



Case No. SCSL-2004-15-T
THE PROSECUTOR OF
THE SPECIAL COURT
V.
ISSA SESAY
MORRIS KALLON
AUGUSTINE GBAO

TUESDAY, 26 APRIL 2005
9.42 A.M.
TRIAL

TRIAL CHAMBER I

Before the Judges:	Benjamin Mutanga Itoe, Presiding Bankole Thompson Pierre Boutet
For Chambers:	Mr Matteo Crippa
For the Registry:	Mr Geoff Walker Ms Maureen Edmonds
For the Prosecution:	Mr Peter Harrison Ms Boi-Tia Stevens Ms Shyamala Alagendra Mr Mark Walbridge (Case Manager)
For the Principal Defender:	No appearances
For the accused Issa Sesay:	Mr Wayne Jordash Ms Eleanor Hutchison
For the accused Morris Kallon:	Mr Shekou Touray Mr Melron Nicol-Wilson Ms Rachel Irua
For the accused Augustine Gbao:	Mr Andreas O'Shea Mr John Cammegh

1 [Open session]

2 MS EDMONDS: The Court is now in open session.

3 JUDGE BOUTET: Mr Cammegh, can you give me the reference
4 again? You said 27 July.

17:57:35 5 MR CAMMEGH: Certainly. It's the 27th of July and --

6 JUDGE BOUTET: Page?

7 MR CAMMEGH: Well, I've selected pages 15 to 27 inclusive
8 and it would have been my respectful submission that perhaps all
9 interested parties had the opportunity, and by that I include the
17:57:55 10 witness, to advise themselves or at least to remind themselves as
11 to what the witness said in oral testimony back in July by
12 contrast to what the witness stated in his witness statement
13 which, although undated, we know was taken in late 2003.

14 The purpose of calling this witness of course is to explore
17:58:35 15 what we say is the likelihood that the testimony contained within
16 those pages I have just referred to was recent fabrication. The
17 concern I have is that while calling Miss Hatt to give evidence I
18 wanted obviously to go as expeditiously as possible. I wanted to
19 give her the opportunity to know what the witness said, because
17:59:01 20 it was clearly very different to what he said in his statement,
21 the statement which she took. In order for the examination to go
22 smoothly I was going to suggest that it may benefit everybody,
23 the Bench, the witness and the Prosecution, if they could
24 familiarise themselves with the points in issue which are
17:59:22 25 contained within those pages.

26 For that reason, considering the time now, whilst I'm
27 perfectly happy to go on with this exercise right now, I wonder
28 whether it would in fact be a false economy calling the witness
29 now rather than giving everybody an opportunity to digest what is

1 contained within those 12 pages in order that I can do it
2 hopefully rather more expeditiously and quickly tomorrow
3 morning -- Thursday.

4 JUDGE THOMPSON: Do sit down, learned counsel.

18:00:14 5 Prosecution, what's your response to Mr Cammegh's request?

6 MR HARRISON: He may well be right. It may be a false
7 economy. I'm not sure exactly how long each of the Defence
8 counsel are going to take. It was our preference to complete
9 this witness this afternoon and I realise now I'd have to be
10 asking the Court's indulgence to sit considerably beyond six
11 o'clock, but I was hoping that this would be completed within 30
12 minutes.

13 I didn't clarify one matter with the witness and I'm just
14 not certain if she's available Thursday or if there was still any
15 difficulties with travel arrangements.

16 THE WITNESS: [Microphone not activated]

17 MR HARRISON: She has indicated that she thinks it should
18 be okay.

19 PRESIDING JUDGE: On Thursday. Because we know what
18:01:13 20 constraints she may have, travelling and having to appear in
21 court.

22 MR HARRISON: I'm in the Court's hands. I'm prepared to
23 ask the five minutes worth of questions now, I can do it
24 Thursday, we can do the whole thing --

18:01:27 25 PRESIDING JUDGE: That's okay. I think we'll take it as a
26 package. If Miss Hatt thinks she could be available on Thursday
27 then I think it would be reasonable to grant Mr Cammegh's request
28 that we adjourn to Thursday and we dispose of this issue from
29 9.30. I think that by the time it is 10.30 we would be done with

1 it and Miss Hart would be able to meet up with her travel
2 arrangements. I would think so. Wouldn't you think so?

3 THE WITNESS: [Microphone not activated]

4 JUDGE BOUTET: Would you open your mic, please.

18:02:09 5 PRESIDING JUDGE: Open your microphone, please.

6 THE WITNESS: That's okay for me.

7 PRESIDING JUDGE: That's okay for you.

8 MR CAMMEGH: Can I just say two things out of courtesy. I
9 too was very much hoping that I could deal with the witness today
10 and I'm sorry that we've come to quite a late time in the day for
11 my application.

12 In relation to the 30 minute time estimate, I certainly
13 would be very disappointed if I'm any longer than about 20
14 minutes. But of course I can't be sure how long my learned
18:02:37 15 friends are going to be, so 30 minutes may be unrealistic. I
16 don't know.

