue whenever your Honour believes it's appropriate.

16 PRESIDING JUDGE: What other issue?

17 MR KOUMJIAN: On the issue of the statement, I have case
18 law to cite to your Honour.

19 MR ANYAH: But I haven't responded.

10:09:34 20 PRESIDING JUDGE: Mr Anyah, the issue of 431 I think is
21 settled.

22 MR ANYAH: Yes, thank you, Madam President. Now, with
23 response to this statement, let's look at some context. The
24 Prosecution was the one who requested the statements. Your
10:09:51 25 Honours will recall that. We provided them with the statement.
26 There was a dispute about something relating to Voinjama. We
27 provided them with the statement. They used the statement
28 extensively in cross-examination and I say that, with respect, it
29 wasn't only at the time learned counsel opposite produced the

1 statement and distributed it in court that they started making
2 use of that statement.

3 If you review the transcript, and I'm very well familiar
4 with that statement, a lot of the questions asked of this witness
10:10:21 5 to set up what we call the impeachment with the statement, from
6 day one of the cross-examination, on the 26th, was based on that
7 statement we gave them. They would ask him questions about
8 different issues and it was only yesterday they would reflect and
9 use the particular paragraph in the statement they wanted to use
10:10:41 10 to "contradict" what he had said previously. So it is incorrect
11 to say that the statement was made use of in a limited sense. In
12 my respectful submission, they used it extensively.

13 Second of all, in re-examination we covered several
14 paragraphs of that statement. When you add the portions covered
10:11:00 15 by the Defence and the Prosecution, plus the portions the
16 Prosecution was minded to and alive to when they were asking the
17 witness questions before they produced the statement, we have in
18 essence covered perhaps 70 to 80 per cent of that statement in
19 court with your Honours.

10:11:18 20 And if your Honours need to have a proper idea of who this
21 person is and how to - the context in which to evaluate his
22 evidence, you now need that statement. It is the only way you
23 can, in its totality, assess the credibility of this witness.
24 That statement forms part and parcel of his evidence now as a
10:11:37 25 consequence of the Prosecution's request. Counsel is about to
26 cite some case law, but before that is done let us recall the
27 Prosecution's case.

28 Several witness statements were admitted. And I repeat
29 that. Several witness statements were admitted as exhibits in

1 this case. I've been scrolling through the exhibit log. D-66, a
2 Defence exhibit admitted. It's the statement of TF1-097. P-203
3 admitted in this case, a witness statement taken by the Office of
4 the Prosecutor pertaining to TF1-206. There is also a witness
10:12:15 5 statement admitted in relation to TF1-074, I believe. Not all
6 were admitted in Court, but a few of them were admitted in Court
7 and if given time I will pull up each and every one that was
8 admitted in Court after a witness testified. Some of them were
9 perhaps pursuant to Rule 92 bis. So there is a practice already
10:12:39 10 in this case during the Prosecution's case in chief of the
11 admission of the statements taken by the Prosecution witnesses
12 who nonetheless testified viva voce before your Honours. So how
13 can it be that there is some exception to be had when it is
14 requested during the Defence case?

10:12:53 15 We reiterate our request that the statement in its entirety
16 be admitted, except the first page that contains the biographical
17 and confidential information of the witness. Thank you.

18 PRESIDING JUDGE: You want to exclude that page, or you
19 want it admitted confidentially?

10:13:08 20 MR ANYAH: Ideally we're in your Honours' hands, but it
21 should be admitted confidentially. I would think that would be
22 the appropriate way to proceed.

23 PRESIDING JUDGE: Thank you.

24 JUDGE DOHERTY: Mr Anyah, is that cover page part of the
10:13:19 25 statement?

26 MR ANYAH: Well, it is not part of the substantive part of
27 the statement. There is one portion that provides a frame of
28 reference, which is the part that deals with the date - the first
29 date of the interview. That would be relevant to your Honours'

1 consideration, and it does provide the location of the interview,
2 so your Honours may wish to have that on hand.

3 JUSTICE LUSSICK: I note that, Mr Anyah. It also shows the
4 names of the persons who were conducting the interview, which I
10:13:49 5 think is relevant too.

6 MR ANYAH: Yes, your Honour. Thank you.

7 PRESIDING JUDGE: Mr Koumjian, are you addressing us on a
8 point of law?

9 MR KOUMJIAN: Also, your Honour, I believe that some of the
10:14:05 10 facts that counsel stated are incorrect and I would like to
11 address them.

