



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

THURSDAY, 14 JUNE 2007
9.40 A.M.
TRIAL

TRIAL CHAMBER I

Before the Judges:

Bankole Thompson, Presiding
Pierre Boutet
Benjamin Mutanga Itoe

For Chambers:

Mr Matteo Crippa
Ms Nicole Lewis

For the Registry:

Mr Thomas George

For the Prosecution:

Mr Peter Harrison
Mr Vincent Wagona

For the accused Issa Sesay:

Mr Wayne Jordash
Ms Sareta Ashraph
Mr Tobias Berkman

For the accused Morris Kallon:

Mr Shekou Touray
Mr Melron Nicol-Wilson

For the accused Augustine Gbao:

Mr John Cammegh

1 [RUF14JUN07A - MC]
2 Thursday, 14 June 2007
3 [Open session]
4 [The accused present]
09:47:29 5 [Upon commencing at 9.40 a.m.]
6 PRESIDING JUDGE: Good morning, counsel. The trial is
7 resumed and the Prosecution will call its second witness for the
8 purposes of this trial within a trial.
9 MR HARRISON: The next witness is John Berry and he is
09:48:01 10 present in court and I would ask if he could be sworn at this
11 time.
12 PRESIDING JUDGE: Mr Courtroom Officer, please administer
13 the oath to the witness.
14 WITNESS: JOHN BERRY [Sworn]
09:48:33 15 EXAMINED BY MR HARRISON:
16 PRESIDING JUDGE: Please proceed, counsel.
17 MR HARRISON:
18 Q. Witness, could you please state your full name and spell
19 your last name?
09:48:50 20 A. Yes. John Vernon Berry. Surname is spelt B-E-R-R-Y.
21 JUDGE ITOE: John Vernon?
22 THE WITNESS: Vernon. V-E-R-N-O-N.
23 MR HARRISON:
24 Q. And before we proceed too far I should just remind you of a
09:49:16 25 couple of things. First of all, if you have any difficulty
26 hearing my voice, or the voice of another person, you should
27 indicate that to us. Sometimes there's problems with the
28 microphone or the channels that are being used and, secondly, if
29 you could try to remember that not only are people in the

1 courtroom trying to take a note of what is being said but there
2 is also a translation taking place and the translators are
3 faithfully trying to interpreter every word that is uttered as
4 accurately as they can, so it may be required at times that you,
09:50:00 5 in the course of a long answer, perhaps give two or three
6 sentences and then pause so that the interpreter has a chance to
7 catch up.

8 PRESIDING JUDGE: Mr Courtroom Officer, you can see that
9 the lighting on this side is dim; we usually have some -- a much
09:50:25 10 brighter illumination here. Can you find out why we are in this
11 state of semi-illumination?

12 MR GEORGE: Certainly, Your Honour.

13 PRESIDING JUDGE: Do that. Please continue, Mr Harrison.

14 MR HARRISON:

09:52:06 15 Q. Witness, for the benefit of the Court, can you tell the
16 Court something of your employment background?

17 A. Yes, Your Honours. I have been a member of the Royal
18 Canadian Mounted Police since 1980, May of 1980. And currently
19 still am a member of the Royal Canadian Mounted Police. In 2002,
09:52:32 20 I was selected by the International Peacekeeping Unit as a
21 secondee to the Special Court as a part of the request for
22 assistance in investigators and I arrived here in November 17,
23 2002, to work for the Office of the Prosecutor in the
24 investigations section. I then departed November 17, 2003,
09:52:57 25 returned to my duties in Canada. In June of 2005, I had applied
26 and was successful in a position here at the Court and took a
27 leave of absence from the RCMP and been currently in the position
28 of investigations commander for the Office of the Prosecutor.

29 Q. Now, I am going to move ahead in time, sorry, I'm going to

1 move back in time and take you back to 10 March, 2003. Did
2 anything happen on that day?

3 A. Yes. On that day, March 10, 2003, I was involved with an
4 operation where a number of accused were being arrested under
09:53:43 5 indictments from the Special Court. My -- my function was to
6 attend along with others to the CID headquarters in Freetown,
7 Sierra Leone, in regards to the arrest of Mr Sesay and others.

8 Q. You made a mention of CID headquarters. Are you able to
9 say approximately when it was that you went to the CID
09:54:19 10 headquarters?

11 A. Yes. Sorry, I arrived at the CID headquarters at
12 approximately 12 noon on that day. The arrests had already been
13 completed by the Sierra Leone Police, and transportation was then
14 provided by them to the Jui Barracks. A convoy then left from
09:54:50 15 the CID headquarters arriving at Jui Barracks at approximately
16 1300 hours.

17 Q. Just pause for a moment. If you could, just try to go step
18 by step as to what it is you recall happening, if anything, at
19 the CID headquarters?

09:55:23 20 A. Okay. Upon my arrival at the CID headquarters I was
21 advised by Gilbert Morissette that the arrest had already taken
22 place and that the accused were in custody of the Sierra Leone
23 Police, within the building. There was a large group of people
24 around, as it is a busy spot. So, to enter in the building, I
09:55:48 25 did not come in contact with anybody; none of the accused. I
26 left the building and waited outside for further directions.
27 Shortly thereafter is when the transportation was taking place
28 and accused were escorted out to a van and there was a convoy of
29 police vehicles and Special Court vehicles that left the CID

1 headquarters on route to the Jui Barracks, which I was part of
2 that convoy. Upon arriving --

3 Q. Just pause for a moment.

4 A. Sorry.

09:56:38 5 Q. Was there a reason for going to the Jui Barracks?

6 A. That was going to be the centre where everybody would be
7 gathered and then arrangements made for transportation from
8 Hastings, by helicopter, to Bonthe Island.

9 Q. You have referred to a convoy to Jui. Please tell the
09:57:07 10 Court what it is you're referring to when you talk about that?

11 A. A convoy of vehicles, there were approximately a dozen
12 vehicles with a transport van in the middle, clearing vehicles, I
13 assume, from the SLP at the front to make sure that the way was
14 clear for the transport. Also, other vehicles with SLP for

09:57:32 15 protection security and for transportation of the accused to the
16 Jui Barracks.

17 Q. Did you arrive at the Jui Barracks?

18 A. I did.

19 Q. What's the next thing that happened?

09:57:58 20 A. I had no contact with the accused on initial arrival. I
21 then, by mobile phone, contacted Gilbert Morissette, who wasn't
22 with us, and advised him that we had all arrived safely at the
23 barracks.

24 Q. And are you able to say at, roughly, what time you arrived
09:58:18 25 at the Jui Barracks?

26 A. Approximately 1300 hours.

27 Q. Please continue. What is the next thing that happened?

28 A. During my phone conversations with Gilbert Morissette, I
29 was asked if I could approach Mr Sesay to inquire from him if he

1 was interested in speaking with anybody from the Special Court.

2 JUDGE ITOE: You were asked by who?

3 THE WITNESS: Gilbert Morissette.

4 MR HARRISON:

09:59:01 5 Q. Please continue. What happened next?

6 A. I was given access, along with Joseph Saffa, another
7 investigator from the Special Court for Sierra Leone, and also a
8 Sierra Leone police officer --

9 JUDGE ITOE: Whether he would be interested to speak to
09:59:17 10 who?

11 THE WITNESS: I'm sorry, sir.

12 JUDGE ITOE: You said Morissette got in touch with you to
13 find out from Sesay if he would be interested to speak to?

14 THE WITNESS: A person from the Special Court, an
09:59:27 15 investigator from the Special Court.

16 MR HARRISON:

17 Q. Please continue. What happened next?

18 A. Myself and Joseph Saffa were given access to Mr Sesay, who
19 was in an empty office. I went in. I introduced ourselves as
09:59:54 20 investigators from the Special Court, the Office of the
21 Prosecutor. I advised him that I could make --

22 MR JORDASH: Sorry, could we slow down a bit. This is the
23 first time we've heard this.

24 PRESIDING JUDGE: Yes.

10:00:06 25 THE WITNESS: Sorry.

26 PRESIDING JUDGE: Please moderate your pace, Mr Berry.

27 THE WITNESS: Yes, Your Honour.

28 MR HARRISON:

29 Q. Perhaps I will try and interrupt you a little bit more

1 frequently, just so that you --

2 PRESIDING JUDGE: Go over that again.

3 THE WITNESS: Yes, Your Honour.

4 MR HARRISON:

10:00:20 5 Q. You were just indicating that you had entered into a room
6 with Joseph Saffa.

7 A. That's correct. I introduced myself --

8 JUDGE ITOE: No, no. I want to be very clear. Myself and
9 Mr Saffa were given access --

10:00:34 10 PRESIDING JUDGE: Yes. That's why I said go over that part
11 again.

12 JUDGE ITOE: Were given access to where?

13 THE WITNESS: To an office within the Jui Barracks where
14 Mr Sesay was located.

10:01:00 15 JUDGE ITOE: And who gave you this access?

16 THE WITNESS: The SLP. I can't tell you, Your Honour, who,
17 specifically, it was.

18 PRESIDING JUDGE: Please continue.

19 MR HARRISON:

10:01:34 20 Q. Please continue.

21 A. I introduced myself and Mr Saffa to Mr Sesay; advised him
22 that we were investigators with the Special Court; that I could
23 not promise him anything; that we were only here to inquire if he
24 had an interest to speak to -- excuse me -- an investigator from
10:02:18 25 the Office of the Prosecutor in regards to what had occurred
26 during the war.

27 Q. What happened next?

28 A. I advised him this is a very important decision, and to
29 take his time. Mr Sesay immediately replied that, yes, he would

1 I like to speak to an investigator from the Special Court.

2 Q. What happened next?

3 A. I advised Mr Sesay that I did not want to speak of anything
4 further and that arrangements would be made to speak with him and
10:03:41 5 we concluded our session in that room, which took, approximately,
6 five minutes from 1325 hours to 1330 hours, and we departed.

7 Q. Now, you say that "we departed." Could you explain what
8 actually happened; who departed?

9 A. Joseph Saffa and myself left the room and advised the SLP
10:04:21 10 officer outside that we were finished, and we left and entered
11 the outside -- went to the outside of the building, at which time
12 I contacted Mr Morissette and advised him that Mr Sesay had
13 indicated that he did wish to speak to somebody from the Special
14 Court.

10:05:01 15 Q. And what, if anything, happened next?

16 A. Arrangements were made, none that I had anything to do
17 with, for Mr Sesay to be transported from Jui Barracks to the
18 Office of the Prosecutor, situated, at that time, at 1A Scan
19 Drive, Freetown, Sierra Leone.

10:05:45 20 Q. Please continue. What took place next?

21 A. Shortly after that, I departed with Joseph Saffa and
22 returned to 1A Scan Drive, Freetown, Sierra Leone. And upon my
23 arrival, observed the transport vehicles from the Sierra Leone
24 Police and Mr Sesay also at the Office of the Prosecutor.

10:06:16 25 Q. Do you know who transported Mr Sesay?

26 A. The Sierra Leone Police.

27 Q. And are you able to --

28 JUDGE BOUTET: Excuse me, when you say you arrived at Scan
29 Drive, you observed the vehicle. Did you say "and Sesay"? Is

1 Sesay in the vehicle? What is it you observe when you get there?

2 THE WITNESS: We were not far behind the vehicle on the
3 route that it took and Mr Sesay was escorted from the vehicle
4 down into -- there is a row of containers at the back of the
10:06:52 5 property that they were using for offices. It was the working
6 compound for the OTP, at the time.

7 MR HARRISON:

8 Q. Maybe you can just explain what it is exactly that you saw
9 at 1A Scan Drive?

10:07:14 10 A. I saw the vehicle --

11 JUDGE ITOE: Mr Berry.

12 THE WITNESS: Sorry. Yes, Your Honour.

13 JUDGE ITOE: You finished your conversation with Mr Sesay
14 and you left and came out.

10:07:23 15 THE WITNESS: That's correct.

16 JUDGE ITOE: And got in touch with Mr Morissette.

17 THE WITNESS: That's correct.

18 JUDGE ITOE: And told him, you know, that Mr Sesay had
19 indicated that he would like to talk to somebody of the OTP.

10:07:36 20 THE WITNESS: That's correct, Your Honour.

21 JUDGE ITOE: Yes. And the next we see from your evidence
22 is that you were driving out and Sesay followed. Who gave
23 instructions that Sesay, you know, should be brought?

24 THE WITNESS: I can only make the assumption, Your Honour,
10:07:53 25 that it was the investigations commander, or the chief of
26 investigations, and the deputy chief, Mr Morissette.

27 JUDGE ITOE: Who --

28 THE WITNESS: Who would have made those arrangements.

29 JUDGE ITOE: I'm not very clear.

1 THE WITNESS: I reported to my bosses at the time, the
2 chief of investigation, Mr White, and the deputy chief, Gilbert
3 Morissette, who were back at the Office of the Prosecutor. I
4 advised that the -- Mr Sesay had indicated that he was willing to
10:08:23 5 speak to the Office of the Prosecutor. They advised that they
6 would make arrangements to have him transported. What those
7 arrangements were, I don't know; I wasn't party to those.

8 JUDGE ITOE: I see you were not the one who made the
9 arrangements?

10:08:40 10 THE WITNESS: No, Your Honour.

11 JUDGE ITOE: I see. Thank you.

12 MR HARRISON:

13 Q. We were at the point where there had been arrival at Scan
14 Drive and I'd asked you if you could just, for the benefit of the
10:08:58 15 Court, describe what it was that you saw take place at Scan
16 Drive; could you do that?

17 A. Yes. That the transport vehicle was in the -- on the down
18 ramp. There is a driveway coming in with a ramp down the side of
19 the building. From what I recall I believe I saw Mr Sesay being
10:09:19 20 escorted to one of the trailers that was, compound trailers, that
21 was down at the back end of the building.

22 Q. When you refer to an escort, can you describe by whom he
23 was escorted?

24 A. Sierra Leone police officers.

10:09:59 25 Q. And what is the next thing that you recall taking place on
26 10 March?

27 A. On 10 March, Mr Morissette, who I had met with when I got
28 back, was then going to meet with Joseph Saffa and Issa Sesay in
29 trailer number 4, and I learned after that rights under Article

1 17, Rule 42 and 43, were explained to Mr Sesay.

2 Q. Do you recall any other events taking place on 10 March?

3 A. Mr Sesay was later transported from the Office of the
4 Prosecutor by the Sierra Leone Police, I believe to go to Bonthe,
10:11:19 5 but I wasn't -- I was not with that group.

6 Q. Now, at any time on 10 March did you utter, or did you hear
7 uttered, any threats to Mr Sesay?

8 A. No, I did not; and I never heard any.

9 Q. On the same day did you utter, or did you hear uttered, any
10 inducements to Mr Sesay?

11 A. No, I did not.

12 Q. And on the same day did you utter, or did you hear uttered,
13 any promises to Mr Sesay?

14 A. No, I did not.

10:12:18 15 Q. I'm going to take you to the following day, 11 March. Did
16 anything happen on 11 March, 2003?

17 A. Yes. On 11 March, 2003, I met with Mr Sesay in trailer
18 number 4 at the OTP office on 1A Scan Drive, Freetown, Sierra
19 Leone and at which time I also read to him Rules 42 and 43
10:12:48 20 advising him of his rights and going through them with him
21 step-by-step.

22 MR HARRISON: We have an exhibit on the voir dire, and it
23 is Exhibit D, D as in David. And I'd ask if Exhibit D could be
24 put before the witness.

10:13:13 25 PRESIDING JUDGE: Mr Courtroom Officer, please assist.

26 MR HARRISON:

27 Q. If you could look at that document, please, and tell the
28 Court if you recognise it from anyone?

29 A. Yes, Your Honours. I recognise in the top right-hand

1 corner of the document the date 2003-03-11 with my initials
2 beside it. And also on the second page of the document, my
3 signature and my name printed out, with the date 2003-03-11,
4 12.28 p.m.

10:14:21 5 Q. And just so that there's no confusion on the transcript at
6 a later date, in the top right-hand corner, do you see the page
7 numbers 28310 and, on the second page, again handwritten, 28311?
8 A. I do.

9 Q. And does that document have the heading "Rights
10:14:46 10 advisement"?

11 A. It does.

12 Q. And do you recall dealing with this document on 11 March?

13 A. I do.

14 Q. And just explain to the Court in what respect did you use
10:15:15 15 this document; what was the purpose of it?

16 A. The purpose of this document was to ensure that dealing
17 with Mr Sesay, who was an accused, but also a party who was
18 interested in also providing information as a witness, that he
19 understood fully his rights under Rule 43 and 42. So I went
10:15:37 20 through this with him on the morning of the 11th, step-by-step,
21 making sure that he understood these rights to the best of my
22 ability.

23 Q. Can you describe the physical location where you went
24 through this exercise of dealing with that document?

10:16:13 25 A. Yes. At the -- at the back of the property of 1A Scan
26 Drive, because they ran out of space, they had brought in a
27 number of containers that they had put on pads and I believe
28 there was approximately five or six containers in a row, and they
29 had individual doors entering into each container, similar to the

1 containers that we have here on this site now. The outside of
2 the containers, they made a wooden walkway the length of the
3 containers at approximately 4-feet wide. We were in container
4 number 4, which was a plain metal container that had a filing
10:16:58 5 cabinet, a couple of desks and chairs.

6 Q. And who was in that container at the time?

7 A. There was myself, Mr Gilbert Morissette, Mr Sesay and I
8 believe on this day there was also a stenographer by the name of
9 Stacey Donison.

10:17:33 10 Q. And what happened after you went through this rights
11 advisement?

12 A. After I went through this rights advisement on that day,
13 Mr Morissette then took -- he's also signed this document as a
14 witness as he was present -- and I believe in this day, the 11th,
10:17:52 15 there was an individual Beatrice Ureche, I think is what Mr
16 Morissette had told me, was arriving. She also needed a copy of
17 rights advisement. He then took that and departed. Mr Sesay and
18 I then began an interview in regards to events that had
19 transpired during the war.

10:18:23 20 JUDGE BOUTET: I just want to make sure I understand what
21 you are discovering now, Mr Berry. Did you say that this person
22 by the name of Beatrice Ureche, once she arrived, Mr Morissette
23 went out or you went out of the container and -- can you go over
24 that part again, please?

10:18:41 25 THE WITNESS: Yes. No, she was not present. I had been
26 advised by Mr Morissette that there was somebody coming from the
27 Registry and that he needed, once I had finished the rights
28 advisement, he was going to take those documents to the
29 Prosecutor and I believe they, my understanding afterwards, after

1 the events were over, that these documents then were given to
2 Ms Beatrice Ureche. I had no dealings with her.

3 JUDGE BOUTET: No, but did Mr Morissette, once the
4 documents were completed in the container, did he take these
10:19:15 5 documents and walk out of the container and --

6 THE WITNESS: Yes.

7 JUDGE BOUTET: -- went wherever, so --

8 THE WITNESS: That's correct.

9 JUDGE BOUTET: So once that is done he goes out of the
10:19:24 10 container?

11 THE WITNESS: That's correct, Your Honour.

12 JUDGE BOUTET: Thank you.

13 MR HARRISON:

14 Q. And dealing with 11 March, can you say if any other people
10:19:44 15 entered the container, other than those you named?

16 A. Not during the interview. We had the audio going along
17 with this court stenographer and a video also going on. During
18 the interview stages there was nobody else present.

19 Q. Do you know if this interview on 11 March was transcribed?

10:20:18 20 A. Yes, it was.

21 Q. And do you know if there was a video made of this
22 interview?

23 A. Yes, there was.

24 Q. I'm going to show you a transcript from 11 March and ask if
10:20:33 25 you can recognise it. If Court Management could show this to the
26 witness. It begins at page 28384, up to and including 28492.