17 JUDGE BOUTET: We've heard that in the past, as you know,
18 Mr Cammegh.

19 MR JORDASH: I can confirm I will ask no questions.

18:02:58 20 JUDGE THOMPSON: Any commitments by the second accused?

21 MR TOURAY: We leave our options open.

22 JUDGE THOMPSON: I know, thanks.

23 PRESIDING JUDGE: That is even much more slippery and much
24 more unreliable than others, Mr Touray.

18:03:16 25 MR O'SHEA: Mr Cammegh's estimates are unusually accurate
26 as compared to other lawyers, in my experience.

27 PRESIDING JUDGE: Unusually accurate? Leave the judgment
28 to us. We would, by the time we get to a certain stage in the
29 trial, be able to publish not only the verdicts on the trials we

1 are holding but the verdicts on the individual performances and
2 how everybody has kept his word on both sides of the aisle. Yes,
3 Mr Harrison.

18:03:55 4 MR HARRISON: I understand it's the Court's preference to
5 adjourn this matter until Thursday. If I could just indicate
6 that following this witness on Thursday the Prosecution is faced
7 with somewhat of a conundrum. Witness 272 had been intended to
8 testify in Trial Chamber II today. They adjourned without
9 hearing that witness. 272 is going to begin testifying
18:04:08 10 theoretically on Thursday in Trial Chamber II. After this
11 witness the Prosecution is suggesting that the witnesses to be
12 heard will be 113 and 114, both of which the Prosecution
13 anticipates will be relatively short. Then on Friday -- if not
14 late Thursday on Friday the Prosecution hopes to have witness 272
18:04:34 15 testify before this Chamber.

16 JUDGE BOUTET: Can I ask you, Mr Harrison, this witness
17 272, what you know of that witness, is it a relatively short
18 witness? I say relatively. I will not hold you to what you may
19 estimate to be the cross-examination but, based on what we've
18:04:55 20 seen up to now, is this likely to be a day and a half or a week
21 and a half?

22 MR HARRISON: That, of course, is my concern. I've been
23 advised by my colleagues that it would be an hour to two hours in
24 direct examination but there is some concern that -- the
18:05:12 25 Prosecution has not always been accurate in their estimates. So
26 I'm very concerned that if she begins Friday it may not finish
27 Friday, but obviously it's our intention to try and facilitate
28 that.

29 JUDGE BOUTET: Okay.

1 PRESIDING JUDGE: What's the response from the Defence
2 about taking witnesses 113 and 114 on Thursday? Mr Harrison says
3 they are short witnesses.

4 MR JORDASH: I have not heard of 113 being called until
18:05:52 5 just now, unless I've forgotten but I can't recall it. But 114 I
6 would imagine would be all day including chief and
7 cross-examination.

8 JUDGE BOUTET: All day, you mean Thursday?

9 MR JORDASH: Thursday. I imagine that witness would take a
18:06:09 10 day.

11 PRESIDING JUDGE: Do we then agree that we take 114?

12 MR JORDASH: Yes.

13 PRESIDING JUDGE: Mr Touray, do we agree, and Mr Wilson?

14 MR TOURAY: We have no objection.

18:06:31 15 PRESIDING JUDGE: Mr Cammegh?

16 MR CAMMEGH: Again, no objection.

17 MR HARRISON: I see no problem with that but I just have to
18 remind the Court that in the past we've had problems where
19 witnesses have been ill and in fact last week we had a bit of a
18:06:38 20 crisis because one witness was ill and one lawyer to deal with
21 another witness was not present. I'm just asking that, if at all
22 possible, the parties could be prepared for two witnesses; 113
23 and 114.

24 PRESIDING JUDGE: May we suggest that the Defence makes an
18:06:54 25 extra effort to prepare to take on 113 in case 114 is not
26 present. But preferably we would start with 114. Are there any
27 other issues to be resolved? I don't think so.

28 Well, Miss Hatt, we are happy to have had you. We're sorry
29 we have not been able to deal with issues that relate to you but

1 I hope that you have followed the assurances from this arena that
2 you will be able to testify on Thursday and we will be done with
3 you maybe before it is 10.30. So we thank you for coming and we
4 look forward to seeing you on Thursday.

18:07:58 5 THE WITNESS: Thank you.

6 PRESIDING JUDGE: So the Court will rise and we'll resume
7 the session on Thursday at 9.30.

8 [Whereupon the hearing adjourned at 6.10 p.m.,
9 to be reconvened on Thursday, the 28th day of
10 April 2005, at 9.30 a.m.]

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EXHIBITS:

Exhibit No. 25	62
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WITNESSES FOR THE PROSECUTION:

WITNESS: TF1-362	2
CROSS-EXAMINED BY MR JORDASH	2
CROSS-EXAMINED BY MR NICOL-WILSON	68
CROSS-EXAMINED BY MR O'SHEA	89