12 PRESIDING JUDGE: Only on a point of law.

13 MR KOUMJIAN: Well, it all deals with the admissibility.

14 PRESIDING JUDGE: We have to come to some closure on this
10:14:15 15 and to be able to deliberate on the tenders.

16 MR KOUMJIAN: Your Honour, the case at the ICTY of
17 Naletic and Martinovic, otherwise known as Tuta and Stela.
18 There is a decision on the admission of witness statements into
19 evidence of 14 November 2001 in which the Trial Chamber makes
10:14:46 20 clear that it's the oral evidence of the witness and their
21 response to the challenge of the evidence presented that is the
22 evidence - of the prior statements presented that is the proper
23 evidence.

24 Further, counsel said that we admitted documents during the
10:15:01 25 Prosecution case - witness statements. That was only witness
26 statements under 92 bis. The only other witness statements were
27 Defence --

28 PRESIDING JUDGE: Is that a point of law, or you are
29 wandering off into facts again? If it's not a point of law, I am

1 not interested. We need to deliberate on these documents.

2 MR KOUMJIAN: Your Honour, further there are other cases
3 that indicate that portions - I believe in the Norman case
4 there's a decision that portions of a witness statement that were
10:15:34 5 put to a witness could be admitted into evidence. In this case
6 if you look at what was actually put to the witness it's far less
7 than - I would estimate it at 10 per cent of the witness
8 statement was put to the witness as there are many pages in this
9 witness statement that actually were not addressed by either
10:15:51 10 counsel.

11 PRESIDING JUDGE: Counsel, if you have some relevant
12 jurisprudence could you avail that to the legal officers of the
13 Chamber?

14 MR KOUMJIAN: The Norman decision is from 16 July 2004,
10:16:13 15 decision on disclosure of witness statements and
16 cross-examination.

17 [Trial Chamber conferred]

18 PRESIDING JUDGE: What I propose to do in order to save
19 sitting time is to discharge this witness now. Mr Smythe,
10:17:17 20 thank you very much for your testimony. We wish you a safe
21 journey home and you can be escorted out.

22 THE WITNESS: Thank you, Madam President. Thank you, your
23 Honours. Thank you, both counsels. I wish you all the best.

24 PRESIDING JUDGE: Thank you. Yes, Mr Anyah?

10:17:36 25 MR ANYAH: I just need permission of the Chamber at some
26 point to return his original photographs. I don't know if your
27 Honours require me to retain it.

28 PRESIDING JUDGE: No, we do not need the original
29 photographs now. They were needed whilst the witness was being

1 examined, so you can return those.

2 MR ANYAH: Thank you.

3 PRESIDING JUDGE: The other issue is the next witness I
4 think requires certain protective measures which I'm informed may
10:18:04 5 require time to set up in Court. Now, we'll have of course to
6 adjourn while that's being done and we want to use that time
7 actually to admit the various documents in Chambers. When we
8 return after the break I could read out verbally the exhibit
9 numbers that I've given to the exhibits and then we could proceed
10:18:37 10 with the next witness. That would include a ruling on the
11 documents that have been objected to.

12 I'm reminded that normally on a day where we started as
13 early as we did today our break would stretch from 11 to 11.30.
14 We would reconvene for the second sitting at 11.30 and this is
10:19:34 15 what I intend to do. We will rise now to allow the measures to
16 be put in place and to allow the judges to deliberate on the
17 exhibits and reconvene at 11.30 for the next witness.

18 [Break taken at 10.20 a.m.]

19 [Upon resuming at 11.44 a.m.]

11:30:37 20 PRESIDING JUDGE: Now, there was before the break an
21 application by the Defence to tender in particular MFI-442, which
22 is the statement of the witness Yanks Smythe, and that
23 application was opposed by the Prosecution. Now, the following
24 is the Court's ruling on that application, after which I will
11:44:22 25 give you the numbers - the exhibit numbers of the documents as
26 admitted.

27 Now, the statement, MFI-44, the Defence have applied to
28 tender in evidence the whole statement of Defence witness
29 DCT-179, Yanks Smythe. The Prosecution objects to the tender of

1 the entire statement and submits, rather, that only the parts
2 referred to in cross-examination and re-examination be admitted.

3 Now, it will be recalled that it was not the Defence who
4 initially introduced this statement in evidence; rather, it was
11:45:09 5 the Prosecution that obtained a court order for the disclosure of
6 the statement, intending to use it in cross-examination inter
7 alia "to impeach the credibility of the witness". Indeed, the
8 Prosecution had unfettered opportunity to cross-examine the
9 witness on the entire contents of the document, and at this stage
11:45:37 10 the Prosecution cannot claim to suffer irreparable prejudice
11 arising from its tender into evidence.