27 JUDGE ITOE: 283?

28 MR HARRISON: It begins at 28384.

29 JUDGE ITOE: 384?

1 MR HARRISON: And it's up to and including 28492.

2 JUDGE BOUTET: So, that's the one for 11 March?

3 MR HARRISON: Yes, that's right.

4 THE WITNESS: Yes, this appears to be the transcript taken
10:22:44 5 of the -- in the interview of that day.

6 MR HARRISON: Now, the Prosecution at this stage would ask
7 to be allowed to play a brief portion of the videotape. It is a
8 video and audio recording, and we anticipate playing roughly 10
9 to 15 minutes' worth of that tape. I would just like to advise
10:23:12 10 the Court now that we do not choose to play the tape for every
11 single day but we'll be asking to have the tape for each and
12 every day admitted as exhibits as we proceed. If the
13 audio/visual people are able to assist us at this point in time,
14 we are wanting to play the video and audiotape from the computer
10:23:41 15 in the courtroom.

16 PRESIDING JUDGE: Any objections, Mr Jordash?

17 MR JORDASH: No objections.

18 PRESIDING JUDGE: Application is granted.

19 [Videotape played]

10:29:46 20 MR HARRISON: Thank you. That's all the Prosecution
21 intends to play of that type. I should make it clear that, if it
22 is of assistance to the Court, we can play much more, or if it
23 assists the Defence, we can assist them by playing it from the
24 facility that we already have set up.

10:29:57 25 Q. Do you recall that videotape?

26 A. I do.

27 Q. Is it an accurate videotape of the events that took place
28 on 11 March 2003?

29 A. It is.

1 MR HARRISON: The Prosecution would ask that the transcript
2 from 11 March 2003 be the next exhibit on the voir dire and that
3 the video/audiotape become the subsequent exhibit on the voir
4 dire.

10:30:33 5 PRESIDING JUDGE: Let's deal with the transcript.
6 Mr Jordash, do you have any objection?

7 MR JORDASH: No objections.

8 PRESIDING JUDGE: The transcript will be received in
9 evidence and marked exhibit?

10:30:43 10 MR GEORGE: K.

11 [Exhibit No. K was admitted on the voir dire]

12 PRESIDING JUDGE: Now, let's go to the video. Mr Jordash,
13 any objection?

14 MR JORDASH: No.

10:30:54 15 PRESIDING JUDGE: That too will be received in evidence and
16 marked exhibit?

17 MR GEORGE: L.

18 [Exhibit No. L was admitted on the voir dire]

19 PRESIDING JUDGE: Let's proceed then.

10:31:08 20 MR HARRISON: I have the video in my hand and the
21 transcript can be --

22 JUDGE BOUTET: Your microphone.

23 MR HARRISON: Sorry. I have the video in my hand and the
24 transcript is in front of the witness, which can be removed.

10:31:21 25 Q. Can you describe the tone of the interview that took place
26 on 11 March?

27 A. It was very easy-flowing. Mr Sesay was cooperative. We
28 had a good -- we developed a good working relationship in regards
29 to the information.

1 Q. Was anyone in the room armed?

2 A. No.

3 Q. On 11 March, did you utter or did you hear uttered to
4 Mr Sesay any threats?

10:32:13 5 A. No.

6 Q. Did you utter or did you hear uttered to Mr Sesay any
7 inducements?

8 A. No.

9 Q. And did you utter or did you hear uttered any promises to
10:32:31 10 Mr Sesay?

11 A. No.

12 Q. At the conclusion of the interview on the 11th, can you
13 tell the Court what, if anything, happened?

14 A. At the conclusion of the interview, arrangements had been
10:32:48 15 previously made, by whom I don't know, I believe Mr Morissette or
16 Mr White, for transportation of Mr Sesay from the container back
17 to the helipad and down to Bonthe Island.

18 Q. I'm going to take you to the next day, 12 March 2003. Did
19 anything happen on that day?

10:33:22 20 A. Yes. I again was present in the trailer with -- trailer
21 number 4 at 1A Scan Drive with Mr Sesay and a court reporter to
22 continue what we had started the day before. I also, again, at
23 the beginning of the session, went through the rights advisements
24 with Mr Sesay.

10:34:01 25 Q. If we could just go back a step. Could you say anything
26 about how Mr Sesay got to Scan Drive on the 12th?

27 A. Mr Sesay would have been picked up at the airfield on
28 Bonthe Island, flown by UN helicopter to the Diamond helipad
29 along Lumley Road and then transported from that location to 1A

1 Scan Drive, Freetown, Sierra Leone and into trailer number 4
2 within the compound.

3 Q. And you made reference to a rights advisement. I'm going
4 to refer you to a document which has been given Court Management
10:35:02 5 page numbers 28312 and 28313, and I'll ask if Court Management
6 could show that to you. And I'd ask you to look at that document
7 and indicate to the Court if you recognise it?

8 A. Yes. I recognise the document. It has my handwriting on
9 the top right-hand corner with the date 2003-03-12 and also my
10:35:45 10 initials on the front of the page, and my signature on the back
11 of the page with the date 2003-03-12 at 11.20 a.m.. On the front
12 the page, top right-hand corner, it refers to the handwritten
13 numbers 28312 and, on the back, 28313.

14 Q. And what is that document?

10:36:13 15 A. It's a rights advisement.

16 Q. And to whom does it pertain?

17 A. Mr Sesay.

18 MR HARRISON: The Prosecution would ask that that document
19 become the next exhibit on the voir dire.

10:36:32 20 PRESIDING JUDGE: Mr Jordash, your response?

21 MR JORDASH: No objection.

22 PRESIDING JUDGE: The document will be received in evidence
23 and marked exhibit?

24 MR GEORGE: M.

10:36:43 25 PRESIDING JUDGE: Thank you.

26 [Exhibit No. M was admitted on the voir dire]

27 MR HARRISON:

28 Q. So after the rights advisement is dealt with, can you tell
29 the Court what happens next?

1 A. Yes. We would have then proceeded into an interview with
2 Mr Sesay. I would have proceeded into an interview with Mr Sesay
3 in regards to capturing the information that he was providing to
4 me.

10:37:12 5 Q. And can you describe the physical location where the
6 interview took place?

7 A. Yes. It was the same location that we had started the
8 interview, trailer number 4, which is located in the rear
9 compound area of the -- at the time, the Office of the

10:37:29 10 Prosecutor, located at 1A Scan Drive, Freetown, Sierra Leone.

11 Q. Do you know if a transcript was made of that interview?

12 A. Yes.

13 Q. And can you say if that interview was recorded in any way?

14 A. Yes. It was also taped and videotaped.

10:38:10 15 Q. I'm going to ask Court Management to put before you a
16 document which has been given Court Management numbers 28494, up
17 to and including 28642. Could you please look at that document
18 and tell the Court if you recognise it?

19 A. Yes. This appears to be the transcript of the interview
10:38:57 20 that I conducted with Mr Sesay on 12 March 2003.

21 Q. And can you describe for the Court the tone of that
22 interview?

23 A. The same as the previous. Mr Sesay and I had a good
24 working relationship. He answered the questions freely and there
10:39:35 25 was -- there was nothing that I can recall that was wrong with --
26 any problems between us at that time.

27 Q. And during the course of the interview, who was present in
28 the room?

29 A. There would have been myself, Mr Sesay and Stacey Donison

1 who was the court reporter there.

2 Q. And have you had occasion to view the videotape of that
3 interview?

4 A. I did.

10:40:15 5 Q. Did that videotape that you reviewed accurately depict what
6 took place during the interview?

7 A. It did.

8 MR HARRISON: The Prosecution is asking the Court to permit
9 it to exhibit both the transcript and, as a separate exhibit, the
10:40:36 10 videotape of the interview. We certainly are prepared to play
11 it, if the Court would find it beneficial, or if the Defence
12 finds it beneficial, but we suggest to the Court that it is not
13 absolutely necessary to do so. But we are in the Court's hands.
14 I'm asking that the entire transcript become one exhibit and the
10:40:59 15 entire videotape become the exhibit after that.

16 PRESIDING JUDGE: In respect of the transcript, Mr Jordash,
17 any objection?

18 MR JORDASH: In respect of both, no objection.

19 PRESIDING JUDGE: Right. We'll receive the transcript in
10:41:15 20 evidence and mark it exhibit?

21 MR GEORGE: N, Your Honour.

22 PRESIDING JUDGE: We'll also receive the video in evidence
23 and mark it exhibit?

24 MR GEORGE: O.

10:41:26 25 PRESIDING JUDGE: Exhibit what?

26 MR GEORGE: O, Your Honour.

27 [Exhibit No. N was admitted on the voir dire]

28 [Exhibit No. P was admitted on the voir dire]

29 MR HARRISON: I have the --

1 PRESIDING JUDGE: Can we move on to P? [Indiscernible] to
2 O. Not to confuse it with zero. Let's keep O.

3 MR GEORGE: Yes, sir.

4 PRESIDING JUDGE: Repeat again; the transcript is?

10:41:49 5 MR GEORGE: It's N.

6 PRESIDING JUDGE: N.

7 MR GEORGE: Yes. And the videotape is P.

8 PRESIDING JUDGE: P. Right.

9 MR GEORGE: Yes.

10:41:58 10 MR HARRISON: I have the videotape in my hand, and the
11 transcript is on the witness table.

12 PRESIDING JUDGE: Please continue.

13 MR HARRISON:

14 Q. On 12 March 2003 did you utter or did you hear uttered any
10:42:31 15 threats to Mr Sesay?

16 A. No.

17 Q. Did you utter or did you hear uttered any inducements to
18 Mr Sesay?

19 A. No.

10:42:38 20 Q. And did you utter or did you hear uttered any promises made
21 to Mr Sesay?

22 A. No.

23 Q. Did anything else take place on 12 March?

24 A. No.

10:43:00 25 Q. At the conclusion of the interview what happened?

26 A. Mr Sesay then was transported again from the compound back
27 to the helipad and flown back to Bonthe Island.

28 Q. Perhaps I will just ask you a general question: Did you
29 ever have any role in the transport to and from Bonthe Island?

1 A. Yes, on a couple of occasions I did.

2 Q. Are you able to say today when those occasions were?

3 A. I can't recall the exact dates, no.

4 Q. Are you able to say anything about the practice or the
10:43:43 5 procedure for transporting?

6 A. The transports that I recall, we would fly. There would be
7 two members from the Office of the Prosecutor would fly down in
8 the helicopter to Bonthe Island, at which time we would wait in
9 or around the helicopter. A convoy would come from the town

10:44:09 10 where the detention centre was. This convoy was made up of the
11 Nepalese UN that were down in the area and a security vehicle
12 from the detention centre, they would drive up to the helipad or,
13 excuse me, drive up to the airstrip, alongside the helicopter, at
14 which time Mr Sesay would be transferred from the vehicle into

10:44:39 15 the helicopter.

16 JUDGE ITOE: So the two members of the OTP who went to
17 Bonthe went there to pick up Mr Sesay?

18 THE WITNESS: That's correct, Your Honour.

19 MR HARRISON:

10:45:09 20 Q. Presumably the helicopter would take off and what would
21 happen upon arrival in Freetown?

22 A. Upon arrival in Freetown, at the helipad, Mr Sesay would be
23 transferred from the helicopter into a vehicle and transported to
24 the OTP office at 1A Scan Drive in Freetown, Sierra Leone.

10:45:31 25 Q. Can you say anything about that transfer from the
26 helicopter to the vehicle?

27 A. Yes. For protection of Mr Sesay, and for identity, his
28 head would be covered so that no one would be able to identify
29 him.

1 Q. I'm going to take you to 13 March 2003. Did anything
2 happen on that day?

3 A. Yes. Again Mr Sesay was transported from Bonthe Island to
4 the OTP office at 1A Scan Drive in Freetown, where I would then
10:46:11 5 continue with the interviewing of Mr Sesay. On that particular
6 day, prior to starting the interview, or going through the rights
7 advisement, there was a legal Defence lawyer, a Gambian female
8 lady, who I don't know her name, arrived and had requested to be
9 able to talk with Mr Sesay. They were given privacy within
10:46:41 10 trailer number 4 at the OTP compound.

11 Q. Can you tell the Court a bit more about what you mean when
12 you say they were given privacy; what happened?

13 A. Yes. Mr Sesay was placed into the room, or let into the
14 room, and the Defence lawyer also went into the same container.
10:47:13 15 The door was closed, so privacy was given to them with no ability
16 to hear or observe.

17 JUDGE BOUTET: Mr Berry, when is this taking place, more
18 precisely? You say this lawyer arrived but --

19 THE WITNESS: Yes.

10:47:36 20 JUDGE BOUTET: -- how? As -- when you got there she
21 arrived or how is this taking place? Can you give some details,
22 if you can?

23 THE WITNESS: I don't know when she actually arrived at the
24 compound. When I arrived -- when we arrived with Mr Sesay I was
10:47:50 25 informed by Mr Morissette that there is legal counsel here to see
26 Mr Sesay. So prior to starting our interview arrangements were
27 made for the Defence counsel to see Mr Sesay.

28 MR HARRISON:

29 Q. Can you say anything else about this meeting that took

1 place?

2 A. No, I can't.

3 Q. Now, following this meeting involving the legal defence
4 lawyer, what happened next?

10:48:37 5 A. When she was finished she left the area that we were in,
6 in -- down by the compound of the row of containers. I don't
7 know where she went from there. I then proceeded into trailer
8 number 4 with Mr Sesay and began, again, the normal course of
9 going through his rights advisements again with him before
10:49:01 10 starting to continue with our interview.

11 Q. And you say you began the process; did you in fact carry
12 out that process?

13 A. I did.

14 Q. I have a document which has Court Management numbers 28314
10:49:26 15 to 28315, which I ask Court Management to show to the witness.
16 Can you please look at that document and tell the Court if you
17 recognise it?

18 A. Yes, I recognise the document. It has my handwriting on
19 the top right-hand corner with the date 2003-03-13 just above the
10:50:04 20 handwritten court numbers of 28314. It has my initials on the
21 front of the face and on the back of the document 28315 in the
22 top right-hand corner, with my name at the bottom, the date
23 2003-03-13 at 1215 hours.

24 Q. It appears as if there's some other markings or writings on
10:50:35 25 the front page. Can you say anything about how those got there?

26 A. The only other handwritten items are the circling of the
27 word "yes," the initials IHS, which were Mr Sesay's. On the
28 front along with my initials beside them, and similar to the
29 back.

1 Q. And can you say who did the circling and who put the
2 initials IHS on the paper?

3 A. Mr Sesay did.

4 MR HARRISON: The Prosecution would ask that that document,
10:51:16 5 which has the title "Rights advisement" and has Court Management
6 numbers 28314 to 28315 become the next exhibit on the voir dire.

7 PRESIDING JUDGE: Mr Jordash, your response?

8 MR JORDASH: No objections.

9 PRESIDING JUDGE: The document is received in evidence and
10:51:37 10 marked exhibit?

11 MR GEORGE: Q.

12 [Exhibit No. Q was admitted on the voir dire]

13 MR HARRISON:

14 Q. After completing that rights advisement, what took place
10:51:50 15 next?

16 A. We continued with the interview of the chronology of the
17 events that he was advising me of.

18 Q. And can you describe the tone of that interview?

19 A. Again, the tone was even, pleasant. No animosity. We
10:52:11 20 carried on a very good conversation.

21 Q. And who was present? First of all, where did that
22 interview take place?

23 A. That interview again took place in trailer number 4 of the
24 Office of the Prosecutor located at 1A Scan Drive in Freetown,
10:52:32 25 Sierra Leone.

26 Q. And who was present for the interview?

27 A. I believe in this case it was myself, Mr Sesay, and I
28 believe still Stacey Donison.

29 Q. Do you know if a recording was made of that interview?

1 A. Yes, there was an audio and a visual recording also.

2 Q. And do you know if a transcript was made of that interview?

3 A. I believe there was.

4 MR HARRISON: I'm going to ask that Court Management pages
10:53:26 5 28644 up to and including 28837 be shown to the witness by Court
6 Management.

7 JUDGE BOUTET: Mr Harrison, would you please just repeat
8 the numbers?

9 MR HARRISON: Yes. It is from 28644 up to and including
10:53:49 10 28837.

11 JUDGE BOUTET: Thank you.

12 MR HARRISON:

13 Q. Could you please look at that document and tell the Court
14 if you recognise it?

10:54:26 15 A. Yes. This looks like a copy of the transcript of that
16 interview that day.

17 MR HARRISON: The Prosecution is once again asking, with
18 the Court's leave, that the transcript -- the entire transcript
19 become the next exhibit on the voir dire and that the videotape,
10:54:51 20 which the Prosecution has available and could play, but for the
21 sake of efficiency deems it more appropriate not to play it, but
22 we ask that the videotape also become an exhibit on the voir
23 dire.

24 PRESIDING JUDGE: Mr Jordash, your response to both?

10:55:15 25 MR JORDASH: No objections.

26 PRESIDING JUDGE: The transcript will be received in
27 evidence and marked exhibit?

28 MR GEORGE: R.

29 PRESIDING JUDGE: R, you said?

1 MR GEORGE: Yes, Your Honour.

2 [Exhibit No. R was admitted on the voir dire]

3 PRESIDING JUDGE: And the videotape will be received in
4 evidence and marked exhibit?

10:55:35 5 MR GEORGE: S.

6 [Exhibit No. S was admitted on the voir dire]

7 MR HARRISON: Perhaps I should have indicated earlier that
8 all of the videotapes have an indication on them of which date
9 they are relevant to. So there is handwriting on each of the
10 videotapes. For example, this one has audio for 13 March 2003.

11 PRESIDING JUDGE: That's helpful.

12 MR HARRISON: I have the videotape, which could be the next
13 exhibit, in my hand and the transcript is with the witness.

14 Q. On 13 March 2003, did you utter or did you hear uttered any
10:56:25 15 threats to Mr Sesay?

16 A. No.

17 Q. Did you utter or did you hear uttered any inducements to
18 Mr Sesay?

19 A. No.

10:56:34 20 Q. And did you utter or did you hear uttered any promises to
21 Mr Sesay?

22 A. No.

23 Q. At the conclusion of the interview, what happened?

24 A. At the conclusion of the interview, Mr Sesay was
10:56:48 25 transported again from the Office of the Prosecutor to the
26 helipad and then flown back to Bonthe Island.

27 Q. I'm now going to take you to the next day, which is 14
28 March 2003. Did anything happen on that day?

29 A. Yes. Mr Sesay again was brought from Bonthe Island up to

1 the helipad and transported to the Office of the Prosecutor, 1A
2 Scan Drive, Freetown, Sierra Leone. And we again met in trailer
3 number 4 within the compound of the Office of the Prosecutor and
4 again advised him of his rights advisements and then continued
10:57:34 5 with an interview.

6 Q. The Prosecution has a document, which is Court Management
7 page numbers 28316 to 28317, with the heading of "Rights
8 Advise ment," and I'd ask if Court Management could show that
9 document to the witness. Could you please look at that document
10:58:28 10 and tell the Court if you recognise it?

11 A. Yes, Your Honours, I recognise the document. It has, again
12 on the top right-hand corner, my handwriting with the numbers
13 2003-03-14, 0937 hour. And also my initials on the face of the
14 document, along with those of Mr Sesay's and, again, on the back,
10:58:54 15 my signature with the date 2003-03-14, 0943 hour.

16 Q. And the writing -- the other writing on the front page, can
17 you say how that got on the paper?

18 A. Yes. The circling of the word "yes," and the "IHS" were
19 placed on the paper by Mr Sesay, both on the front and the back.

10:59:30 20 Q. And after completing that right advisement, what happened
21 next?

22 A. We continued with our interview.

23 Q. Describe the people who were present for the interview.

24 A. To my knowledge, my recollection, it was myself, Mr Sesay,
10:59:49 25 and Stacey Donison, the court reporter.

26 Q. And what was the tone of that interview?

27 A. The same as the previous, it was amicable.

28 MR HARRISON: The Prosecution applies to have that rights
29 advisement, which is Court Management pages 28316 to 28317,

1 become the next exhibit on the voir dire.

2 PRESIDING JUDGE: Mr Jordash, your response?

3 MR JORDASH: No objections.

4 PRESIDING JUDGE: We'll admit it in evidence and mark it

11:00:30 5 exhibit?

6 MR GEORGE: T, Your Honour.

7 PRESIDING JUDGE: Thank you.

8 [Exhibit No. T was admitted on the voir dire]

9 MR HARRISON:

11:00:38 10 Q. Was there a recording made of that interview?

11 A. There was.

12 Q. And was there a transcript made of that interview?

13 A. There was.

14 MR HARRISON: I'll ask that Court Management put before the

11:00:56 15 witness a document which has Court Management page numbers 28838,

16 up to and including 28976.

17 Q. Could you look at that document and tell the Court if

18 you're able to recognise it?

19 A. Yes. It appears to be the transcript of the interview

11:01:43 20 conducted on 14 March 2003.

21 MR HARRISON: The Prosecution is, at this point, going to,

22 with leave of the Court, play roughly 10, perhaps 15 minutes of

23 the videotape from 14 March 2003. And I would ask the

24 audio/visual staff, if possible, to make that available to the

11:02:15 25 Prosecution.

26 PRESIDING JUDGE: Mr Jordash, response?

27 MR JORDASH: No comments, Your Honour.

28 PRESIDING JUDGE: No comments. The application is granted.

29 [Videotape played]

1 MR HARRISON: That's all the Prosecution was intending to
2 play of that videotape.

3 Q. Witness, did you recognise that videotape?

4 A. I do.

11:08:42 5 Q. Is it an accurate portrayal of events on 14 March?

6 A. It is.

7 MR HARRISON: The Prosecution is applying that the entire
8 contents of the transcript and the entire contents of the
9 videotape be the next two exhibits in the voir dire.

11:09:08 10 PRESIDING JUDGE: Mr Jordash, your response?

11 MR JORDASH: No objections.

12 PRESIDING JUDGE: The transcript will be received in
13 evidence and marked exhibit?

14 MR GEORGE: U.

11:09:19 15 [Exhibit No. U was admitted on the voir dire]

16 PRESIDING JUDGE: And the videotape marked exhibit?

17 MR GEORGE: V.

18 [Exhibit No. V was admitted on the voir dire]

19 MR HARRISON: For the record's benefit, the tape itself has
11:09:36 20 writing on it, "Video for 14/03/2003," which I will give to Court
21 Management.

22 Q. Can you describe to the Court the tone of that interview?

23 A. The same as the rest. It was an easy flow between the two
24 of us.

11:10:15 25 Q. On that day, 14 March 2003, did you utter or did you hear
26 uttered any threats to Mr Sesay?

27 A. No.

28 Q. Did you utter or did you hear uttered any inducements to
29 Mr Sesay?

1 A. No.

2 Q. And, again, on the same day, did you utter, or did you hear
3 uttered any threats to Mr Sesay?

4 A. No.

11:10:44 5 Q. At the conclusion of the interview, what happened?

6 A. Mr Sesay was then transported again from the Office of the
7 Prosecutor to the helipad and back to Bonthe Island.

8 Q. I'm going to take you to 17 March 2003. Did anything
9 happen on that day?

11:11:13 10 A. Yes. Again, I was involved with an interview with Mr Sesay
11 on that date.

12 Q. And, if you can, just please tell the Court where it took
13 place and something of the nature of the interview?

14 A. Yep. Mr Sesay was transported, again, from Bonthe Island
11:11:35 15 to the Office of the Prosecutor and into room -- into trailer
16 number 4, 1A Scan Drive, Freetown, Sierra Leone. At which time,
17 again, I then went through his rights advisements with him and
18 began another interview.

19 MR HARRISON: The Prosecution has document given the number
11:12:02 20 28318 to 28319, which it asks be shown to the witness by Court
21 Management.

22 Q. Could you please look at that document and tell the Court
23 if you recognise it?

24 A. Yes, I recognise his rights advisement. It has my
11:12:33 25 handwriting again, on the top right-hand corner, with the date
26 2003-03-17 at 1137 hour, with my initial. My initials also are
27 on the front face of the document, along with the circling and
28 initials placed there by Mr Sesay. And, again, on the back of
29 the document, a "yes" circled by Mr Sesay and his initials,

1 followed by my own, and the date 2003-03-17 at 11.35 a.m., with
2 my initials.

3 MR HARRISON: The Prosecution applies that that document
4 which has the heading "Rights Advisement" be the next exhibit on
11:13:18 5 the voir dire.

6 PRESIDING JUDGE: Any objection, Mr Jordash?

7 MR JORDASH: No objections.

8 PRESIDING JUDGE: That, too, is admitted and marked
9 exhibit?

11:13:27 10 MR GEORGE: W, Your Honour.

11 [Exhibit No. W was admitted on the voir dire]

12 MR HARRISON:

13 Q. Do you know if that interview was recorded in any way?

14 A. Yes. It was audiotaped and also videotaped.

11:13:55 15 Q. And do you know if there was a transcript of that
16 interview?

17 A. Yes, there was.

18 MR HARRISON: I'm asking that Court Management pages 28978,
19 up to and including 29084, be shown to the witness.

11:14:28 20 JUDGE ITOE: Can you take the pages again, please?

21 MR HARRISON: Yes. It's 28978, up to and including 29084.

22 JUDGE ITOE: 29084?

23 MR HARRISON: Yes. I'll just double-check. The final page
24 is 29084.

11:14:57 25 JUDGE ITOE: Thank you.

26 Q. I'd ask you to look at that document and tell the Court if
27 you recognise it.

28 A. Yes. This appears to be a transcript of the interview that
29 I conducted with Mr Sesay on 17 March 2003.

1 Q. And who was present during the interview?

2 A. Just myself and Mr Sesay. There was no court reporter that
3 day.

4 Q. And can you tell the Court something about the tone and the
11:15:32 5 procedure during the interview?

6 A. Again, we just continued on where we had left off from the
7 previous interview, and continued working in regards to the
8 information that Mr Sesay had, in regards to the events that had
9 transpired during the war. The tone was neutral. I mean, there
11:15:52 10 was no problems.

11 Q. And with respect to the -- this videotape and the other
12 videotape I've shown you, have you had occasion to see them
13 before coming to court?

14 A. Yes, I've viewed various portions of them.

11:16:21 15 Q. And the videotape from 17 March that you viewed, was it an
16 accurate portrayal of the events that took place on that date?

17 A. From what I viewed, yes.

18 MR HARRISON: The Prosecution is applying that the
19 transcript, which has been handed up, become the next exhibit in
11:16:47 20 the proceeding. And, again, the Prosecution is of the view that
21 it is a more efficient use of the Court's time that this

22 particular videotape not be shown in court, but we are asking
23 that it be made an exhibit in the voir dire, should the Court
24 wish or see a need to review it at a later date. So the

11:17:15 25 application is that the transcript become the next exhibit and
26 the videotape, the one subsequent to the transcript.

27 PRESIDING JUDGE: Mr Jordash, your response?

28 MR JORDASH: No objections.

29 PRESIDING JUDGE: Right. The transcript will be admitted

1 in evidence and marked exhibit?

2 MR GEORGE: X, Your Honour.

3 [Exhibit No. X was admitted on the voir dire]

4 PRESIDING JUDGE: And the videotape marked exhibit?

11:17:34 5 MR GEORGE: Y, Your Honour.

6 [Exhibit No. Y was admitted on the voir dire]

7 MR HARRISON: For the benefit of the transcript, the
8 videotape has the words "Video for 17 March 2003" written on the
9 video.

11:18:02 10 Q. On this date, 17 March 2003, did you utter or did you hear
11 uttered any threats to Mr Sesay?

12 A. No.

13 Q. Did you utter or did you hear uttered any inducements to
14 Mr Sesay?

11:18:15 15 A. No.

16 Q. Did you utter or did you hear uttered any promises to
17 Mr Sesay?

18 A. No.

19 Q. And, at the conclusion of the interview, what happened?

11:18:25 20 A. Mr Sesay was then transported again from the Office of the
21 Prosecutor to the helipad and then flown by UN chopper down to
22 Bonthe.

23 Q. I'm going to take you to the next day, 18 March 2003, did
24 anything happen on that day?

11:18:47 25 A. Yes. Mr Sesay, again, was transported from Bonthe Island
26 to the helipad and then escorted to the Office of the Prosecutor,
27 located at 1A Scan Drive, Freetown, Sierra Leone, into trailer
28 number 4, where we again went through rights advisements and
29 continued with the interview.

1 MR HARRISON: The Prosecution has document number 28320 to
2 28321, which has the heading "Rights Advise ment," and we ask if
3 this could be shown to the witness.

4 Q. I'd ask you to look at that document and tell the Court if
11:19:46 5 you recognise it?

6 A. Yes. Again, this is a rights advise ment and I recognise my
7 handwriting on the top right-hand corner, where I've dated it
8 2003-03-18, with the time 1048 hour. My initials are on the face
9 of the document, along with those of Mr Sesay's and his circling
11:20:03 10 of the word "yes." And again on the back, similar, Mr Sesay's
11 initials, circling of "yes," my initials and the date 2003-03-18,
12 1051 hour.

13 Q. Now, what was the purpose of going through this document?

14 A. The purpose was to ensure that at any time Mr Sesay -- that
11:20:26 15 he fully understood his rights at every time that we started the
16 interview. And that if, at any time, he wished to change his
17 mind and no longer continue to be cooperative in regards to
18 wanting to voluntarily provide information in regards to what had
19 transpired, he could. If he wanted to have counsel, interpreter,
11:20:46 20 that was his choice. And I wanted to make sure that he was fully
21 aware of those choices every day.

22 MR HARRISON: The Prosecution applies to have that
23 document, Rights Advise ment, Court Management pages 28320 and
24 28321 become the next exhibit on the voir dire.

11:21:15 25 PRESIDING JUDGE: Mr Jordash, your response?

26 MR JORDASH: No objections.

27 PRESIDING JUDGE: It's admitted in evidence and marked
28 exhibit?

29 MR GEORGE: Z, Your Honour.

1 [Exhibit No. Z was admitted on the voir dire]

2 MR HARRISON:

3 Q. Do you know if -- or after the rights advisement, what
4 happened?

11:21:43 5 A. We continued with the -- the interview.

6 Q. And, in your own words, can you tell the Court something
7 about the procedure used in the interview and the tenor of the
8 interview?

9 A. The interview was a matter of following, in a chronological
11:22:09 10 order, the events that Mr Sesay was able to relate to me about
11 his knowledge of the events that had taken place. The tone
12 and -- it was one similar to what we have here, conversation, in
13 regards to those things, questions and answers.

14 Q. Do you know if that interview was recorded in any way?

11:22:35 15 A. Yes, it was; videotaped and audiotaped.

16 Q. I'm going to have shown to you a document which has Court
17 Management page numbers 29086, up to and including 29242. I
18 would ask if Court Management would be kind enough to show that
19 to you.

11:23:09 20 JUDGE ITOE: What pages again?

21 MR HARRISON: The pages are 29086, up to and including
22 29242.

23 THE WITNESS: Thank you.

24 MR HARRISON:

11:23:35 25 Q. I'd ask you to take a look at that document and tell the
26 Court if you recognise it.

27 A. Yes. It appears to be a transcript of the interview
28 conducted on 18 March 2003 between myself and Mr Sesay.

29 Q. And who was present during that interview?

1 A. Just myself and Mr Sesay. There was no court reporter, I
2 believe, that day either.

3 Q. I think you've already indicated that there was a video
4 recording.

11:24:59 5 A. That's correct.

6 MR HARRISON: The Prosecution is again asking to have
7 admitted as the next exhibits on the voir dire the transcript and
8 also the videotape. Again, the Prosecution is saying to the
9 Court that, in its view, it may be more efficient not to play the
10 video in court, but we still say it ought to be an exhibit in the
11 voir dire.

12 MR JORDASH: No objections.

13 PRESIDING JUDGE: No objection to both?

14 MR JORDASH: To both.

11:25:41 15 PRESIDING JUDGE: The transcript -- we'll now adopt,
16 Mr Courtroom Officer, the combined letter number system.

17 MR GEORGE: Yes, Your Honour.

18 PRESIDING JUDGE: And the transcript will be.

19 MR GEORGE: AA.

11:25:55 20 PRESIDING JUDGE: A1.

21 MR GEORGE: A1.

22 [Exhibit No. A1 was admitted on the voir dire]

23 PRESIDING JUDGE: And the videotape will be?

24 MR GEORGE: A2.

11:26:04 25 PRESIDING JUDGE: Right. Admitted in evidence.

26 [Exhibit No. A2A was admitted on the voir dire]

27 MR HARRISON: For the benefit of the record, the videotape
28 does have the title indicating that it is of 18 March 2003.

29 Q. On that day, 18 March 2003, did you utter or did you hear

1 uttered any threats to Mr Sesay?

2 A. No.

3 Q. Did you utter or did you hear uttered any inducements to
4 Mr Sesay?

11:26:42 5 A. No.

6 Q. Did you utter or did you hear uttered any promises to
7 Mr Sesay?

8 A. No.

9 Q. At the conclusion of the interview what happened?

11:26:59 10 A. Mr Sesay was then taken from the Office of the Prosecutor
11 to the helipad and flown back again to Bonthe Island by chopper.

12 Q. I'm now going to take you to 24 March 2003 and ask you if
13 anything happened on that day.

14 A. Yes. Mr Sesay was again brought from Bonthe Island by
11:27:36 15 helicopter to the helipad and transported to the Office of the
16 Prosecutor located at 1A Scan Drive, Freetown, Sierra Leone and
17 we resumed our interview in trailer number 4 in that compound.

18 Q. And describe for the Court what happened at the beginning
19 of the interview?

11:28:00 20 A. I again then went through the rights advisements with
21 Mr Sesay.

22 MR HARRISON: The Prosecution has document 28322 to 28323,
23 which it asks Court Management to show to the witness.

24 Q. I'd ask you to look at that document and tell the Court if
11:28:52 25 you recognise it?

26 A. Yes, Your Honours, I recognise it as a rights advisement
27 document that I read to Mr Sesay, with my initial -- with my
28 handwriting on the top right-hand corner with the date 2003-03-24
29 at 1044 hour. My initials are on the front face of the document

1 along with those of Mr Sesay's and his marking of the word "yes."
2 And again, on the rear of the document, Mr Sesay and my initials
3 are on this, along with the date 2003-03-24, 1046 hour, and my
4 signature.

11:29:34 5 MR HARRISON: The Prosecution asks that that document,
6 which has the heading "Rights Advise ment," be the next exhibit on
7 the voir dire.

8 PRESIDING JUDGE: Mr Jordash, your response?

9 MR JORDASH: No objections.

11:29:48 10 PRESIDING JUDGE: The document will be received in evidence
11 and marked exhibit?

12 MR GEORGE: A3, Your Honour.

13 [Exhibit No. A3 was admitted on the voir dire]

14 PRESIDING JUDGE: At this juncture, we'll take the usual
11:30:05 15 morning break.

16 [Break taken at 11.30 a.m.]

17 [RUF14JUN07B - MD]

18 [Upon resuming at 12.09 p.m.]

19 PRESIDING JUDGE: The Prosecution will continue.

12:11:46 20 MR HARRISON: I made a mistake with respect to Exhibit A2,
21 which is the video from 18 March 2003. I reached back and picked
22 up the wrong cassette, and I would like to correct that.

23 Mr George has kindly returned to me the mistaken cassette. But I
24 have, which I'd like to submit to the Court, the correct video,
12:12:15 25 and it's dated 18 March 2003 and this actually has to go under
26 two separate cassettes. They're labelled as V0000013, which
27 would be the first part of the interview and then the second one
28 has the number 14.

29 PRESIDING JUDGE: Let's rectify it. Mr Courtroom Officer,

1 how will you redesignate those exhibits? If we now have a
2 composite exhibit.

3 MR GEORGE: A2; A and B, Your Honour.

4 PRESIDING JUDGE: A2; A and B. That's better.

12:13:03 5 MR GEORGE: Yes, sir.

6 [Exhibit No. A2B was admitted on the voir dire]

7 MR HARRISON:

8 Q. Mr Witness, we had got up to the rights advisement on 24
9 March 2003. And I will just follow on asking a few more

12:13:30 10 questions about that. After the rights advisement on 24 March,
11 what happened?

12 A. The interview continued with Mr Sesay.

13 Q. And was that interview recorded in any way?

14 A. Yes. It was audiotaped and videotaped.

12:13:48 15 Q. And do you know if a transcript was made of that interview?

16 A. Yes, I believe there was.

17 MR HARRISON: Now, I have Court Management numbered
18 document from 29244 up to and including 29297, which I would ask
19 be shown to the witness.

12:14:13 20 THE WITNESS: Thank you.

21 MR HARRISON:

22 Q. Would you please look at that document and tell the Court
23 if you recognise it?

24 A. Yes. That appears to be a copy of the interview taken on
12:14:46 25 March 24, 2003 between myself and Mr Sesay.

26 Q. And tell the Court about the tone and the procedure of that
27 interview?

28 A. The tone and procedure was the same as every other day:
29 Question and answer. Everything went along fine.

1 Q. Now, I'd ask you to turn to what is page 29268?

2 A. Yes.

3 Q. And do you see, at the top of 29268 there's a notation:

4 "MR BERRY: Okay, it's 11.55 a.m. and I'm just going to
12:15:45 5 take a short break here for a minute. Okay? I'll turn
6 everything off."

7 A. Yes.

8 Q. And then there is a recording on the transcript: "Break
9 taken at 11.55 a.m.," and then, "On resuming at 1.34 p.m." Do
12:16:01 10 you see that?

11 A. I do.

12 Q. I'm going to draw your attention to the following five
13 lines. It says:

14 "MR BERRY: Okay. The microphone got turned off on us
12:16:12 15 there, so let me just go back over this real quickly. It's
16 now 1334, 1.34 p.m., on 24 March 2003. We're back after
17 having a break. Issa saw a Defence counsel from the
18 Registry, had his lunch, cigarettes and so forth, and now
19 we're back."

12:16:36 20 Do you recall anything about that?

21 A. Yes. During the lunch-hour break on that particular day,
22 the same female Gambian lawyer from the Defence arrived and had a
23 private meeting with Mr Sesay in trailer number 4.

24 Q. When you say "a private meeting," what do you mean by that?

12:16:59 25 A. Mr Sesay was inside number 4, container number 4. The
26 female Defence lawyer also entered the same container. There was
27 nobody else in the room and they -- so that they could have a
28 private conversation. I left the room. I was outside.

29 Q. Are you able to say how long the Defence lawyer was in the

1 room with Mr Sesay?

2 A. Not exactly, no.

3 Q. Did anything else happen on that day?

4 A. Just prior to her concluding her time, the door opened. I
12:17:44 5 was the only one at the time standing on the porchway and I was
6 asked if I could witness a document. Signature.

7 MR HARRISON: I have a document, which has Court Management
8 number 29648, which simply has the words "Annex B" written on it.
9 And then 29649, which I would ask Court Management to show to the
12:18:16 10 witness. If the Court is looking for this document, it was in
11 the first bundle prepared by Mr Jordash and his colleagues for
12 last week.

13 JUDGE BOUTET: You mean in the voir dire, Mr Harrison?

14 MR HARRISON: No, this was from last week.

12:19:02 15 JUDGE BOUTET: Yes, but last week we were in the voir dire.

16 MR HARRISON: No, no. The voir dire started on --

17 JUDGE BOUTET: Last week.

18 JUDGE ITOE: We were having arguments on this, submissions
19 on this, I think.

12:19:20 20 MR HARRISON: All right. At any rate, the first -- I am
21 just trying to find out what colour this binder is.

22 JUDGE BOUTET: This is green, what you have.

23 MR HARRISON: I think Mr Jordash passed up a bundle and
24 mine ended up in a green binder. And I'm just wondering if all
12:19:38 25 of Mr Jordash's documents ended up in a green binder. It was the
26 first bundle, I think, handed up by Mr Jordash.