12 On the other hand, the Defence have argued that once the
13 witness has been examined on parts of his statement - or has been
14 cross-examined on parts of his statement with a view to
11:45:57 15 impeaching his credibility, then it is only fair and in the
16 interest of justice to allow the judges to consider what he has
17 said in his testimony in the full context of his entire
18 statement.

19 The Trial Chamber recalls that in its ruling of 25 February
11:46:21 20 2010 - that was last week - while ordering the Defence to
21 disclose the statement, the Chamber observed that, "If the
22 witness has made a prior statement, the Trial Chamber must be
23 able to evaluate his testimony in light of this statement in the
24 Chamber's quest for the truth and for ensuring a fair trial".

11:46:49 25 Now, in our view, since the credibility of the witness has
26 been called into question arising from the alleged
27 inconsistencies between his testimony in Court and his prior
28 statement, the Trial Chamber cannot evaluate his evidence by
29 referring only to the parts of the statement that have been

1 referred to by the parties in Court.

2 Now, in this case, the Defence itself has applied to tender
3 the entire document in evidence, and therefore it is not
4 prejudiced by the tender either.

11:47:25 5 We find that it is in the interest of justice to admit the
6 whole document into evidence, and that is our holding.

7 Having done that, I will now give the exhibit numbers of
8 the documents that were marked for identification, starting with
9 the Defence exhibits. These are documents that were tendered or
11:47:56 10 introduced into evidence through witness DCT-179, Yanks Smythe.

11 Now, the document MFI-408, that was a list of 15 persons
12 that the witness drew up, saying that he trained with these
13 persons at Camp Tajura. That is admitted as D-92.

14 The document MFI, which is a map of Liberia as marked by
11:48:27 15 the - MFI-409 is a map of Liberia as marked by the witness. That
16 is defence exhibit D-93.

17 MFI-410, which is a copy of an organogram, that is,
18 Prosecution exhibit P-54, as now marked by the witness is defence
19 exhibit D-94.

11:49:01 20 MFI-411, this is another organogram that was formerly
21 exhibit P-55, as marked by the witness is now D-95.

22 MFI-412A is a photograph, formally DP-210. It is now
23 Defence exhibit D-96A.

24 MFI-412B is also a photograph. It is now defence exhibit
11:49:36 25 D-96B.

26 MFI-412C is a photograph and is now defence exhibit
27 D-96C.

28 MFI-412D is a photograph and is now defence exhibit D-96D.

29 MFI-412E is a photograph and is now defence exhibit D-96E.

1 MFI-413 is a photograph and is now defence exhibit D-97.

2 MFI-414 is a photograph and is now admitted as D-98.

3 MFI-415 is a photograph and is now admitted as D-99.

4 MFI-416A is a photograph and is now admitted as D-100A.

11:50:45 5 MFI-416B, a photograph, is admitted as exhibit D-100B.

6 MFI-416C is a photograph admitted as exhibit D-100C.

7 MFI-416D, a photograph, is now admitted as exhibit D-100D.

8 MFI-416E, a photograph, is now admitted as exhibit D-100E.

9 MFI-417 is a photograph now admitted as exhibit D-101.

11:51:31 10 MFI-418, a photograph, is admitted as D-102.

11 MFI-419 is a one-page document entitled, "business office
12 of HE Charles G Taylor Sinkor, Monrovia, leases and rents". That
13 is admitted as exhibit D-103.

14 MFI-420A, which is a copy of the official identity card of
11:52:08 15 the witness Yanks A Smythe, and that is the front page showing
16 his photograph, that is now admitted as exhibit approximate
17 D-104A.

18 MFI-420B, which is a copy of that same identity card, but
19 showing the reverse side of the card, is now admitted as exhibit
11:52:33 20 D-104B.

21 MFI-421A is a one-page letter from the Assistant Director
22 of Operations SSS, Yanks Smythe, to Honourable G Bestman,
23 Minister of Finance, dated 12 April 1999. That is now admitted
24 as D-105A.

11:53:02 25 MFI-421B, which is a one-page document entitled, "official
26 purchase and special services voucher" dated September 2, 1998,
27 is now admitted as exhibit D-105B.

28 MFI-422A, which is a photograph, is now admitted as exhibit
29 D-106A.

1 MFI -422B, which is a photograph, is now admitted as exhibit
2 D-106B.

3 MFI -423A, which is a photograph, is now admitted as exhibit
4 D-107A.

11:53:55 5 MFI -423B, which is a photograph, is now admitted as exhibit
6 D-107B.