27 MR JORDASH: Sorry, I think the page is 29649. I've just
28 noticed that. Sorry.

29 PRESIDING JUDGE: Yes, it's 29649.

1 MR HARRISON:

2 Q. If you would take a look at that document and tell the
3 Court if you recognise it?

4 A. I recognise the document with my signature on it here as
12:20:29 5 witness, at the bottom right-hand corner, John Berry. My
6 signature, the date 2003-03-24, 0115 p.m..

7 Q. What can you tell the Court about that document? How did
8 it come into existence?

9 A. How it came into existence, I can't tell you, other than
12:20:52 10 that I was asked to witness the signatures of Mr Sesay on this
11 document.

12 Q. Tell the Court what it is that happened?

13 A. I was on the outside. I was asked by the female lawyer if
14 I would come in and sign the document as a witness.

12:21:08 15 Q. When you say "come in," you say you were outside and then
16 come in?

17 A. Yes, sorry.

18 Q. Give an indication of where you were situated?

19 A. Okay. As I stated earlier, there was a row of containers
12:21:22 20 that were all interjoined together with front doors on each of
21 them with a wooden platform at the very front. I was outside on
22 the wooden platform when the door to container number 4 opened
23 and I was asked if I could assist in being a witness to the
24 document. So I entered the container and witnessed the document.

12:21:47 25 Q. And before entering the container --

26 JUDGE ITOE: You were asked to assist; who asked you to
27 assist?

28 THE WITNESS: I don't know the lady's name, Your Honour.

29 It was the female Gambian Defence counsel who had also been there

1 on 13 March. It was the same lady.

2 MR HARRISON:

3 Q. But what was it you were told to participate in?

4 A. Just the witnessing of the signature.

12:22:16 5 Q. And did you know what the document was before going into
6 the room?

7 A. No.

8 Q. And what happened upon entering the room?

9 A. To the best of my recollection, I reviewed the document and
12:22:42 10 witnessed Mr Sesay's signature and returned the document, or left
11 the document on the table for the lady, and then I departed.

12 JUDGE BOUTET: You departed or she departed?

13 THE WITNESS: I departed.

14 JUDGE BOUTET: You departed?

12:22:56 15 THE WITNESS: Yes.

16 JUDGE BOUTET: Can you go over again, Mr Berry. You said
17 when you came into this -- the container, you read the document?

18 THE WITNESS: Well, Your Honour, the document was asked --
19 I was asked if I could witness --

12:23:16 20 JUDGE BOUTET: Yes.

21 THE WITNESS: -- Mr Sesay's signature on it. So I -- the
22 document was there. I looked at the document before signing it
23 and then signed my name as witness to the bottom for a signature.

24 JUDGE BOUTET: Sorry. It was already signed by Mr Sesay or
12:23:33 25 was it done in your presence? I mean --

26 THE WITNESS: Well, I don't believe it was done in my
27 presence. I don't exactly recall that. I'm looking at the times
28 on the document at the moment. Mr Sesay's time period is 1.07
29 and I've noted my time at 1.15. So I have to say, yes, it was

1 already signed.

2 JUDGE BOUTET: Thank you.

3 MR HARRISON:

12:24:02

4 Q. And just to try to be clear on this, when you walked into
5 the room, what is going on?

6 A. To the best of my recollection, Mr Sesay was seated and the
7 female lady was standing by the table, indicating where the
8 document was. Other than that, I don't particularly recall any
9 significant event around it.

12:24:42

10 Q. And you indicated that you departed the room?

11 A. I went back outside of the container until she was
12 finished. I wasn't sure whether she had anything further to say
13 and I didn't want to be intrusive on her privacy.

14 Q. And did you have any further dealings with that document?

12:25:16

15 A. No.

16 MR HARRISON: The Prosecution applies that that document
17 become the next exhibit on the voir dire. And, again, the Court
18 Management numbers attributed are 29267 and 29268.

19 PRESIDING JUDGE: Mr Jordash, what's your response to this?

12:25:42

20 MR JORDASH: No objection.

21 PRESIDING JUDGE: That document is received in evidence and
22 marked exhibit?

23 MR GEORGE: A4.

24 [Exhibit No. A4 was admitted on the voir dire]

12:26:06

25 MR HARRISON:

26 Q. You've already told us that there was a recording of that
27 interview, and the Prosecution is asking that the first seven to
28 ten minutes of that interview be played. And I'm asking for
29 Court Management's assistance to do so.

1 [Videotape played]

2 MR HARRISON: That was all that the Prosecution was going
3 to play.

12:36:10 4 Q. Having -- or have you had occasion to review that
5 videotape?

6 A. Portions, yes.

7 Q. And was it an accurate depiction of the interview that took
8 place?

9 A. Yes.

12:36:19 10 Q. And have you had an opportunity to review the transcript
11 from 24 March 2003?

12 A. Yes.

13 Q. And is this an accurate recording of the interview that
14 took place?

12:36:33 15 A. Yes.

16 Q. Having viewed that portion of the videotape, can you say
17 anything about the tone and procedure that existed there, in
18 comparison to any other interview that took place with Mr Sesay?

12:37:06 19 A. The tone with Mr Sesay was, as seen on the video, was
20 question, answer. It was put to him -- I wanted to ensure the
21 credibility issue, and I wanted to ensure that he understood that
22 what he was saying was -- had to be the truth. And that's why we
23 covered that area in regards to being truthful and the fact that
24 whatever he had to say could be questioned by others, and we had
12:37:32 25 to make sure that what he was saying was, in fact, the truth.

26 Q. And as far as the tone adopted in the video that we just
27 watched, can you compare it in any way with all of the other
28 interviews that you were involved in with Mr Sesay?

29 A. It was very similar to the rest of the interviews.

1 Probably a little bit more pointed in regards to wanting to
2 ensure the truth and so more emphasis put on, maybe, some words.
3 But very similar to the previous ones.

12:38:24 4 MR HARRISON: The Prosecution applies that the transcript
5 from 24 March 2003 become the next exhibit and that the exhibit
6 subsequent to that be the entire video from 24 March 2003.

7 PRESIDING JUDGE: What is your response, Mr Jordash?

8 MR JORDASH: No objection to both.

9 PRESIDING JUDGE: Yes. The transcript is received in
12:38:49 10 evidence and marked exhibit?

11 MR GEORGE: A5, Your Honour.

12 [Exhibit No. A5 was admitted on the voir dire]

13 PRESIDING JUDGE: And the videotape is marked A6.

14 MR GEORGE: Yes.

12:39:04 15 [Exhibit No. A6A was admitted on the voir dire]

16 MR HARRISON: I should just say that the video is, once
17 again, on two separate disks, and they can be distinguished, in
18 that they're both labelled 24/03/2003 but one is V0000015 and the
19 other one is 16.

12:39:26 20 PRESIDING JUDGE: Mr Courtroom Officer, will you
21 redesignate that appropriately?

22 MR GEORGE: Yes, sir.

23 PRESIDING JUDGE: A6.

24 MR GEORGE: A6; A and B.

12:39:43 25 PRESIDING JUDGE: Yes.

26 [Exhibit No. A6B was admitted on the voir dire]

27 MR HARRISON:

28 Q. And let me ask you a couple more -- maybe I'll put these
29 globally so that we won't have to deal with them. At any point

1 in time in any of your interviews with Mr Sesay, did you utter or
2 did you hear uttered any threats to Mr Sesay?

3 A. No.

4 Q. Did you utter or did you hear uttered any inducements to
12:40:17 5 Mr Sesay, at any time, during any of the interviews in which you
6 were involved?

7 A. No.

8 Q. And, at any time, did you utter or did you hear uttered any
9 promises to Mr Sesay in any of the interviews in which you were
12:40:34 10 involved?

11 A. No.

12 Q. In the past, I've asked those questions always in the
13 context of interviews, but I'm going to ask you a further
14 question: Regardless of whether it's a formal interview that's
12:40:55 15 being recorded, or not, was there any point in time when you
16 yourself uttered or heard someone say to Mr Sesay anything that
17 was a threat?

18 A. Not that I recall, Your Honour.

19 Q. And the same question with respect to inducements: Is
12:41:19 20 there any point in time, from March 10, 2003, to April 15, 2003
21 that you uttered or hear uttered an inducement to Mr Sesay?

22 A. No, Your Honour.

23 Q. And, during that same period, is there any point in time
24 when you hear uttered or utter yourself a promise to Mr Sesay?

12:41:44 25 A. No, Your Honour.

26 JUDGE ITOE: You give a time frame, Mr Harrison? You say
27 on March 10 to?

28 MR HARRISON: April 15, 2003.

29 Q. At the conclusion of that interview on 24 March 2003, what

1 happens?

2 A. Mr Sesay is again transported from the Office of the
3 Prosecutor to the helipad and then flown back to Bonthe Island.

12:42:29 4 Q. Now, I'm going to take you to 31 March 2003. Did anything
5 happen on 31 March?

6 A. Yes. Mr Sesay was again returned from Bonthe Island to the
7 Office of the Prosecutor at 1A Scan Drive, in Freetown, Sierra
8 Leone, and again an interview was conducted with him in trailer
9 unit number 4.

12:42:49 10 Q. And did anything happen at the beginning of that interview?

11 A. Yes. Again, his rights advisements were again gone over
12 with him by myself.

13 Q. I'm going to have shown to you a document which has Court
14 Management pages 28324 to 28325. Please take a look at that
12:43:32 15 document and tell the Court if you recognise it?

16 A. Yes, Your Honours, I do recognise the document as a rights
17 advisement, with my handwriting on the right top right-hand
18 corner, depicting the date 2003-03-31 at 10.02 a.m., my initials,
19 my initials and those of Mr Sesay on the front face. And the
12:43:52 20 rear face, along with my signature and date of 2003-03-31, at
21 10.07 a.m..

22 Q. And what happened after that rights advisement was
23 completed?

24 A. We proceeded into continuing with the interview.

12:44:20 25 Q. And did anything happen during the course of that
26 interview?

27 A. During the course of the interview itself, continuing where
28 we had left off and clarifying and trying to again deal with
29 issues of credibility and making sure that he understood.

1 Q. And was that interview recorded in any way?

2 A. Yes, it was; audiotaped and videotaped.

3 Q. And was a transcript ever prepared of that interview?

4 A. Yes, there was.

12:45:06 5 Q. I'm going to have passed to you a document which has Court
6 Management pages 29299, up to and including 29385. If you could
7 look at that and tell the Court if you recognise it?

8 A. Yes. This appears to be a copy of the transcript taken
9 from 31 March 2003.

12:46:18 10 Q. And can you just describe the process of the interview and
11 the tone of the interview on that day?

12 A. The process, the same as the other days. We would continue
13 on with the -- further questioning with regards to what Mr Sesay
14 had to tell me in regards the events that had transpired during

12:46:44 15 the war.

16 Q. And were there any -- if you were to turn to page 29348 of
17 that document, and you will see that there was a break taken at
18 11.56 and then a resumption at 12.17?

19 A. Yes.

12:47:33 20 Q. And then you've mentioned there that -- there's a question:
21 "Issa, you mentioned just before we turned the tape on,
22 when I walked in you were saying something in regards of
23 the way promotions kind of what happened within the RUF.
24 Do you want to repeat that for us?"

12:47:52 25 Are you able to say what it was that took place at that
26 time?

27 A. Prior to my walking in?

28 Q. Yes.

29 A. Yes. I had gone to get matches so he could have a

1 cigarette and, if my memory serves me correct, I believe that
2 while I was gone, Mr Morissette sat in with Issa in order to keep
3 him company while I was away. And then I returned with the
4 matches and we began.

12:48:34 5 Q. And just describe how that sort of break would have taken
6 place in the course of the interviews. Was that a regular
7 occurrence or --

8 A. Well, given the time, I would normally check, anyway, with
9 regards to lunch for Mr Sesay. It was -- it was common to take a
12:48:59 10 break around the lunch hour, as the food was being prepared on
11 site, and you had to put the order in. That was a common
12 practice. If the tape had to be checked or changed, there would
13 be breaks taken, and they were mentioned on the tape what they
14 were for.

12:49:27 15 Q. During the course of the interview on that day, were there
16 any other interruptions?

17 A. Not that I can recall, really, at this time, no.

18 MR HARRISON: And the Prosecution is asking that the
19 transcript and the video, which we have not played, be the next
12:50:14 20 exhibit on the voir dire.

21 PRESIDING JUDGE: Mr Jordash, your response to both?

22 MR JORDASH: No objection, Your Honour.

23 PRESIDING JUDGE: The transcript will be admitted in
24 evidence and marked exhibit?

12:50:29 25 MR GEORGE: A7, Your Honour.

26 [Exhibit No. A7 was admitted on the voir dire]

27 PRESIDING JUDGE: And the videotape marked exhibit?

28 MR GEORGE: A8.

29 [Exhibit No. A8A was admitted on the voir dire]

1 MR HARRISON:

2 Q. And at the -- sorry. Again, this is, unfortunately, two
3 cassettes. They are both labelled 31 March 2003, but one has the
4 identifying number of 17. The other is 18.

12:51:11 5 PRESIDING JUDGE: Remark the video.

6 MR GEORGE: A8; A and B.

7 [Exhibit No. B8B was admitted on the voir dire]

8 PRESIDING JUDGE: Yes. You have in your hand a third
9 document, yes?

12:51:22 10 MR GEORGE: It's not an exhibit, Your Honour.

11 PRESIDING JUDGE: Not tendered. It's the rights
12 advisement.

13 MR GEORGE: Yes.

14 MR HARRISON: Sorry, I take it I overlooked having it

12:51:31 15 marked.

16 PRESIDING JUDGE: Did you want to tender that too?

17 MR HARRISON: Yes. Perhaps, if the Court doesn't mind,
18 just to be consistent with the practice we've followed, if the
19 rights advisement could be indicated or numbered A7, then the
12:51:44 20 transcript, A8 and then the video A9A and A9B.

21 PRESIDING JUDGE: I think we will stay with --

22 JUDGE ITOE: That disturbs the record. It disturbs the
23 record.

24 PRESIDING JUDGE: We don't want to do that. It's the order
12:51:57 25 in which they are received. Let me ask Mr Jordash. Any
26 objection to the rights advisement being tendered?

27 MR JORDASH: No objection.

28 PRESIDING JUDGE: We will just keep the same sequence, the
29 numbering. So, Mr Courtroom Officer?

1 MR GEORGE: Yes.

2 PRESIDING JUDGE: The right advisement marked Exhibit?

3 MR GEORGE: A9.

4 PRESIDING JUDGE: A9.

12:52:21 5 [Exhibit No. A9 was admitted on the voir dire]

6 PRESIDING JUDGE: Let's proceed, Mr Harrison.

7 MR HARRISON:

8 Q. And at the conclusion of the interview do you know what
9 happened?

12:52:31 10 A. At the conclusion of the interview Mr Sesay was then
11 transported again from the Office of the Prosecutor through the
12 helipad to the helipad and then on to Bonthe Island.

13 Q. Now, I'm going to move forward to 14 April 2003. Did
14 anything happen on that day?

12:52:49 15 A. Yes. Again Mr Sesay was taken from Bonthe Island,
16 transported by helicopter to Freetown, and then transported to
17 the Office of the Prosecutor located at 1A Scan Drive, Freetown,
18 Sierra Leone.

19 JUDGE ITOE: Mr Harrison, the last date was 31 March?

12:53:05 20 MR HARRISON: That's correct.

21 JUDGE ITOE: Yes. The other date was?

22 MR HARRISON: Yes, sorry, and the one I just referred to
23 was 14 April.

24 JUDGE ITOE: This is 14 April?

12:53:15 25 MR HARRISON: Yes.

26 JUDGE ITOE: There was no interview in the meantime?

27 MR HARRISON: I was just going to ask that question.

28 Q. Between 31 March 2003, and 14 April 2003, do you have any
29 contact with Mr Sesay?

1 A. No, I do not.

2 Q. Do you know if anyone from the Office of the Prosecutor had
3 contact with him?

4 A. Not that I'm aware of.

12:53:40 5 Q. So, you'd indicated there was an interview on 14 April.

6 Can you just describe for the Court again the location of the
7 interview and who was present?

8 A. Yes. The location of the interview would have been again
9 on the site of the Office of the Prosecutor, in the container

12:54:01 10 number 4, which is located in the rear of the compound and there

11 was myself, Mr Sesay and I believe a court reporter Nancy
12 Grindley, I believe was there then.

13 Q. And at the beginning of the interview, did anything take
14 place?

12:54:18 15 A. Yes. I again went over the rights advisements with

16 Mr Sesay.

17 MR HARRISON: I would ask if the document which has Court
18 Management numbers 28326 to 28327 be given to the witness.

19 Q. Will you please look at that document and tell the Court if
12:54:59 20 you recognise it?

21 A. Yes, Your Honour. Again, it's a rights advisement and I
22 recognise my handwriting in the top right-hand corner, dating
23 2003-04-14 at 1029 hours and my initials and, on the rear, my
24 initials and those of Mr Sesay along with my signature and date
12:55:24 25 of 2003-04-14 at 1033 hours.

26 Q. And was this interview recorded in any way?

27 A. Yes. This interview was also audiotaped and videotaped.

28 MR HARRISON: I will ask that the rights advisement that
29 has just been referred to which -- yes, I will ask if the rights

1 advisement that's just been referred to could become the next
2 exhibit on the voir dire.

3 PRESIDING JUDGE: Mr Jordash, your response?

4 MR JORDASH: No objections.

12:56:28 5 PRESIDING JUDGE: Right. Admitted in evidence and marked
6 Exhibit?

7 MR GEORGE: A10, Your Honour.

8 PRESIDING JUDGE: Say that again?

9 MR GEORGE: A10, Your Honour.

12:56:36 10 PRESIDING JUDGE: A10?

11 MR GEORGE: Yes, sir.

12 [Exhibit No. A10 was admitted on the voir dire]

13 MR HARRISON: And the Prosecution would like to have shown
14 to the witness a document which has Court Management number 29388
12:56:53 15 up to and including 29524.

16 Q. Would you please look at that document and tell the Court
17 if you recognise it?

18 A. Yes, Your Honours. This appears to be a transcript of the
19 interview that I conducted with Mr Sesay on 14 April 2003.

12:57:39 20 Q. And I think you've already indicated that there was a video
21 recording of that date?

22 A. That's correct.

23 MR HARRISON: The Prosecution has about five minutes of
24 that videotape it would like to play and was wondering if the
12:57:51 25 Court would allow us to do that now and we can then indicate that
26 there's approximately 20 to 30 minutes left of questions.

27 PRESIDING JUDGE: Yes. Let's proceed with the videotape.

28 MR HARRISON: So if I could indicate to the audio/visual
29 staff that we are wishing to play a videotape, once again.

1 [Videotape played]

2 MR HARRISON: That was all the Prosecution intended to play
3 of the videotape.

4 Q. Was that videotape an accurate portrayal of the events
13:03:40 5 during that interview?

6 A. Yes, they were.

7 Q. And is the transcript that you looked at an accurate copy
8 of what took place during the interview?

9 A. It appears to be.

13:03:53 10 MR HARRISON: The Prosecution is asking that the transcript
11 become the next exhibit and that the video for 14 April 2003
12 become the exhibit subsequent to that but I should indicate that
13 the video for that day is actually on three separate cassettes;
14 one labelled as 19A, then 20, then 21 and the timing is
13:04:22 15 consistent with the numbering, 19A being the beginning of the
16 interview.

17 PRESIDING JUDGE: Mr Jordash, your response to the two --

18 MR JORDASH: No objection.

19 PRESIDING JUDGE: Right. We'll receive the transcript as
13:04:36 20 Exhibit?

21 MR GEORGE: A11, Your Honour.

22 PRESIDING JUDGE: And the videotape as Exhibit?

23 MR GEORGE: A12A, B and C, Your Honour.

24 PRESIDING JUDGE: Thank you, yes.

13:04:48 25 [Exhibit No. A11 was admitted on the voir dire]

26 [Exhibit No. A12 was admitted on the voir dire]

27 PRESIDING JUDGE: We will recess for lunch and resume at
28 2.30 p.m.

29 MR HARRISON: I am sorry, I made another mistake. My

1 colleague has actually managed to put everything onto one
2 cassette.

3 PRESIDING JUDGE: You mean the last one that we just --

4 MR HARRISON: Yes. So Exhibit 12 is simply Exhibit 12. It
13:05:12 5 need not be A, B and C.

6 PRESIDING JUDGE: Right. We will redesignate it,
7 Mr Courtroom Officer. Are you right? Have you done that,
8 Mr Courtroom Officer?

9 MR GEORGE: Yes, sir.

13:05:46 10 PRESIDING JUDGE: We will recess for lunch and we'll resume
11 at 2.30 p.m.

12 [Luncheon recess taken at 1.05 p.m.]

13 [RUF14JUN07C - MC]

14 [Upon resuming at 2.50 p.m.]

14:49:26 15 PRESIDING JUDGE: The Prosecution will continue, please.

16 MR HARRISON: I'd ask if Court Management could give
17 Exhibit E on the voir dire to the witness. E, as in echo.

18 Q. Could you please look at that document and tell the Court
19 if you recognise it?

14:50:36 20 A. Yes, Your Honours. This is a specific rights advisement
21 document that was read to Mr Issa Sesay by Gilbert Morissette on
22 14 April 2003, which I witnessed.

23 Q. When you say you witnessed, do you mean you were present?

24 A. That's correct.

14:51:05 25 Q. And what was the purpose of producing this specific rights
26 advisement?

27 A. That was my understanding, that it was a result of a letter
28 received by the Prosecutor by Mr John Jones the Defence adviser
29 and duty counsel at the time. I had no knowledge of the document

1 until Mr Morissette showed up at the interview room.

2 Q. And we're still at 14 April 2003. Tell the Court what
3 happened at the conclusion of the interview?

4 A. At the conclusion of the interview, Mr Morissette attended
14:52:01 5 to the interview room, at which time he had the specific rights
6 advisement document with him, and explained to Mr Sesay that they
7 had received -- the Prosecutor had received a letter from Mr John
8 Jones. As a result of that letter, the Prosecutor wanted to
9 clarify a number of things with Mr Sesay. So this specific
14:52:30 10 rights advisement had been completed and Mr Morissette had been
11 asked to go through it with Mr Sesay.

12 Q. And after having gone through it, what happened?

13 A. After having gone through it, my recollection, the
14 interview concluded for the day and Mr Sesay was transferred back
14:52:58 15 to Bonthe Island.

16 Q. I'm going to take you forward to 15 April 2003. Did
17 anything happen on that day?

18 A. Yes. Mr Sesay again was returned from Bonthe Island to the
19 Office of the Prosecutor at number 1A Scan Drive, in Freetown
14:53:28 20 Sierra Leone. Where, again, he was brought down to trailer
21 number 4 at the OTP compound.

22 Q. And what happened after he was brought down to the trailer
23 in the compound?

24 A. To my recollection, Mr Morissette reattended and wanted to
14:53:48 25 clarify particularly, I believe it was item 7 and 8, with
26 Mr Sesay, to go over that again.

27 Q. And do you know if there was a recording of that session?

28 A. Yes, there was. It was also audiotaped and videotaped as
29 well.

1 Q. And do you know if a transcript was prepared?

2 A. I believe there was.

3 MR HARRISON: I'd ask if the audio/visual section could
4 assist us once again. And just before they make that possible,
14:54:43 5 if I could have Court Management give to Mr Berry two separate
6 documents. One is numbered 28331 to 28332 and the second has
7 Court Management numbering 29526 up to and including 29613.

8 And if Court Management has made it possible to play the
9 videotape, we would be grateful.

14:55:56 10 PRESIDING JUDGE: Mr Jordash, I take it you have no
11 objection?

12 MR JORDASH: None.

13 PRESIDING JUDGE: Let's proceed.

14 [Videotape played]

15:08:53 15 MR HARRISON:

16 Q. Upon viewing that videotape, do you recall if that's an
17 accurate depiction of what took place during the interview on 15
18 April 2003?

19 A. Yes.

15:09:12 20 Q. Now, the first document that I had had handed up to you,
21 the smaller document, the two-page document, which I think is
22 2833, sorry, 331; is that right?

23 A. Yes.

24 Q. Do you recognise that document?

15:09:37 25 A. Yes. It's a rights advisement document and I recognise my
26 handwriting on the top right-hand corner dated 2003-04-15, 0935
27 hour, and also my initials and those of Mr Sesay's on the front.
28 And on the second page, also my signature on the bottom dated
29 2003-04-15.

1 MR HARRISON: The Prosecution would ask that that rights
2 advisement be the next exhibit on the voir dire.

3 PRESIDING JUDGE: Any objection, Mr Jordash?

4 MR JORDASH: No.

15:10:15 5 PRESIDING JUDGE: Mr Courtroom Officer, receive it in
6 evidence and mark it Exhibit?

7 MR GEORGE: A13.

8 PRESIDING JUDGE: 13.

9 MR GEORGE: Yes, Your Honour.

15:10:26 10 [Exhibit No. A13 was admitted on the voir dire]

11 MR HARRISON:

12 Q. You also have in front of you a copy of a transcript with
13 page numbers 29526 to 29613. Have you had a chance to view that
14 document before coming to court?

15:10:44 15 A. Yes.

16 Q. And are you able to say if that document is an accurate
17 transcript of the events that took place during the interview on
18 15 April 2003?

19 A. It appears to be, yes.

15:11:00 20 MR HARRISON: I'd ask if the transcript could be marked as
21 the next exhibit on the voir dire.

22 PRESIDING JUDGE: Any objection?

23 MR JORDASH: No objection.

24 PRESIDING JUDGE: The document is admitted in evidence and
15:11:15 25 marked Exhibit?

26 MR GEORGE: A14, Your Honour.

27 PRESIDING JUDGE: A14?

28 MR GEORGE: Yes.

29 PRESIDING JUDGE: Thanks.

1 [Exhibit No. A14 was admitted on the voir dire]

2 MR HARRISON: I apologise to the Courtroom Officer for
3 making him get up so many times today. I have --

4 JUDGE ITOE: It is part of the process. You are being very
15:11:47 5 kind, indeed.

6 MR HARRISON: I have one final document which the
7 Prosecution is applying to have admitted as an exhibit on the
8 voir dire, and that is the video recording, a portion of which we
9 just watched, dated 15 April 2003, and I'm asking that the entire
15:12:03 10 video from that day constitute the exhibit on the voir dire.

11 PRESIDING JUDGE: Response, Mr Jordash?

12 MR JORDASH: No objection.

13 PRESIDING JUDGE: Admitted in evidence and marked Exhibit?

14 MR GEORGE: A15, Your Honour.

15:12:21 15 [Exhibit No. A15 was admitted on the voir dire]

16 MR HARRISON: If I could just ask the Learned Chamber's
17 officer, whilst he is on his feet, if he could show to the
18 witness Exhibit G on the voir dire.

19 Q. I'd ask you to look at Exhibit G and tell the Court if you
15:13:22 20 recognise the document?

21 A. Yes, Your Honour, I do recognise it. It has my signature
22 on the bottom dated 2003-04-15, 0958 hour.

23 Q. And what is the document?

24 A. Titled "Precision on questions 7 and 8."

15:13:49 25 Q. And was that the document of which we saw some activity
26 during the video we just watched?

27 A. Yes.

28 Q. Now, finally, with respect to this last interview, can you
29 describe to the Court what was the tone and the procedure

1 adopted?

2 A. Once the clarifications have been completed by
3 Mr Morissette, and he left the room, myself and Mr Sesay
4 continued on in regards to the normal course of business of
15:14:28 5 dealing with the information that he had on the events during the
6 war.

7 Q. And can you say something about the tone adopted during the
8 interview?

9 A. The tone was friendly. There was no arguments that I
15:14:52 10 recall. Nothing any different to any other interview that we had
11 conducted on previous days.

12 Q. And I just have two or three questions left for you on an
13 unrelated topic. You've mentioned Bonthe Island; can you tell
14 the Court anything about the physical aspects of the detention
15:15:20 15 facility at Bonthe Island?

16 A. I did attend down there but it was much later after this
17 period of time. I can relate that what I know of it from there.

18 Q. Yes, please.

19 A. Okay. It was a rectangular-shaped building with a centre
15:15:43 20 open, as in a square. And, from what I recall being described to
21 me for viewing in is that there was cell blocks off of that inner
22 court area. And that's -- I never went inside itself, just into
23 the security area, met with some of the security people there and
24 left.

15:16:15 25 Q. Do you know if there was any --

26 JUDGE ITOE: Did you not inspect the inside of the cells,
27 as such?

28 THE WITNESS: No, Your Honour, I didn't.

29 JUDGE ITOE: You didn't?

1 THE WITNESS: No. I was down there for -- on other
2 reasons, stopped by to say hello to the other people from the
3 Court that were working there.

4 JUDGE ITOE: I see.

15:16:29 5 MR HARRISON:

6 Q. Do you know if there was power there?

7 A. I believe there was a generator.

8 MR HARRISON: That concludes the questions on the voir
9 dire.

15:16:43 10 PRESIDING JUDGE: Mr Jordash, please commence your
11 cross-examination of this witness.

12 MR JORDASH: Thank you.

13 PRESIDING JUDGE: There's still an exhibit in front of the
14 witness.

15:16:59 15 CROSS-EXAMINED BY MR JORDASH:

16 MR JORDASH:

17 Q. Did you -- have you ever owned a notebook, Mr Berry?

18 A. Yes, I have.

19 Q. Have you ever used a notebook during your professional
15:17:25 20 investigative duties?

21 A. Yes, I have.

22 Q. Can you explain why you've used a notebook before?

23 A. To record times and dates and specific things to trigger
24 memory in regards to events.

15:17:44 25 Q. Have you ever used a notebook to refresh your memory in a
26 courtroom before?

27 A. Yes, I have.

28 Q. Have you ever used a notebook in a courtroom before to
29 assist you in ensuring that your evidence is as accurate as it

1 can be?

2 A. I'd have to say yes.

3 Q. Have you ever used a notebook in a courtroom before to
4 defend allegations against your investigation that the
15:18:22 5 investigation lacked integrity?

6 A. No.

7 Q. You've never used a notebook for that purpose?

8 A. For that purpose that you're saying, no, I have not.

9 Q. You've never recorded in a notebook the chief aspects or
15:18:39 10 sensitive aspects of an investigation which you've used to
11 counteract any Defence suggestions of improper play?

12 A. I suppose that would be a similar answer to the question
13 beforehand, that I have referred to my notes to refresh my memory
14 to the events that may have occurred.

15:19:07 15 Q. Do you know anything about the Institute for International
16 Criminal Investigations?

17 A. No.

18 Q. Have you ever used a notebook to help you establish the
19 chain of custody of evidence?

15:19:30 20 A. Yes.

21 Q. Do you consider that a notebook, and notes within, are
22 sometimes important to ensure the competency of an investigation?

23 A. They can be.

24 Q. Do you accept that contemporaneous notes would support any
15:20:07 25 oral account in court?

26 A. Are you referring to notes made at the time?

27 Q. Or soon thereafter?

28 A. Yes, they could.

29 Q. Did you keep any notes in relation to this investigation?

1 A. None that I have anymore, no.

2 Q. What does that mean?

3 A. When I was here for that one-year period, there was no
4 requirement to turn notes in to anybody and, when I left, I

15:20:41 5 didn't take the notes with me. I have no idea where they were
6 now.

7 Q. So you did take some notes in relation to this
8 investigation?

9 A. I'm sure that I would have jotted down times of where I was
15:20:52 10 at at various periods of time, yes.

11 JUDGE ITOE: Are you saying you're sure or you really did?

12 THE WITNESS: I did, Your Honour.

13 JUDGE ITOE: You did?

14 THE WITNESS: I did.

15:21:04 15 MR JORDASH:

16 Q. Did you keep them in a single notebook or in a number of
17 notebooks or loose pieces of paper; or what was the situation?

18 A. It would have been a single notebook.

19 Q. And what would you have done with that single notebook when
15:21:17 20 you left?

21 A. When I left I thought I was departing probably for the
22 duration. I would have either -- and I don't know where it is so
23 I can't tell you whether I took it with me or whether I left it
24 here at the work site.

15:21:36 25 Q. Well, just try to assist, if you can. Presumably when you
26 left you had no intention of coming back at that point?

27 A. That's correct.

28 Q. And so, presumably, you wouldn't be removing pieces of
29 evidence or supporting evidence from the Special Court, would

1 you?

2 A. Could you clarify that again for me, please?

3 Q. Well, why would you have taken your notes with you?

4 A. They were my notes.

15:22:03 5 Q. Well, they're not your notes as such. They're notes of an
6 investigation, aren't they, or weren't they? Are you suggesting
7 you took them back to Canada?

8 A. It's a possibility. I'd have to go through my material at
9 home. I can't tell you.

15:22:24 10 Q. But do the Prosecution not have storerooms or store
11 cupboards for such things as notes to be kept in?

12 A. No. We have never taken the notebooks of any of the
13 investigators that are here, that I am aware of.

14 Q. There is no central storeroom for notes?

15:22:42 15 A. None that I am aware of, other than the electronic
16 databases that we currently run.

17 Q. Did you put anything onto an electronic database?

18 A. I put my notes from that particular day on to a memorandum
19 to the Chief for Prosecution in regards to my dealings with
15:23:01 20 Mr Sesay in April of 2003.

21 Q. Well, the notes that you say you kept, do they go wider
22 than the statement which we've got?

23 A. No.

24 Q. No. So it's basically notes about times so that's it.

15:23:18 25 That's about all you kept?

26 A. Basically, yes.

27 Q. Now, I want to ask you about inducements, promises and
28 threats. You've denied on a number of occasions making any or
29 hearing any. So, before we embark on the cross-examination, I'd

1 I like to be clear as to your understanding of what these terms
2 mean, and where you come from in terms of what is acceptable or
3 not to you, in such an interview type scenario. Did you
4 understand an inducement to be something that motivates or
15:24:25 5 persuades someone to talk in the context of an interview?

6 A. Yes, I believe that.

7 Q. I'll come back to specifics in a moment on that but in
8 relation to promises, do you understand promises to be an express
9 assurance on which an expectation is to be based?

15:25:03 10 A. Yes, I could agree with that.

11 Q. Or an indication of what might be expected?

12 A. I suppose that could go hand in hand with what you just
13 previously said.

14 Q. An inducement or a promise; either?

15:25:35 15 A. Yes, yes.

16 Q. Thank you. Finally, just so that we're reading from the
17 same page in relation to definitions, a threat, would you agree
18 with this, is some kind of declaration of an intention to inflict
19 or ensure punishment or injury, et cetera?

15:25:59 20 A. Yes, I agree with that.

21 Q. Now, you, as a professional investigator, do you understand
22 the term "roll over"?

23 A. I -- what I understand, yes, I can say I understand roll
24 over, but I suppose that would have other terminologies that
15:26:35 25 could be addressed to it, also.

26 Q. Do you understand -- have you heard Gilbert Morissette use
27 that term?

28 A. If he did, I don't recall it.

29 Q. How would you define that in terms of an investigation?

1 A. Could you be more clear on that question, please?

2 Q. If an investigator managed to have a suspect roll over,
3 does that mean anything to you?

4 A. It means that the suspect or accused person has decided to
15:27:18 5 cooperate with the authorities and provide information, obviously
6 in some hope in his own mind that it's going to assist him down
7 the road.

8 Q. And some investigations -- some investigators set out with
9 deliberate plans to have a suspect or an accused roll over; is
15:27:51 10 that right?

11 A. I can't say if an individual investigator would do that. I
12 can only refer to myself. And I would have to say that, in any
13 investigation dealing with an accused person, you always look to
14 see whether they would be interested in, as you call it, rolling
15:28:09 15 over.

16 Q. Well, have you heard other investigators use it in the
17 context of a deliberate plan to have an accused or a suspect roll
18 over?

19 A. Again, nothing that I can recall specifically from another
15:28:43 20 investigator, no.

21 Q. Well, forgetting the term roll over then, have you seen, at
22 any stage of your career, a deliberate concerted effort by an
23 investigator to have somebody, a suspect or an accused, speak on
24 tape for the purposes of an investigation?

15:29:09 25 A. Yes, on a routine basis.

26 Q. In your mind, is it, for you at least, acceptable practice
27 to trick someone into speaking on tape, believing that by doing
28 so they could save themselves from the death penalty?

29 A. Would you repeat that one time for me, please? Thank you.

1 Q. Is it for you, as a professional investigator, you
2 personally, acceptable practice to trick someone, an accused or a
3 suspect, into speaking on tape in the belief that they could save
4 themselves from the death penalty?

15:30:14 5 A. Well, my practice, I'd have to say no, because in Canada we
6 don't have the death penalty. So, I mean, as far as trying to
7 get the accused or the suspect to speak on tape, we routinely
8 tape all suspect interviews where I come from. So --

9 Q. I'm asking you about what you consider, as a professional
15:30:42 10 investigator, acceptable practice. Do you consider that to be
11 acceptable practice?

12 MR HARRISON: The Prosecution objects.

13 MR JORDASH: Could the objection be heard in the absence of
14 the witness, please?

15:31:07 15 PRESIDING JUDGE: Yes, perhaps we should do that.
16 Mr Courtroom Officer, just escort the witness out for a short
17 period, a very short period.

18 [The witness stood down]

19 PRESIDING JUDGE: Yes, Mr Harrison.

15:31:41 20 MR HARRISON: I think the question was one of what the
21 witness personally thought of as being acceptable practice. The
22 Prosecution says that's not a relevant issue. There are
23 questions that can be put: What happened; what did you do; what
24 was the response; what was the result, none of which is
15:31:57 25 controversial. But his opinion of what is acceptable practice,
26 is not the issue before the Court. It's for this Court to
27 determine what is appropriate and what is lawful.

28 PRESIDING JUDGE: Speaking for myself, why are you seeking
29 to narrow down the issue in cross-examination? We are

1 investigating circumstances surrounding the taking of certain
2 statements, alleged to have been made voluntarily. Why is it so
3 difficult for this Court, if we're going to get to the bottom of
4 it all, not to -- to prevent counsel asking an experienced
15:32:41 5 investigator, with all the knowledge about investigation and his
6 experience also of rights advisements and all that, as to his own
7 opinions about what are acceptable practices in the context of
8 investigating or not investigating? Why is it so objectionable?

9 MR HARRISON: Because his reference is going to be wherever
15:33:05 10 he works as an investigator. It's not whatever the practice
11 should be before this Court. It's for this Court to determine
12 what is the acceptable practice, not what it is in Lithuania or
13 Ethiopia, or any other place. This Court has to determine what
14 is the acceptable practice.

15 PRESIDING JUDGE: Why is he here?

16 MR HARRISON: He's here to testify on the voir dire as to
17 the circumstances, the facts that happened --

18 PRESIDING JUDGE: Yes.

19 MR HARRISON: -- on those days.

15:33:37 20 PRESIDING JUDGE: And also as to here was an exercise which
21 was heavily rule intensive. He knew all about the rights and
22 norms and values as to how investigations should be conducted.
23 He's trying to help this Court that, in fact, nothing improper
24 was done. The whole process was in fact validated by the
15:34:02 25 integrity of what investigators do in their contact with -- why
26 is it so difficult for us not to hear his own experience?
27 Because he is not just speaking as an ordinary person or ordinary
28 witness. He had an encounter with a suspect after several years
29 of experience. Why should the Court be deprived of hearing his

1 own views as to what he thinks is acceptable or not acceptable.
2 I've spoken for myself.