7 MFI -423C, which is a photograph, is now admitted as exhibit
8 D-107C.

9 MFI -423D, which is a photograph, is now admitted as exhibit
11:54:27 10 D-107D.

11 MFI -423E, which is a photograph, is now admitted as exhibit
12 D-107E.

13 MFI -423, which is a copy of a Prosecution exhibit P-98 as
14 highlighted by the witness, is now admitted as exhibit D-108.

11:55:02 15 MR ANYAH: I apologise for interrupting. I have that as
16 MFI -424.

17 PRESIDING JUDGE: What did I say? I do beg your pardon.
18 Let me repeat that again.

19 MFI -424, which is formerly a copy of Prosecution exhibit
11:55:22 20 P-98 as highlighted by the witness or as marked by the witness is
21 now exhibit D-108.

22 MFI -425, which is a one-page document entitled, "List of
23 official delegation representing the Ministry of State for
24 Presidential Affairs, Paris summit, November 23, 1998" is now
11:55:52 25 admitted as exhibit D-109.

26 MFI -426, which is a photograph, is now admitted as exhibit
27 D-110.

28 MFI -427 is a one-page document entitled, "press release of
29 the Ministry of State for Presidential Affairs Regional

1 Goodridge, Deputy Minister of State", dated 13 July 2000, is now
2 admitted as exhibit D-111.

3 MFI-428A, which is a photograph, is now admitted as exhibit
4 D-112A.

11:56:43 5 MFI-428B, a photograph, is now admitted as exhibit D-112B.

6 MFI-428C, a photograph, is admitted as exhibit D-112C.

7 MFI-429, a photograph, is now admitted as exhibit D-113.

8 Lastly, the statement of Yanks Smythe, which consists of
9 two portions, is admitted as follows:

11:57:27 10 The cover page, which consists of his bio data and other
11 matters, personal matters, is admitted as exhibit D-114A and will
12 be marked confidential.

13 The rest of the statement of the witness comprising 25
14 pages is marked D-114B and is not confidential.

11:58:21 15 Which brings me to the Prosecution exhibits tendered
16 through the witness as follows:

17 MFI-430 which is a diagram drawn by the witness of NPFL
18 command structure as at March 1991, that is admitted as
19 exhibit P-386.

11:58:46 20 MFI-431, which is a photograph from the guardian.co.uk, a
21 photograph depicting Charles Taylor and others, without the
22 caption underneath that photograph is admitted as exhibit P-387.

23 MFI-432 is a list of NPFL radio stations as of January 1,
24 1992, as indicated by the witness DCT-179, that is admitted as
11:59:30 25 exhibit P-388.

26 MFI-433 is one page of a document - page 1 of a document
27 entitled "IRIN-WA, Weekly Round Up, 32/1999, University of
28 Pennsylvania, African Studies Centre, Office of the Coordinator
29 of Humanitarian Affairs, Integrated Regional Information Network

1 For West Africa." That page 1 is admitted as exhibit P-389.

12:00:35 2 MFI-434 is also a single page, page 1 of a document
3 entitled "BBC News article 1986", the article is entitled "US
4 launches air strikes on Libya" and is dated 15 April 1986, that
5 is admitted as exhibit P-390.

6 MFI-435 is a document comprising two pages entitled "Libya,
7 Agriculture, Production, Consumption, Imports and Exports." That
8 is admitted as exhibit P-391.

12:01:09 9 MFI-436 is a diagram drawn by the witness of the SSS
10 structure when the witness served as assistant director of
11 operations in the SSS. That is admitted as exhibit P-392.

12 MFI-437, which is a map of Monrovia city as marked by the
13 witness, is admitted as exhibit P-393.

14 MFI-438 is a photograph and that is admitted as
12:01:40 15 exhibit P-394.

16 MFI-439A is a photograph out of the guardian.co.uk, a
17 photograph of Charles Taylor and others, without the caption on
18 the right side of the photograph, the caption is not admitted,
19 but the photograph alone is Prosecution exhibit P-395A.

12:02:09 20 MFI-439B, which is a photograph, is now admitted as exhibit
21 P-395B.

22 MFI-439C, which is a photograph, is admitted as Prosecution
23 exhibit P-395C.

24 MFI-440 is also a photograph, it is admitted as exhibit
12:02:48 25 P-396.

26 MFI-441A is a photograph, it's now admitted as
27 exhibit P-397A.

28 MFI-441B is a photograph, now admitted as exhibit P-397B.

29 And I think that is the entire list of the documents.

1 Mr Anyah, you may call your next witness or introduce your next
2 witness, actually.

3 MR ANYAH: Madam President, Mr Griffiths has carriage of
4 the next witness. May he be heard from your Honours.

12:03:31 5 PRESIDING JUDGE: I beg your pardon, Mr Griffiths.