3 JUDGE BOUTET: I'm not sure I share completely these views.
4 I'm not sure that this opinion is really relevant to the issue we
15:34:49 5 have to determine. What we have to determine is what happened or
6 didn't happen at that particular time and what were the
7 circumstances that existed when these interviews were being
8 conducted. But I don't think we should go that far. How helpful
9 is it to have the opinion of this witness as to what is and what
15:35:13 10 it is not. And this witness, with all due respect, is an
11 ordinary witness who is a police officer doing investigation, but
12 he has no particular qualifications to be an expert in any
13 domain, except to recite his own experience as a police officer
14 during the investigation. In this respect, that experience to
15:35:32 15 him, but no expertise per se; he has not been qualified as an
16 expert.

17 MR JORDASH: Could I --

18 PRESIDING JUDGE: Actually, I would, in fact, make the
19 point that I do not share the view that this is not a witness who
15:35:55 20 has certain expertise in the context of professionalism. I use
21 the term not in the strict sense of being an expert in a
22 particular discipline or research expert. He is, in fact, a
23 professional. He professes knowledge of investigation, and I
24 think that, you know, in a process like this where the Court is
15:36:18 25 interested in the truth, where serious allegations are made that
26 an accused person may have been induced, or promised, or that
27 certain offers may have been made to him, some expectations, I
28 find it extremely intriguing why this Court should be precluded
29 from by some such technical rules as relevance when, in fact,

1 we're supposed to be investigating the entire exercise.

2 When I suggested that, really, we need to lift the veil, I
3 wasn't really saying that when we lift the veil we should erect
4 all kinds of roadblocks in terms of piercing the veil. I take

15:37:00 5 this position as Presiding Judge. It's unfortunate we don't have
6 the benefit of Honourable Justice Itoe on this.

7 JUDGE ITOE: I'm open on this issue.

8 MR JORDASH: Short and sweet.

9 PRESIDING JUDGE: I think, clearly, we should do nothing in
15:37:21 10 a process like this: A trial within a trial. That's what it
11 means. I'm not educated in the French language, but I understand
12 voir dire; it means speak the truth, get to the heart of the
13 matter. And I would find it difficult to see why this witness
14 should not be able to say: Well, I don't accept it as acceptable
15:37:42 15 practice, or I don't see anything wrong with it --

16 MR JORDASH: And --

17 PRESIDING JUDGE: -- to assist the Court.

18 JUDGE BOUTET: Well, I certainly differ, because my -- a
19 voir dire doesn't mean more than voir dire. It's also known as a
15:37:52 20 trial within a trial. The rules that apply to trials do apply to
21 a voir dire. Relevancy is relevancy in a trial within a trial,
22 or a main trial. And opinion evidence is governed by certain
23 rules in a main trial, or in a trial within a trial. There's no
24 difference, as such. It's not because in a trial within a trial
15:38:08 25 that the rules that govern trials should be changed and ignored.
26 But I agree there is a majority saying it is acceptable, and
27 therefore I will --

28 PRESIDING JUDGE: Well, both positions may be valid. The
29 only point one is making is that --

1 JUDGE ITOE: That's why I'm open.

2 PRESIDING JUDGE: -- we should not import into a trial,
3 whether it's a -- whether we're using the model or the paradigm
4 of the national system, the international tribunals have opted
15:38:38 5 for a flexible approach to avoid technicalities standing in the
6 way of the quest for the truth. I find it so difficult to see
7 why a witness with such years of experience should not be able to
8 tell us what his own professional norms and values are in the
9 process.

15:38:57 10 MR JORDASH: I would simply add this, if I may: That if
11 this witness says, "I don't find it acceptable because in my
12 experience it has the tendency to induce people" that goes right
13 to the heart of the issue.

14 PRESIDING JUDGE: Precisely. Well, we'll hear the witness.
15:39:16 15 Let's have the witness back.

16 MR JORDASH: Can Mr Gbao go to the toilet, please?

17 PRESIDING JUDGE: Leave is granted.

18 [The witness entered court]

19 PRESIDING JUDGE: Mr Jordash will put the question again.

15:39:51 20 MR JORDASH: Thank you.

21 Q. Mr Berry, I will try and ask the same question. Is it, for
22 you, acceptable to trick an accused or a suspect into speaking on
23 tape in the belief that, by doing so, they could save themselves
24 from the death penalty?

15:40:21 25 JUDGE BOUTET: You've asked that question. The answer was
26 "no" that question. That question was asked and answered.

27 MR JORDASH: Well, it wasn't answered, actually. It was
28 answered in a way which didn't address the substance of the
29 question. The answer was: "Well, I can't tell you that because

1 in Canada we don't have the death penalty."

2 JUDGE BOUTET: That's fine.

3 MR JORDASH: But I'm not asking about Canada --

4 PRESIDING JUDGE: This is not a Canadian court.

15:40:42 5 MR JORDASH: I'm asking him about --

6 PRESIDING JUDGE: An international court.

7 JUDGE BOUTET: We have no death penalty here either. So?

8 MR JORDASH: Well, they do have the death penalty in Sierra
9 Leone.

15:40:57 10 JUDGE BOUTET: Well, not in this Court.

11 MR JORDASH: No, but this individual, Mr Berry, hasn't
12 simply been investigating accused in this Court.

13 PRESIDING JUDGE: Proceed, Mr Jordash.

14 MR JORDASH:

15:41:16 15 Q. Could I ask you to consider the question in light of your
16 investigative duties and what you would have found acceptable in
17 this country?

18 A. For myself, no.

19 Q. No?

15:41:31 20 A. I would not.

21 Q. And why is that?

22 JUDGE ITOE: Sorry, you were not what? Let me -- let's get
23 you into context, yes. You would not do what, Mr Berry?

24 THE WITNESS: I would not trick somebody into making a
15:41:46 25 statement to protect -- to save themselves from the death
26 penalty, the way I understood the question.

27 MR JORDASH:

28 Q. That was the question.

29 A. Okay.

1 Q. Could I ask you to follow that on and explain why, from a
2 professional investigative point of view?

3 A. In order to follow the proper rules, to make sure that the
4 evidence is entered into the Court.

15:42:12 5 Q. To make sure the evidence is entered into the Court?

6 A. To be allowed to be entered into the Court.

7 Q. Right. And to - would you agree with this - ensure that
8 the evidence is reliable?

9 A. I guess depending how you want to look at the particular
15:42:41 10 question, either to say "yes," to make sure that it is reliable.

11 Q. Right. Now, a similar question: Do you consider it
12 acceptable, in your professional view, to assert to someone that
13 if they speak they will save themselves from a life sentence
14 imprisonment?

15:43:08 15 A. Could you repeat that again for me? I may have missed the
16 very first part when I was thinking about the last.

17 Q. Sorry. In your professional view, for you as a
18 professional investigator, do you think it's acceptable to assert
19 to an accused, or a suspect, that if they speak they will save
15:43:30 20 themselves from life imprisonment?

21 A. Only as long I have ensured them that I cannot make that
22 decision.

23 JUDGE ITOE: Only as long as?

24 THE WITNESS: As long as I ensured to them that I cannot
15:43:52 25 make that decision. It's left to the courts, not to me.

26 MR JORDASH:

27 Q. And was it you told them --

28 JUDGE ITOE: Sorry, your answer -- just a minute. Your
29 answer is yes but only?

1 THE WITNESS: If I have ensured.

2 JUDGE ITOE: If I have ensured -- yourself.

3 THE WITNESS: Ensured the person I am speaking with that
4 it's not myself that could make that decision. I can offer him,

15:44:13 5 is what I'm assuming that Mr Jordash is asking, that I'm not
6 making him any promises. I'm not telling him by speaking to me
7 that he is going to save himself from life imprisonment. As long
8 as he understands that I cannot make that decision.

9 MR JORDASH:

15:44:43 10 Q. And would you, again similar question, consider it
11 acceptable to give assurances that the accused or suspect's
12 family would be financially looked after if they assist by giving
13 testimony in an interview?

14 A. That's a very broad question. I would not promise him
15:45:19 15 anything that I could not provide.

16 Q. And the same question in relation to schooling and health
17 and benefits such as that. Would you make assurances and
18 promises in exchange for testimony?

19 A. Not for an exchange for testimony.

15:45:49 20 Q. As a quid pro quo, just to be sure, would you do that?

21 A. Would I do that?

22 Q. Yeah.

23 A. Again, it's a very broad question. It can be interpreted
24 in many ways, the way you're asking it, but I would have to say
15:46:03 25 no.

26 Q. No?

27 A. I would not.

28 Q. And do you consider it exceptional, sorry, acceptable if an
29 accused is having second thoughts, or perhaps waivering about

1 speaking in an interview to investigators, to keep repeating
2 assurances along the lines of offers in exchange for keeping
3 talking?

4 A. Are you asking me specifically if I made those offers?

15:46:46 5 Q. No. I'm asking you whether you would find those, whether
6 you yourself would do that. If an accused or suspect is
7 waivering, would you consider it acceptable to approach the
8 accused on a regular basis to keep repeating the assurances and
9 keep re-emphasising the quid pro quo?

15:47:08 10 A. If the individual asked me specifically in regards to
11 something that he had requested, I would give him whatever
12 assurances that I would be authorised to do.

13 Q. Would you set out on a deliberate policy to do that as a
14 plan from the time of arrest to keep up reinforcing with an
15:47:35 15 accused or a suspect?

16 A. If the accused raises the question to me, and is looking
17 for my input, I would tell him whatever it was that I could that
18 I could actually offer.

19 Q. So, to you, the distinction would be the accused would come
15:47:49 20 to you, you wouldn't go to them?

21 A. If it came up in a conversation, and they continually asked
22 me that question, I would give them the reassurances of whatever
23 it was that I could and were allowed to do.

24 Q. Right. So the instigation is the question from the accused
15:48:07 25 or suspect rather than a deliberate plan to keep this process
26 going; are you with me?

27 A. Yes, I'm with you, yes.

28 Q. Do you see this distinction I make?

29 A. Yes, I see the distinction you make.

1 Q. Do you accept the distinction and come down on one side of
2 it?

3 A. You're asking me personally and I say myself, if the
4 individual, as I stated before, has repeatedly asked me about a
15:48:38 5 particular situation, I would give him whatever assurances I was
6 allowed to. I wouldn't necessarily go out on a plan to do I
7 think what you were asking just a second ago.

8 Q. Because am I right that the plan could very easily tip you
9 over onto the wrong side of the line?

15:49:05 10 A. I guess, where it's slightly confusing for myself
11 Mr Jordash, and maybe I can try and clarify a little bit is I
12 think we're talking, in a sense, in regards to some maybe
13 security issues or concerns that the individual may have at some
14 point of our speaking, our interviewing. I think that's what
15:49:30 15 you're -- you're asking me.

16 Q. Well, I understand your position is that in the course of
17 interviews, if an accused or suspect asked you a question and
18 wanted to know what the circumstances were, which surrounded
19 their giving testimony, you'd feel free to answer, providing it
15:49:52 20 was careful?

21 A. That's correct.

22 Q. Which is different to setting out when there's an accused
23 and deliberately approaching them to, if you like, bond with
24 them, to ensure that they kept speaking. Bonding being offering
15:50:19 25 possibilities, offering quid pro quos and so on. That wouldn't
26 be acceptable, would it?

27 A. No, because you're making a promise, I believe is what
28 you're getting at.

29 Q. It is, yeah. Thank you. And finally just on this -- I

1 know this is in a sense theoretical, but I hope you'll appreciate
2 by the time we finish what I'm getting at, is it your practice,
3 or do you find it acceptable practice to, off tape during the
4 course of interviews, suggest that unless the accused confesses
15:51:21 5 on tape there won't be the fulfillment of assurances given
6 earlier; is that acceptable to you?

7 A. I think I can respond in regards to a particular -- I don't
8 want to go off on a tangent away from your question -- I think
9 it's necessary to be able to, even off tape if you're talking
15:52:01 10 with the individual, and it's not in a questioning form, if you
11 have to turn around -- if you have to let them know something, as
12 far as credibility and other issues go, I don't find that that is
13 wrong. I'm not sure if I'm covering what you're --

14 Q. I think you are covering, but can I ask a follow-on
15:52:46 15 question: You did say before lunch that -- let me just try to
16 find the exact words -- common practice, if breaks are taken, to
17 mention what the breaks were for on tape; is that right?

18 A. Yes.

19 Q. So if a conversation like that happened off tape you would
15:52:52 20 expect it to be reflected in some way on the tape, wouldn't you?

21 A. Yes.

22 Q. Thank you. I will come to the specifics just after one or
23 two more questions, but I want to read you something, a quote,
24 and see if it enables you to use your experience and describe
15:53:28 25 different investigation and interrogation techniques. I'm
26 reading from a case, I can give you a copy of it.

27 MR JORDASH: It's, Your Honours, page 30015, it's the case
28 of Jackson v Denno, it's a Supreme Court of the United States
29 case. I can give Mr Berry a copy, so that he doesn't have to --

1 Q. Could you turn to page -- I think it's -- page 16 but it
2 says page 17 of 40 above that?

3 A. Okay.

15:54:43 4 Q. And I just want to be clear about interrogation and
5 investigation for some of us who are not familiar with the
6 process. Can you see on the left-hand side the quote:

7 "This Court has recognised that coercion can be mental as
8 well as physical and that the blood of the accused is not
9 the only hallmark of an unconstitutional inquisition. A
15:55:12 10 number of cases have demonstrated, if demonstration were
11 needed, that the efficiency of the rack and thumbscrew can
12 be matched given the proper subject by more sophisticated
13 modes of persuasion."

14 You, as a professional investigator, would understand that
15:55:36 15 sentence; is that right?

16 A. Maybe not quite to the degree of the way it's described.

17 Q. But you understand the substance of what's been said then;
18 is that right?

19 A. Yes, I understand the substance of what's been said.

15:55:52 20 JUDGE ITOE: Mr Berry, about what the extent that that
21 decision says coercion can be either mental or physical; what
22 would be your response to that, please?

23 THE WITNESS: I'd have to agree, Your Honour.

24 JUDGE ITOE: Thank you.

15:56:07 25 MR JORDASH:

26 Q. So would you agree with this: That sophisticated modes of
27 persuasion can be designed, in unscrupulous hands, to ensure
28 acquiescence of an accused on a tape? Do you see the point I
29 make?

1 A. I suppose anything is possible, depending on who's doing
2 what.

3 Q. Yes. So much could depend on what happens off tape and the
4 compliance and cooperation reached off tape as to how the accused
15:56:55 5 is on tape; are you with me?

6 A. Yes, I'm with you.

7 Q. Just so that it's fairly put to you. This is what we
8 suggest happened here: That, on tape, we take no dispute with
9 the fact that Mr Sesay looks compliant, but we say that's because
15:57:25 10 of what largely happened off tape; you understand our point?

11 A. Yes, I understand your point.

12 Q. And skilled investigators have known about that and have
13 probably seen it in their time as experienced investigators; am I
14 correct?

15:57:45 15 A. I can't speak on behalf of the other investigators, only
16 myself.

17 Q. Well, in your -- how many years experience have you got
18 investigating?

19 A. Twenty-seven.

15:58:03 20 Q. You must have seen compliance in interview through events
21 off tape in your long experience.

22 A. I can't honestly say that I have.

23 Q. You've never in your long experience seen coercive tactics
24 being used off tape to ensure that an accused confesses on tape?

15:58:29 25 A. Not in any of the ones I've been involved with, no; the
26 tape runs continuous.

27 Q. Well, the tape runs continuous, but the contact an accused
28 has with investigators isn't all on tape, as it wasn't in this
29 instance; am I correct?

1 A. You're absolutely right. During the time of arrest,
2 transport, so on and so forth, there is no tape.

3 Q. Do you -- do you -- I'll come back to that in more specific
4 terms in a moment. Let me just ask you some questions about how
15:59:12 5 this arrest and interview fitted together. You were aware that
6 Mr Sesay was being arrested by the CID?

7 A. That's correct.

8 Q. And when you arrived there, there's a large number of
9 police officers from the CID, engaged in either the arrest or the
15:59:31 10 ongoing circumstances.

11 A. That's correct.

12 Q. OTP representatives, such as yourself, are closely linked
13 to this CID activity; is that right?

14 A. Yes. I'd have to say yes.

15:59:50 15 Q. And, in a sense, working in tandem, if not as one?

16 A. Yes, because the powers of arrest fell to the Sierra Leone
17 police officers. There was no arrest powers with the Special
18 Court.

19 Q. Right. And there must have been, at this point, a
16:00:06 20 relationship, a functioning relationship between CID and OTP?

21 A. Yes, I'd have to say there would be.

22 Q. Which would have been apparent to any accused who was being
23 arrested?

24 A. I can't speak on behalf of the accused.

16:00:19 25 Q. Well, no, but you can say what you saw when you arrived.

26 A. I didn't see the accused, though, sir.

27 Q. Well, you saw the accused soon thereafter as the CID worked
28 with the OTP to ensure they were taken to Jui; is that right?

29 A. Upon my -- as I stated earlier, upon my arrival, I entered

1 the building. I didn't see any of the accused; they were all
2 being dealt with by the SLP. I left the building and waited
3 outside by my vehicle. They then exited the building and placed
4 the accused in the van and proceeded by way of a convoy out to
16:00:58 5 Jui Barracks.

6 Q. Did you see them placed in the van?

7 A. Yeah, I believe I did. There was a large -- you have to
8 understand there was a very large group people and people were
9 moving quickly. To be able to pick out the individual himself at
16:01:14 10 that time --

11 Q. Well, that's what you had gone there for, wasn't it, to
12 pick out the individual?

13 A. No.

14 Q. What had you gone there for?

16:01:23 15 A. I had gone there as a representative for the OTP in case we
16 were needed to be with the accused, with the Sierra Leone Police,
17 but we weren't -- we were not requested to do so.

18 Q. No, but you'd gone there to see the accused and see
19 everything went according to plan?

16:01:44 20 A. I had gone there -- I had gone there under the instructions
21 of Mr White and Mr Morissette, along with other members of the
22 investigation team, to be present, to be there if something was
23 needed from us, not necessarily to have any contact or deal with
24 the accused parties, because we had no authority to do so.

16:02:05 25 Q. What, so, you'd gone as -- you'd gone just in case you were
26 needed?

27 A. Correct.

28 Q. With no particular function in mind?

29 A. Function would be if they were going to escort the accused

1 separately in different vehicles and if they required a
2 representative from the Court to be in that vehicle with the
3 parties. We had enough bodies to be able to do that.

4 Q. How many CID police officers were there, approximately?

16:02:33 5 A. I cannot tell you.

6 Q. Well, more than this number of people in this courtroom?

7 A. There were uniformed officers, plain-clothes officers. It
8 was at the headquarters building. There were a hundred or more
9 different officers floating around. Like, I couldn't tell you

16:02:52 10 how many specifically.

11 Q. But then how was it that you were going to help above and
12 beyond what all those CID police officers could have done?

13 A. Just in the function of the Court. If they required
14 somebody there from the Office of the Prosecutor or from the
16:03:10 15 Court to be there, we would have been there.

16 Q. For what purpose, that's what I'm trying to ask you. What
17 was in your mind as to your purpose, if that occasion arose?

18 A. To make sure that everything was going according to the
19 arrest and the transport. To be eyes on the ground if, again,
16:03:30 20 like I said, if they required somebody from the Court itself, to
21 be there with the accused and the arresting officer for each
22 individual. We would have been there and available. Just for
23 the pertinent continuity of the subject.

24 Q. So the sole reason you went was to be, if you like, a face
16:03:48 25 of the OTP and also to ensure smoothness of operation?

26 A. If it was required and I was asked to do something, yes.

27 Q. And you had no other purpose, no other instruction; nothing
28 else was required of you?

29 A. Not at that time, no.

1 Q. Are you sure?

2 A. Yes. Not that I can recall at this time, no.

3 Q. Well, can I suggest to you that you went there to target
4 Mr Sesay to get him to cooperate.

16:04:33 5 A. Personally, no.

6 Q. And that you'd been instructed to do so.

7 A. No.

8 Q. Definitely not true?

9 A. Not to my knowledge.

16:04:40 10 Q. Okay. Now, when you do arrive, you see all this activity.
11 You see the accused, or you think you do, being led to the
12 vehicle and then there's clear coordination as, eventually,
13 Mr Sesay gets to Jui?

14 A. That's correct.

16:06:26 15 Q. Then you must have spoken to someone, again in coordination
16 with the CID, to go and see Mr Sesay?

17 A. No. As I stated earlier, I had contacted Mr Morissette, to
18 advise him that we had all arrived at the Jui Barracks. I was
19 then instructed at that point in time to approach Mr Sesay and
16:06:26 20 see if he'd be willing to speak to somebody from the OTP.

21 Q. So was it only at that point that you spoke to
22 Mr Morissette, that Mr Morissette told you, "Why don't we see if
23 we can get Mr Sesay's cooperation"?

24 A. That's my recollection.

16:06:26 25 Q. Were you surprised by his request?

26 A. No.

27 Q. Why not?

28 A. It's not uncommon to approach a suspect or an accused
29 person to see whether they want to talk to you.

1 Q. So why hadn't it become -- planned beforehand? Why was it,
2 do you know, Mr Morissette waited until the arrest had been made
3 before making that suggestion?

4 A. No. I do not.

16:06:27 5 Q. Did you ever speak to Mr Morissette about why he left it so
6 late to give that direction?

7 A. No.

8 Q. He's never told you?

9 A. No, and I've never asked.

16:06:31 10 Q. Okay. Did he give you instructions on the phone, specific
11 ones? Can you remember the words?

12 A. No, I can't remember the exact words. I know that they
13 asked me to approach -- he asked me to approach Mr Sesay. So
14 arrangements from their end were made for us to gain access to

16:06:51 15 Mr Sesay to ask if he was interested in speaking with us.

16 Q. And he asked you to approach with what objective in mind?

17 A. The objective to know whether Mr Sesay would be willing to
18 speak to somebody from the Office of the Prosecutor.

19 Q. With what objective? To speak to the Office of the
16:07:14 20 Prosecutor for what?

21 A. About the events that happened during the war.

22 Q. For what purpose?

23 A. To gather information.

24 Q. So, at that stage, then, it was simply: He's a man who
16:07:25 25 knows a lot. We want information. He might be willing to give
26 that information?

27 A. Yes.

28 Q. No other objective?

29 A. Oh, the obvious, I would have to say, would be to have an

1 insider that's willing to testify.

2 Q. Right. So it was in your mind from the phone call that
3 what was wanted was Mr Sesay to give information and to testify
4 as a witness?

16:07:55 5 A. That would be the final objective, yes.

6 Q. And the most sought after objective from a Prosecution
7 point of view, for a man such as Sesay?

8 A. It would certainly be something people would be willing to
9 take the steps to find out.

16:08:19 10 Q. From a prosecutorial investigative perspective, that, if
11 you like, was the holy grail: An insider as high up as Sesay to
12 be a witness for the Prosecution?

13 A. It certainly would be advantageous for the Prosecution,
14 yes. Whether it would be classified as holy grail, I couldn't
16:08:41 15 say.

16 Q. There's no greater assistance he could have offered, is
17 there, except for that: As a witness against the other accused
18 and, particularly, perhaps, against Taylor; am I right?

19 A. No, I'd have to agree with you on that. That would be the
16:08:59 20 objective of the offer.

21 Q. So in order to get to Mr Sesay, there had to be further
22 coordination with the CID to get in to see him in the room where
23 you spoke to him?

24 A. That's correct.

16:09:16 25 Q. And obviously there would have been further coordination
26 with the CID to get him to Scan office?

27 A. That's correct.

28 Q. And CID came, along with OTP representatives, to the Scan
29 office?

1 A. Yes. The Sierra Leone police officers did come too. They
2 were the ones that escorted Mr Sesay.

3 Q. Right.

4 A. Because he was in their care, custody.

16:09:42 5 Q. And so it would have been apparent to Mr Sesay that there
6 was this close coordination between the Sierra Leone government
7 police and the OTP representatives?

8 A. I'd have to say yes.

9 Q. And you were obviously aware that the Sierra Leone
16:09:57 10 government police were, in fact, in some ways, Mr Sesay's
11 previous enemies?

12 A. I have no idea.

13 Q. Well, you must have known about the conflict, at least in
14 part, given the details of the questions you put to Mr Sesay
16:10:15 15 within days; is that not right?

16 A. But in order to say that the Sierra Leone Police were his
17 enemy, I --

18 Q. Well, you knew he had been fighting against the Sierra
19 Leone government?

16:10:26 20 A. That's correct.

21 Q. You knew that there had been a peace agreement in which the
22 Sierra Leone government were on one side and the RUF was on the
23 other?

24 A. That's correct, but it was also my understanding that there
16:10:38 25 were people who supported RUF, AFRC and the government from
26 within the police and army on either side. So it was a -- to say
27 one side or the other.

28 Q. That's a fair point. Now, you were, as an investigative
29 body, also in close coordination with the detention facilities

1 and the chief there, Bob Parnell; am I right?

2 A. No. Not personally, no.

3 Q. Members of investigative team, Mr Morissette, for example?

4 A. Yes, he would have been.

16:11:14 5 Q. And did you know John --

6 JUDGE BOUTET: Mr Jordash, I'm sorry. I missed the last
7 few lines. You went to from Parnell to -- can you rewind those
8 over again, if you don't mind.

9 MR JORDASH:

16:11:28 10 Q. I think what Mr Berry said was that you weren't personally
11 in contact with Bob Parnell, but you accepted that investigative
12 team members were, Morissette?

13 A. That's correct, Your Honour. Not only Mr Morissette, but
14 Mr White also.

16:11:48 15 Q. Right. And there had been a working relationship, clearly,
16 between, for some time at this point, CID, OTP, chief of
17 security, Bob Parnell; am I right? This is the three main
18 security organs operating around the Special Court?

19 A. Yeah. I was never involved in any of those meetings, so I
16:12:16 20 don't know how detailed they were or how close they worked
21 together.

22 Q. Well, they certainly worked close together. The OTP worked
23 close together with Bob Parnell, arranging helicopters and so on.

24 A. That's true.

16:12:27 25 Q. To effect the arrest of various suspects and get them to
26 Bonthe; is that right?

27 A. Yes, I'd have to agree with that.

28 Q. Am I right that Bob Parnell was also friends with members
29 of the investigative team?

1 A. Yes, same as we're friends with a number of other people
2 within the organ of the Court.

3 Q. It is not a criticism, Mr Berry.

4 A. No, I didn't take it that way. I just wanted to expand
16:12:53 5 upon what you said.

6 Q. It's a very friendly court.

7 JUDGE ITOE: He's cooperating with you.

8 MR JORDASH:

9 Q. Did you know John Antony at the detention centre?

16:13:04 10 A. Yes, I did.

11 Q. Whose ex-police officer?

12 A. I believe he was with the British Police at some time, yes.

13 Q. Right. Are you aware that he had no experience of being a
14 detention officer?

16:13:15 15 A. No, I didn't know that.

16 Q. But he was a detention officer at the time of this arrest.
17 I think he might have been the top detention officer besides Bob
18 Parnell?

19 A. I honestly don't know. I can't -- I'm trying to remember
16:13:32 20 what position he held, and I don't recall exactly where he fell
21 under Mr Parnell.

22 Q. Right. But he was at the detention centre?

23 A. Yes.

24 Q. With a man called Geoff; did you come across him?

16:13:49 25 A. I can't put a face to the name at the moment.

26 Q. Okay.

27 A. Yes, sorry. Yes, I do remember. He was a Canadian, if I'm
28 not mistaken.

29 Q. I think that's right. Would you accept this proposition,

1 Mr Berry: That given the level of coordination between these
2 different groups for Mr Sesay, he must have been able to see that
3 level of coordination between the three groups during these early
4 days of arrest?

16:14:31 5 A. He very well may have been able to see them. Whether he
6 would recognise what they were, I don't know.

7 Q. And it's fair to say that the three groups were pretty much
8 operating in tandem? They were not the same, but they were
9 effectively all working together to effect the arrest and secure
16:14:52 10 the suspects into court custody?

11 A. I'd have to agree with that.

12 Q. And were you aware that when Mr Sesay was arrested, that he
13 was or had been the interim leader of the RUF?

14 A. Yes, I was.

16:15:10 15 Q. Were you aware of his educational level?

16 A. At that particular time, no.

17 Q. You must have been cognizant, however, that he had no
18 experience of Rule 42, 43 or 63 of the Special Court?

19 A. I'm sorry, could you repeat that?

16:15:31 20 Q. You must have been cognizant of the unlikelihood, shall we
21 put it that way, of Mr Sesay having experience of the Court Rules
22 42, 43 and 63. It was unlikely, I'm suggesting, that the interim
23 leader of the RUF would have come across these rules prior to
24 arrest?

16:15:55 25 A. I'd have to agree with that.

26 Q. And you would have been cognizant of that at the time of
27 the arrest moving into interview?

28 A. I'm not sure what his past history was in regards to any
29 other dealings with any other authoritative body that may have

1 had similar rules.

2 Q. Did you ask him?

3 A. No, I did not.

4 Q. You said before lunch that -- well, before I suggest that,
16:16:29 5 you didn't explain that. Did you explain what the OTP was?

6 A. Did I explain what the OTP was?

7 Q. Before his first interview?

8 A. As in the Office of the Prosecutor; did I explain that
9 rather than say OTP?

16:16:51 10 Q. No. Sorry, let me be clear. What you've told us, you had
11 this limited conversation in a room in which you had secured
12 Mr Sesay's cooperation, all right?

13 A. That's correct.

14 Q. You don't speak to him on the way to the interview?

16:17:05 15 A. No.

16 Q. By the time he arrives at the interview, he goes straight
17 into the interview without further ado and without further
18 conversation; am I right?

19 A. With myself?

16:17:14 20 Q. Yes.

21 A. That's correct.

22 Q. So you didn't speak to him about who the Office of the
23 Prosecutor were, what their authority was?

24 A. No, I did not.

16:17:24 25 Q. You didn't explain to him anything about the Registry and
26 who they might be?

27 A. No, but I didn't speak to him on the 10th, other than that
28 time at Jui.

29 Q. Right. Okay. So when he went into the interview, the only

1 person from the OTP, according to you, that he'd spoken to would
2 have been, besides you at Jui, would have been Mr Morissette,
3 going into interview?

4 A. That would be correct, yeah.

16:18:03 5 Q. Right. Am I also correct that, during the interview
6 process, you didn't explain to him off tape anything about the
7 rights, other than what we see on tape? I hope that makes sense.

8 A. Yes, it makes sense. No. No, I can't recall any specific
9 conversation.

16:18:31 10 Q. Right.

11 A. Right offhand.

12 Q. Right. Can I ask you what your understanding of duty
13 counsel was at the time of these interviews? Who were they
14 according to how you saw it?

16:18:47 15 A. Duty counsel would have come from the Registry's office, at
16 that time, from what I understood and that they did attend.

17 Q. What was it they were expected or mandated to do, as you
18 understood it, at that time?

19 A. To represent the accused person in regards to any of his
16:19:10 20 dealings with the Court at that time and set up various lawyers
21 for them, make offers of appointments, and so forth.

22 Q. So was your understanding that they were -- had
23 administrative duties or legal duties, or what?

24 A. My understanding would be both, actually. They were
16:19:33 25 representing the accused in the absence of a full-time lawyer.

26 Q. And when you came into this process of arresting Sesay and
27 others, there was three duty counsel; am I right?

28 A. I don't know how many there were, sir.

29 Q. Right. Do you know about legal privilege, Mr Berry; what

1 that means?

2 A. Between client and his solicitor?

3 Q. Yes.

4 A. Is that what you're referring to?

16:20:08 5 Q. Yes.

6 A. Yes.

7 Q. Were you aware whether -- well, are you aware now did duty
8 counsel have a privilege relationship with the accused?

9 A. Did they have one or should they have had one?

16:20:21 10 Q. Did they have one?

11 A. As far as I know, they did. There were two visits from one
12 particular female from the Registry, who was with the Defence,
13 that I was advised who had private conversations with the accused
14 in the container.

16:20:39 15 Q. But what about your understanding in relation to between
16 accused? Did you have an understanding about that, whether duty
17 counsel saw Sesay, Sesay said something disadvantageous to
18 another accused?

19 A. Well, I would -- I could only assume, and this is only an
16:21:00 20 assumption on my part, because I'm not part of the Defence side
21 of it, but I would assume that there'd be some ethics, even
22 amongst the duty counsels that what's said from between one
23 accused and counsel stays between them. That's the assumption
24 that would work under, and not be broadcasted to all the other
16:21:20 25 accused.

26 Q. Right. And it's something that you didn't get involved in,
27 that sort of explanation to the accused?

28 A. No, not that I recall.

29 Q. Thank you. Do you know what language Mr Sesay speaks,

1 what's his first language?

2 A. I believe its Temne. Temne. I'm not sure if I'm
3 pronouncing it correct.

4 Q. Did you know at the time?

16:21:45 5 A. At the time that I originally spoke to him in Jui?

6 Q. Yes.

7 A. No.

8 Q. When did you -- did you know before the first interview?

9 A. If I did, I don't really recall.

16:21:56 10 Q. Okay. Now, you say, and you said before lunch, that you
11 did and you were referring to the 11th March waivers, that you'd
12 used this at interview to ensure that Mr Sesay understood his
13 right and you were making sure he understood, to the best of your
14 ability?

16:22:24 15 A. That's correct.

16 Q. The truth is, though, you read the rights to him and he
17 said yes, and that's the sum total of what you did in relation to
18 those rights on the 11th, isn't it?

19 A. No, not exactly. Maybe -- well, again, you're focusing on
16:22:49 20 the 11th and it is such a broad span of interviews. I know that
21 there was times that I told him that if there's any questions at
22 all, to please ask.

23 Q. Let's stick with the 11th --

24 A. Okay.

16:23:00 25 Q. -- when you said you'd done everything to the best of your
26 ability.

27 A. Okay.

28 Q. You read the rights and he said yes, and that was it?

29 A. Yes.

1 Q. So, actually, what you did do was the bear minimum; am I
2 right? You read the rights, he said yes, you moved on; do you
3 accept that?

4 A. I did the bear minimum in regards to advising him of his
16:23:31 5 rights and, at no time, was any questions raised about any of the
6 rights I read to him. So, yes, I guess if that would be the bear
7 minimum, I guess that's what I did.

8 Q. And if he said yes, but he was saying yes he understood
9 when, in fact, he hadn't, you wouldn't have known? If he didn't
16:23:54 10 know he was not understanding the rights but said yes, you
11 wouldn't know if he understood or not?

12 A. That wasn't the impression that I received from Mr Sesay.
13 I was -- I -- I honestly felt that he did understand everything
14 that we had said to him.

16:24:06 15 Q. But what made you come to that conclusion on the 11th? We
16 can look at the interview. Is there something in the interview,
17 or what was it? We can have a look at the interview, if you'd
18 like to have a look at it?

19 A. No. There is nothing specific I can point out other than
16:24:26 20 dealing with people and no questions raised in regards to
21 specific things. I was led to believe that he understood
22 everything that I'd said to him.

23 Q. Right. Now just -- let me ask you this: You also said
24 about the 11th that -- well, before I ask that, so you're
16:24:52 25 saying it was his demeanour basically that made you think he
26 understood -- that made you come to the conclusion that he
27 understood?

28 A. The way that he responded, the way that there was no
29 questions in regards to any of the rights, yeah. That's what I led

1 me to believe that he understood. Because there are other times
2 throughout the interviews that Mr Sesay does ask --

3 Q. But that's later on.

4 A. Okay.

16:25:23 5 Q. But this time you're going purely on the fact he said "yes"
6 and he didn't ask any questions?

7 A. That's correct.

8 Q. You said to the Court before lunch that you knew that he
9 was at that point partly interested in being a witness; is that
16:25:41 10 what you said? Did I get that down right?

11 A. I'm -- I'd have to go back and ask them to read it to me
12 specifically. I'm not sure whether those are the words or not.

13 Q. I think what you said was, when asked about the -- "I use
14 this referring to the rights to ensure that Mr Sesay, who was an
16:26:07 15 accused and also partly interested in being a witness, understood
16 the rights"?

17 A. Yes.

18 Q. So by the 11th, when you interviewed him, you appeared to
19 have already been told that he is partly interested in being a
16:26:25 20 witness?

21 A. That's correct.

22 Q. So you knew that before the first interview of the 11th?

23 A. That's correct, after speaking with Mr Morissette, after
24 the initial conversations that he had with Mr Sesay on the 10th.

16:26:39 25 Q. And which conversations were these; in the interview or off
26 tape?

27 A. Neither. Mr Sesay was no longer there; he had returned to
28 Bonthe.

29 Q. Do you know where Mr Morissette had got his information

1 from?

2 A. From the interview that he had conducted briefly with
3 Mr Sesay on the 10th at the OTP compound on 1A Scan Drive.

4 Q. Well, if I inform you that there's nothing on the 10th to
16:27:06 5 indicate that he's going to be a witness on tape, would that
6 surprise you? I can take you to -- let me take you to the 10th.

7 A. Sure.

8 MR JORDASH: Could I ask, please, that Mr Berry be given
9 exhibit -- is there a file of interviews, so we can put them
16:27:36 10 altogether, the first file. I think the 10th we've only got, I
11 think, part of the transcript exhibited.

12 Q. I'll take you -- could the witness have --

13 PRESIDING JUDGE: Mr Courtroom Officer, would you pass it
14 on to the witness.

16:28:05 15 THE WITNESS: Thank you.

16 MR JORDASH:

17 Q. Now, there is one mention about what is going on in this
18 interview, in terms of what Mr Sesay might have believed this was
19 about. Can I take you, please, Mr Berry, to 28346, is 10 March
16:28:33 20 interview?

21 A. 46?

22 Q. 28346. You see, if you look there at the 28346, we passed
23 on the appropriate -- the bottom of the page there, Mr Morissette
24 is saying: "Whatever cooperation you're offering to the Office
16:29:02 25 of the Prosecutor will be taken into full consideration." And
26 then there is, if you read that passage on the bottom two lines:
27 "I want to make sure it's quite clear that there is no promise
28 made to you here in regards to negotiation of sentencing, place
29 of sentencing or whatever. It will be up to the judge to take

1 this into consideration." And then the question in the middle of
2 the page. "And we will do whatever it is in our means
3 possibly -- possibility" --

4 A. Sorry, where exactly are you there.

16:29:39 5 Q. Sorry, 28347, halfway down the page: "Q. For the whole
6 population of Sierra Leone" et cetera.

7 A. Okay.

8 Q. "Making sure it's taken into consideration when the case
9 goes to Court." That, I suggest, is the only mention about what

16:29:58 10 this collaboration is all about on the 10th and it reads, I
11 suggest, as if it's about mitigation possibly?

12 A. No. When I entered the interview on the 11th, I entered
13 the interview with my own personal feeling that Mr Sesay wanted
14 to cooperate, based on the fact that he had originally told me at
16:30:28 15 Jui that he did want to speak to somebody. And then based on, as
16 you say here, what -- what Mr Sesay says and Mr Morissette says
17 here.

18 Q. Well --

19 A. That indicated to me that we were there for the purpose of
16:30:46 20 speaking with Mr Sesay, and that Mr Sesay wanted to provide that
21 information to us of his own free will.

22 Q. Are you suggesting that you inferred from this statement
23 here with no further reference to Morissette that Mr Sesay had
24 agreed to be a witness?

16:31:07 25 A. Did I have a conversation with Mr Morissette?

26 Q. Did you have one outside of the context before the 11 March
27 interview, did you have a conversation with Mr Morissette whereby
28 he indicated to you Mr Sesay had agreed to be a witness?