6 MR GRIFFITHS: Madam President, I will be dealing with the
7 next witness who bears the appellation DCT-125.

8 Now, as the Court apprehends, there are certain protective
9 measures in place in respect of this witness pursuant to a
12:03:55 10 decision of your Honours dated 22 January of this year, those
11 being voice modulation and image distortion. Also it was
12 recognised in the course of that decision that it may be
13 necessary on occasions to go into private session in order to
14 protect the identity of the witness.

12:04:19 15 Can I indicate at this stage that it is my intention to
16 begin with the witness in private session as he deals with
17 certain background details which will inevitably if made public
18 identify him.

19 PRESIDING JUDGE: Thank you. Does the Prosecution object
12:04:42 20 to a temporary private session?

21 MR KOUMJIAN: No, absolutely not. Your Honour, while I am
22 on my feet may I just point out that the Prosecution received the
23 name of this witness on 15 February, I believe that's 16 days
24 ago. At this time in the interests of this trial proceeding
12:05:02 25 efficiently we are ready to listen to the direct testimony of
26 this witness, but we reserve our right to ask for an application
27 for further time if we need it before we begin our
28 cross-examination.

29 MR GRIFFITHS: Madam President, can I make this observation

1 in regard to the statement just made by my learned friend: We
2 are aware that the three week time period for disclosure does not
3 expire until Monday of next week. We are aware of that. But
4 nonetheless, because this is the second time this complaint has
12:05:41 5 been made, it seems to me important to set out what are the
6 difficulties we face.

7 First of all, that disclosure period was based on an
8 estimate made by us as to how long our first witness would take
9 and indeed how long the testimony of Mr Taylor would take.

12:06:05 10 That is not an exact science. Furthermore, that process
11 has been complicated by the fact that, totally outside our
12 control, the weekly timetable for this case has changed. As a
13 consequence, more time has become available than was anticipated
14 when first disclosure was made. So that too needs to be borne in
12:06:31 15 mind.

16 In our submission, there can be no suggestion in relation
17 to this particular witness that the Prosecution suffered any kind
18 of prejudice, so consequently we would ask your Honours to bear
19 this in mind if in due course any application is made by the
12:06:48 20 Prosecution for an adjournment.

21 PRESIDING JUDGE: In any event, we have noted the comments
22 from both sides, both of which are pertinent. You have both
23 accurately stated the factual situation on the ground relating to
24 the length of the immediately preceding witness's testimony, but
12:07:11 25 in any event, there is not an issue at this stage relating to the
26 testimony of the upcoming witness.

27 I just wish to confirm with the Court Manager that the
28 protective measure of voice distortion is in place.

29 MS IRURA: Your Honour, I can confirm that; the measure is

1 in place.

2 PRESIDING JUDGE: Then we will call the witness in before
3 we go into private session.

4 MR GRIFFITHS: I think we need to close the other blinds
12:07:57 5 before the witness is brought in, then they can be raised.

6 PRESIDING JUDGE: Yes. Because I need to swear the witness
7 in in open session, not in closed session.

8 WITNESS: DCT-125 [Sworn]

9 PRESIDING JUDGE: Good afternoon, Mr Witness.

12:09:54 10 THE WITNESS: Good afternoon.

11 PRESIDING JUDGE: Because of the protective measures that
12 have been accorded to you, I would just like to inform you that
13 when you speak your voice will be distorted. It will not be
14 recognised by the members of the public. And also your whole
12:10:16 15 image will not be projected to the public. When it is it will be
16 distorted such that nobody can see who you are.

17 But for the first part of the testimony, which relates to
18 your personal bio data, this is going to be done in what we call
19 a private session. What that means is the people inside the
12:10:41 20 Court that you can see will be able to hear what you are saying,
21 but everybody else out there, both in the public gallery and the
22 world at large, will not be able to hear what you are saying.

23 So, Madam Court Manager, please put the Court in private
24 session for the privacy of the witness.

25 [At this point in the proceedings, a portion of
26 the transcript, pages 36628 to 36662, was
27 extracted and sealed under separate cover, as
28 the proceeding was heard in private session.]

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[Whereupon the hearing adjourned at 1.30 p.m.
to be reconvened on Thursday, 4 March 2010 at
9.00 a.m.]

I N D E X

WITNESSES FOR THE DEFENCE:

| | |
|----------------------------|-------|
| YANKS SMYTHE | 36582 |
| RE-EXAMINATION BY MR ANYAH | 36583 |
| DCT-125 | 36627 |