29 A. I had a conversation with Mr Morissette. I personally

1 cannot say that Mr Morissette told me that he agreed to be a
2 witness. My understanding, if my recollection is correct, and
3 it's not spot on, but that the fact that Mr Sesay had agreed to
4 continue to speak with us, whether he would actually be a witness
16:31:46 5 or not, was yet to be determined.

6 Q. Yeah, but you went into the 11th thinking that Mr Sesay was
7 interested in being a witness, didn't you?

8 A. Yes.

9 Q. I am suggesting you got that because, and you're trying to
16:31:59 10 retreat from this, that Mr Morissette and you had had
11 conversations about it?

12 A. No, sorry, Mr Jordash, I don't mean to imply that. I am
13 not trying to retreat from anything. I'm just trying to make it
14 clear so that I'm answering you correctly and not misleading in
16:32:16 15 any way.

16 PRESIDING JUDGE: Mr Jordash, I think you can pursue that
17 further when we come back.

18 MR JORDASH: Certainly.

19 PRESIDING JUDGE: We'll take a break at this point.

16:32:24 20 [Break taken at 4.32 p.m.]

21 [RUF14JUN07D - MC]

22 [Upon resuming at 5.13 p.m.]

23 PRESIDING JUDGE: Mr Jordash, your witness.

24 MR JORDASH: Thank you.

17:15:20 25 Q. Mr Berry, before you went into -- before you went into the
26 interview of the 11th, did you read the interview of the 10th?

27 A. I cannot recall whether I actually read the interview or
28 had a discussion with Mr Morissette. I'm not sure if it was
29 prepared in time.

1 Q. Right. But you would have, you think, spoken as a matter
2 of practice to Mr Morissette to find out what had happened the
3 day before?

4 A. Yes.

17:16:02 5 Q. And you proceeded on the 11th to take a suspect
6 statement; is that what you were doing?

7 A. I wouldn't -- again, it depends on your interpretation.
8 What I was taking was information from what I believe him to be
9 an insider witness who is still an accused before the Court, so I
17:16:33 10 had to advise him of his rights so, in that aspect, he is a
11 suspect and I am still taking a statement from him.

12 Q. Right. Mr Morissette was present at the beginning of the
13 11 March interview; is that right?

14 A. That's correct, sir.

17:16:53 15 Q. And then he left after the rights had been read?

16 A. That's correct.

17 Q. Had you spoken to Mr Morissette about what role he was to
18 play in the interview procedure, if any?

19 A. No. His only involvement during the entire process was
17:17:16 20 when he came in for the rights advisement on the first day, and
21 for the specific questions on the 14th and 15th. Other than
22 that, my role was to continue with Mr Sesay on a daily basis
23 whenever he was brought up from Bonthe.

24 Q. But Mr Morissette was based, was he not, at Scan office at
17:17:45 25 that time?

26 A. Yes. The entire office of the OTP Office of the Prosecutor
27 was at 1A Scan Drive at the time.

28 Q. And didn't Mr Morissette come down to the interviews on a
29 regular basis?

1 A. Not to sit in them, no.

2 Q. No, not to sit in them necessarily, but to be there to
3 speak to Mr Sesay on a regular basis?

4 A. He came down to relieve me during the lunch breaks. There
17:18:12 5 is a -- there was no place to go for meals other than at the
6 actual office, so when Mr Sesay's lunch would be brought down to
7 him, I would go and have my lunch and Mr Morissette would stay
8 with Mr Sesay.

9 Q. What about at cigarette breaks and other breaks in the day;
17:18:34 10 did Mr Morissette come then?

11 A. He may very well have been around at different times. To
12 be specific and say at this time, on this date, I can't tell you
13 that.

14 Q. No, but I'm not asking specifics because it is a long time
17:18:48 15 ago and there are no notes but what I am asking is: Did
16 Mr Morissette make a regular appearance, not just at lunch times
17 but at break times as well?

18 A. He very well may have. Like I said, I can't recall
19 specifically how many times he was there.

17:19:09 20 Q. But you do recall him coming down regularly at break -- at
21 lunch times to sit with Mr Sesay and relieve you?

22 A. That's correct.

23 Q. And did you recall at least a few times when that happened
24 at breaks?

17:19:24 25 A. It very well could have; for washroom, for many things.

26 Q. And you were not there during those times; is that what you
27 recall?

28 A. Obviously I would be gone for my lunch. I would be
29 there -- if I came back and Mr Morissette was still there and if

1 the, for instance, I give you an example of the stenographer was
2 not ready to come back right at that moment, we would both be in
3 the room waiting for the stenographer.

4 Q. And what, if anything, was Mr Morissette doing with
17:20:04 5 Mr Sesay during those occasions?

6 A. We always kept, always tried to keep all conversations in a
7 very general manner, nothing to do with questioning. Just
8 filling time conversation-wise.

9 Q. How do you know that is what occurred with Mr Morissette
17:20:23 10 and Mr Sesay in your absence?

11 A. I don't know that. I am only referring to when I was
12 present.

13 Q. Right. But when -- did Mr Morissette ever tell you what he
14 was talking to Mr Sesay about in your absence?

17:20:37 15 A. Not that I recall.

16 Q. Did you ever have a conversation with him where he told you
17 that he was trying to -- well, let me put it differently. Did he
18 ever say to you that he was using those breaks to keep Mr Sesay
19 on-side?

17:21:02 20 A. No. He never told me in those words, on-side, that he was
21 doing anything along that manner, that I recall.

22 Q. Did he ever tell you that he was giving Mr Sesay assurances
23 or promises or any such thing about his testimony during those
24 breaks?

17:21:23 25 A. Not that I can recall, no.

26 Q. And from your perspective, if that had been happening,
27 would you have expected to have known about it as part of the
28 investigation team?

29 A. I would think so, yes.

1 Q. Would you expect Mr Morissette, as a professional
2 investigator, to have told you and to have made sure it was
3 discussed on tape, whatever the contents of those conversations
4 had been?

17:22:17 5 A. Could you just repeat that for me again? It just --

6 Q. Sorry, my fault actually. Would you have expected in the
7 normal course of events, if conversations such as that had been
8 happening, for Mr Morissette to discuss them with you and/or to
9 discuss them himself on tape, after the break?

17:22:42 10 A. Yes, I would.

11 Q. Because it was important, if conversations such as that
12 were taking place, that they were reflected on the tape to ensure
13 the integrity of the process?

14 A. That's correct.

17:22:55 15 Q. Thank you. Now, we looked before lunch at a conversation
16 you had on 24 March with Mr Sesay on tape, and I'll take you to
17 it because it is fairer that way.

18 MR JORDASH: Could I ask that the witness be given the 24
19 March interview; is that there in the bundle?

17:23:42 20 JUDGE BOUTET: 24 March?

21 MR JORDASH: 24 March, page 29245. I don't think it is in
22 that bundle, sorry.

23 THE WITNESS: 24 March, 29244 starting page?

24 Q. Yes, that's the one. Great. And we looked at this when my
17:24:07 25 I learned friend for the Prosecution was taking you through
26 questions, and this was looking at page 29245. It was an attempt
27 by you to persuade Mr Sesay to speak about Johnny Paul Koroma's
28 wife and confirm information you had about an alleged crime
29 against her; am I right?

1 A. That's correct, yes.

2 Q. Now, can I ask you to then be given -- well, before I --
3 could my learned friend in Court Management please give the
4 witness the 31 March 2003 interview. It is in the next bundle.

17:24:58 5 While that is happening, you were keen, as you would say, to
6 ensure that any persuasion such as this was done on tape; am I
7 right?

8 A. You're using the word "persuasion" and it's confusing me, I
9 guess, in regards to persuasion, as in regards to what manner are
17:25:17 10 you referring?

11 Q. Well, you were trying to encourage Mr Sesay to, as you
12 would say, well, I hope you would say, you were trying to
13 encourage him to confess to something which you believe to be
14 true?

17:25:29 15 A. What I'm trying to do with Mr Sesay is use a particular
16 incident where I had been advised that there are other people who
17 indicate that a particular event happened. This gives me concern
18 and I want to make sure that Mr Sesay is fully understanding that
19 credibility in this process is an issue.

17:25:52 20 Q. Right.

21 A. So it's not a matter of trying to persuade him. In my
22 mind, it's something that I want to clear up beyond any
23 reasonable doubt that credibility is actually going to be there
24 and what he is telling me is the truth and that down the road
17:26:15 25 we're not going to find out otherwise.

26 Q. Right. Now, you would be keen, as a professional
27 investigator, to make sure that that process which you've just
28 described happens on tape so we can all see it; am I right?

29 A. And all my questioning with Mr Sesay is there on the tape.

1 Q. Right. Can I ask you then to turn to 31 March interview,
2 and it's page 29362. As you turn to that, 29362, am I correct,
3 sorry to -- well, let me ask you this: Am I correct that in
4 relation to this alleged offence against Johnny Paul Koroma's
17:27:19 5 wife, you made two relatively concerted efforts prior to 31 March
6 to have Mr Sesay, as you would say, prove his credibility; is
7 that right?

8 A. Yes. I had spoken to him on two occasions in regards to
9 that particular issue.

17:27:36 10 Q. Right.

11 A. Specifically on the 24th was the major concerted effort,
12 yes.

13 Q. Right. It was something which was relatively important to
14 you in your investigation?

17:27:48 15 A. It was relative in the fact of trying to make an assessment
16 of what Mr Sesay was saying and the credibility behind it.

17 Q. Right. Now, can you see on page 29362, the break there?

18 A. Yes.

19 Q. 12.45 to 2.31. And then, if you just read, just flick
17:28:07 20 through the next few pages, the confession which has been sought
21 comes?

22 A. Yes.

23 Q. What I want to ask you about is this: Is it right that
24 Mr Morissette spent that time with Mr Sesay during the break?

17:28:27 25 A. Yes, he did.

26 Q. Were you there?

27 A. For part of it, yes.

28 Q. But not all of it?

29 A. No. I had my lunch and then returned, I believe.

OPEN SESSION

1 Q. Did Mr Morissette ever tell you what he'd discussed when
2 you were not there?

3 A. Yes. I believe that when I came back in the room, and you
4 have to bear with me, and it's some time back now, but, I mean,
17:28:53 5 the conversation continued on in regards to Mr Morissette also
6 speaking to Mr Sesay about the need for truthfulness, in any
7 conversations that we were having, for credibility purposes.

8 Q. Well, did you ask or find out from Mr Morissette what he'd
9 discussed when you were not there?

17:29:22 10 A. No, there was no opportunity at that time. When I walked
11 into -- I walked into the trailer and at that time, like I
12 indicated, the conversation was going on about credibility and
13 how important it is.

14 Q. And then we see 296 -- 29363, when the tape's back on --

17:29:39 15 A. Yes.

16 Q. -- the first question appears to be one which immediately
17 elicits that response from Mr Sesay. "Yes, sir. You have been
18 asking me what happened to the wife of Johnny Paul." Is that
19 right?

17:29:56 20 A. That's correct, yes.

21 Q. Is that what the discussion was, off the tape, concerning
22 Johnny Paul Koroma's wife? When I'm talking about when you're
23 there with Mr Morissette?

24 A. Yes.

17:30:14 25 Q. Right. Will you confirm this: That there was never put
26 on -- there wasn't -- there wasn't an attempt to put on tape the
27 discussion that had been had between Mr Morissette and Mr Sesay?

28 A. No.

29 Q. No. And am I correct about this: That in the previous

1 attempts Mr Sesay had been quite resistant to saying anything
2 about anything happening to Johnny Paul Koroma's wife; is that
3 fair?

17:30:55 4 A. That's correct. He was totally denying any involvement in
5 that affair.

6 Q. We can turn this up on the transcripts, but it appears that
7 by -- by the end of March there has been a firming up of the idea
8 that Mr Sesay would be a witness; is that how you recalled this
9 procedure?

17:31:44 10 A. Could you tell me what you mean by "firming up"?

11 Q. Well, on 10 March there's no mention explicitly of him
12 being a witness; it's couched in terms more akin to mitigation.
13 By the end of the interview process there's a definite assertion
14 of him testifying and testifying on behalf of the Prosecution;
17:32:04 15 that's the clear implication. We can turn it up, if you want, if
16 you think it's necessary but what I'm asking is this: Were there
17 ongoing discussions between you and the other investigators which
18 firmed up the suggestion, over the interview process, that
19 Mr Sesay could be, would be a witness?

17:32:25 20 A. Certainly there could be, yes.

21 Q. What about would be?

22 A. That was yet to be determined; not by myself.

23 Q. Well, let me ask you if it was yet to be determined by
24 pointing to something in the transcripts. Could you turn to the
17:32:40 25 final interview on the -- sorry, 14 April. No, 15 April, page
26 29535?

27 A. Okay.

28 Q. 29535, line 22:

29 "Q. Your credibility is going to lie on the truthfulness

1 of what you and I speak of, okay?

2 "A. But some people make allegation, Mr John.

3 "Q. No, I realise that, but that's why I'm just

4 emphasising to you, okay, that not to hold back because of

17:33:28 5 any fear of anything else. But, I mean, if you feel that

6 there is something that you did and you're not telling the

7 whole amount, the reason why I need you to tell the truth

8 is I need the credibility that Issa is telling me exactly

9 what happened."

17:33:44 10 Is that you talking there?

11 A. Yes.

12 Q. And then it goes on:

13 "Because, obviously, there may be other people, as you say,

14 who are going to say something differently; okay? That's

17:33:55 15 why I want to make sure that if the stories are the same

16 that they are the same. If they're not the same, no

17 problem. We'll deal with that when we get to it."

18 JUDGE ITOE: Remind me of that page, please.

19 MR JORDASH: Sorry, 29535.

17:34:12 20 Q. You accept this, don't you, Mr Berry, that that's of a

21 different quality, a different tone, a different meaning to the

22 10 March assertion that he would -- any collaboration would be

23 put before the Court as to be taken into consideration?

24 A. Well, I would have to say, Mr Jordash, that it was my

17:34:39 25 opinion all the way along that regardless of whether it be 10, 11

26 or 15 April that the whole thing was in one bundle. It wasn't

27 just isolated to the beginning and the end. Anything that was

28 said during the entire period of time would be subject to being

29 looked at.

1 Q. Sorry?

2 A. Go ahead.

3 Q. In your mind, by the 15th, Mr Sesay's going to be a
4 witness?

17:35:07 5 A. I could only hope.

6 Q. Well, this is quite definite, don't you think?

7 A. Well, that's your opinion, but mine is that I don't see
8 that definitely what you're saying; I have to disagree.

9 Q. Okay.

17:35:25 10 MR JORDASH: I note the time. Shall I continue?

11 Q. Well, could I suggest that --

12 PRESIDING JUDGE: You can wind up that aspect of it, five
13 minutes, if you can. If not, we'll continue in the morning and
14 further explore it. Do you think you can finish in five, ten
17:35:49 15 minutes or ask some pertinent questions that could take us up to
16 about 5.40?

17 MR JORDASH: Certainly.

18 JUDGE ITOE: And maybe close.

19 MR JORDASH: And maybe close?

17:36:08 20 PRESIDING JUDGE: We're trying to make up for time that we
21 lost before we came in. We did come in a little --

22 MR JORDASH: Certainly, I'll continue.

23 PRESIDING JUDGE: Yes, go ahead.

24 MR JORDASH:

17:36:16 25 Q. Could I ask you this, as a professional investigator: If
26 you had known that Mr Morissette had been having conversations,
27 reassuring the accused that the Prosecution would go through with
28 their assurances and offers, in exchange for the testimony, if
29 you'd known that had been happening off tape, would that have

1 been a concern for you, sufficient for you to report that to
2 Mr White?

3 A. What, you're -- are you implying that -- that if
4 Mr Morissette was making promises to Mr Sesay? Or if he's having
17:37:02 5 a general conversation that doesn't deal with the questioning
6 aspect of things?

7 Q. Well, I'm suggesting that he was making promises, quid pro
8 quo type assurances: You testify, we'll give you things in
9 exchange. And I'm suggesting, I'm asking if you'd known that,
17:37:25 10 would you have felt compelled to report it to Mr White?

11 A. I certainly would have brought it up to Mr Morissette and
12 Mr White, if I'd thought that was the case.

13 Q. And it would have made you more careful on tape to ensure
14 that what -- who you were dealing with was someone who was
17:37:43 15 voluntarily cooperating, rather than doing it under some kind of
16 pressure or duress?

17 A. At no time did I ever have the feeling that Mr Sesay was
18 speaking to me under any duress, other than being voluntarily.

19 Q. But at no point did you have the feeling that Mr Morissette
17:37:58 20 might be having those conversations with Mr Sesay; is that right?

21 A. No promises that I'm aware of were ever made.

22 Q. But did you ever have the feeling that something might be
23 going on with Mr Morissette and Mr Sesay, in the breaks?

24 A. No, I did not.

17:38:25 25 Q. Were you aware that on 13 March Mr Sesay had serious
26 stomach problems when he was being interviewed; can you remember
27 that?

28 A. At this current time, no, I can't.

29 Q. Did Mr Sesay talk to you about him being depressed at this

1 time, around the time of the interviews?

2 A. No, he never mentioned anything to me about that.

3 Q. Can I ask you about 14 March and a statement Mr Sesay made
4 to you?

17:39:25 5 A. Do you want me to refer to something, sir?

6 Q. Yes, and I'll just find the page number. 28 -- that can't
7 be right. I think it's -- if you could just give me a moment.
8 Well, actually, let me ask you if you could just turn to 14
9 April, page 29449?

17:39:59 10 A. 14 April?

11 Q. 14 April.

12 A. Not March?

13 Q. No. Sorry, my fault. 14 April, 29448 actually.

14 A. What was the page number again, please?

17:40:28 15 Q. 29448. Can you -- 29448, and there is reference there to
16 Mr Sesay having his teeth out the week before?

17 A. 29448?

18 Q. Yep.

19 JUDGE ITOE: Right down on the page.

17:40:59 20 MR JORDASH: Yes.

21 Q. At the bottom of the page, "I took my teeth out. I have a
22 lot of pain." Do you recall Mr Sesay referring to that?

23 A. Obviously it's in the transcript.

24 Q. But you don't recall and you weren't aware of that at the
17:41:13 25 time he was being interviewed until he brought it up. Did you
26 speak to him about it afterwards?

27 A. When you say "afterwards," are you talking while the --
28 after the camera was turned off sort of thing?

29 Q. Yes.

1 A. I honestly don't remember.

2 Q. Can I ask you to turn, then, to 14 March 2003?

3 A. March?

4 Q. March, yes.

17:41:44 5 A. Okay.

6 Q. This is another topic which will probably take ten minutes.

7 I am happy to keep going though.

8 A. What page, Mr Jordash?

9 Q. 28839.

17:42:02 10 PRESIDING JUDGE: Use your ingenuity so that you can

11 contain it within five minutes.

12 MR JORDASH: I can't contain it within five minutes, I am

13 afraid.

14 PRESIDING JUDGE: Very well then. Perhaps we should at

17:42:19 15 this point bring today's proceeding to a close and adjourn the --

16 before we do adjourn to tomorrow do you -- are you in a position

17 to indicate how much more time you will need to complete your

18 cross-examination?

19 MR JORDASH: I would have thought 30 minutes tomorrow, 45

17:42:42 20 at the most.

21 PRESIDING JUDGE: Well, that's extremely refreshing for us.

22 JUDGE ITOE: Is 45 conservative?

23 MR JORDASH: 30 is conservative. 45 is generous.

24 PRESIDING JUDGE: Shall we say also bearing unforeseen

17:42:58 25 circumstances?

26 MR JORDASH: Any preemptory contingencies.

27 JUDGE ITOE: And don't forget that you have stopped at page

28 28840, which you have to explore it.

29 PRESIDING JUDGE: We'll then adjourn the trial to tomorrow

1 15 June 2007 at 9.30 a.m.

2 [Whereupon the hearing adjourned at 5.43 p.m.
3 to be reconvened on Friday, the 15th day of
4 June, 2007, at 9.30 a.m.]

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