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D R A F T

[RUF10MAR08A-DG]

Monday, 10 February 2008

[Open session]

[The accused present]

[Upon commencing at 9.48 a.m.]

[The witness entered Court]

WITNESS: DIS-091 [Continued]

[The witness answered through interpreter]

PRESIDING JUDGE: Good morning, learned counsel. We are resuming the session. Yes, Mr Jordash, I notice that your client is not in Court this morning.

MR JORDASH: Excuse me. Your Honour, no.

PRESIDING JUDGE: We're wondering whether you have a waiver which we asked for.

MR JORDASH: There's a written waiver for today. There's some misunderstanding or miscommunication between ourselves and the detention office, and a waiver for Friday is now being prepared. So that should be with us shortly.

PRESIDING JUDGE: I see.

MR JORDASH: The waiver for today so that the Court is informed, applies except as regards the evidence of General ^ Apendy and Mr Sesay wants to be present for that. And also in

1 relation to General Hassan, Mr Sesay has indicated he owes them
2 his presence in Court, is how he puts it. And so the waiver
3 will be subject to those two exceptions.

4 PRESIDING JUDGE: It's -- it's -- it's your call, Mr -- I
5 mean, if he wants to be present, I mean, that is what it should
6 really be. If he doesn't want to, I mean, all we need is a
7 waiver and we continue with the proceedings so there's no
8 problem.

9 MR JORDASH: Yes. I'm simply conveying the information.

10 PRESIDING JUDGE: What he's told you.

11 MR JORDASH: Yes.

12 PRESIDING JUDGE: Yes.

13 MR JORDASH: I'd also like to raise --

14 PRESIDING JUDGE: So can we see the waiver for today,
15 please, I don't know what it says. I see here on the waiver
16 that the reason for his absence is that, he has to talk with his
17 lawyer.

18 MR JORDASH: Yes, I think that --

19 PRESIDING JUDGE: He's waived his right all right to be
20 present, then for the following reasons. The following reasons
21 for his absence. He has to talk with his lawyer. No particular
22 reason is stated there.

23 MR JORDASH: No, that's curious statement. I spoke to him
24 him over the weekend and I'm satisfied he'd made his mind up at
25 that stage. So I'm not sure what that indication is, but I'm

1 satisfied that his mind was made up and this is what he was
2 going to do. So that might be some miscommunication with the
3 detention staff, but as far as I'm concerned, he's --

4 PRESIDING JUDGE: Let me put it this way. It is my
5 understanding that he does not even need to give us valid reason
6 to be present. All he needs to do is to say that he doesn't
7 want to be present and that's it, you know, and if he can
8 indicate that you know here, you know, I think if something can
9 be drawn up and he just indicates that he doesn't want to be
10 present, you know, that's fine.

11 JUDGE BOUTET: Reasons apply really if he's sick or these
12 kind of scenarios, well I --

13 PRESIDING JUDGE: But for any reason which he doesn't want
14 to explain, he does not wish to be present he could easily say,
15 you know, that I don't just feel like attending Court today.
16 It's as simple as that. You can go on in my absence, my lawyer
17 is there. That's-- it's as simple as that.

18 JUDGE BOUTET: Don't just say I waive my right to be
19 present in Court period, that's it speak.

20 PRESIDING JUDGE: For the reasons, you know, he says, it's
21 just that I don't feel like attending Court today.

22 MR JORDASH: For the avoidance of doubt I wasn't present
23 when that was said. So I don't understand that any more than
24 Your Honours.

25 PRESIDING JUDGE: I know. I know. Court management can

1 you take this please. That's it behind you, here. So it would
2 be corrected, you know, properly filled, then maybe, we can deal
3 with those two documents later in the day.

4 MR JORDASH: Certainly, Your Honour.

5 PRESIDING JUDGE: Right.

6 MR JORDASH: There are a number of other subjects I'd like
7 to raise quite quickly, the second subject is that of
8 timetabling. I think time is running out rapidly and what I'd
9 request is the possibility of sitting either extended hours and
10 or Wednesday afternoon, so as to be able to complete the
11 remaining witnesses by the close of play, on Thursday. If I
12 could indicate to Your Honours that there is a potential of six
13 witnesses left, four definites, those are Opande, General
14 Opandy, General Hassan, DIS-129 and DIS-170. DIS-083 and
15 DIS-095 have only just arrived and we'll make final assessment
16 by the end of the day we hope. But in the event that the two
17 witnesses I've just mentioned are to be called it does make the
18 remaining time somewhat short. So I would request those
19 extended sitting times if possible. The third point I'd like to
20 raise is related to that request for additional time. And it's
21 based on a legal argument which I feel as though I am duty bound
22 to raise. And it concerns comments or directions made by Your
23 Honours, concerning the decision of the 5 March 2008, concerning
24 the written decision on the Sesay Defence application for a
25 weeks adjournment and concerns comments or directions made by

1 Your Honours, on Friday, concerning the effect of character
2 evidence and at some stage and I'm in Your Honours hands, I wish
3 to raise a legal argument in relation to those. I'm calling
4 them comments or directions because strictly speaking they are
5 not a decision or a ruling. Especially, those remarks made in
6 the written decision which strictly speaking are overturned.

7 But the legal argument I feel duty bound to raise concerns
8 Rule 93 of the rules and procedure in evidence. Which is
9 evidence of consistent pattern of conduct. And the -- if I
10 could simply say at this stage, that Your Honours comments and
11 directions would appear to suggest that Your Honours have
12 decided not to apply that Rule and particularly, I'm referring
13 to Paragraph 45 of the written decision of the 5 March, wherein
14 Your Honours state that events pre-30 November 1996, have a
15 connection only one in a historical sense, then even that only
16 to a limited extent. And I would seek to argue before the close
17 of our case, that that is a misapplication of the law and in
18 particular, complete subversion of Rule 93, which requires Your
19 Honours to consider evidence of a consistent pattern of conduct.
20 And when I say evidence of a consistent pattern of conduct, I'm
21 including in that all of the evidence which we've led pre1996
22 but also the evidence which Your Honours have categorized as
23 character evidence which falls within the indictment period. I
24 feel duty bound to raise it before the close of our case because
25 if Your Honours ruling in the way suggested in the written

1 decision and in the way suggested on Friday during oral argument
2 then it places our Defence in a difficult situation.

3 JUDGE BOUTET: But are you arguing now? Or--

4 MR JORDASH: No. I'm laying it out so Your Honours could
5 decide when this argument should be heard. The reason I --

6 JUDGE BOUTET: Are you intending to appeal our decision on
7 the 5 March. That's one way, if you dont agree with it. That`s
8 one way of dealing with it and the Appeals Chamber may look into
9 this matter.

10 PRESIDING JUDGE: I also wanted to say, you know, whether
11 we did say in that decision that the evidence of character or
12 whatever which you have adduced is irrelevant. I do not know.
13 I'm not aware that we said that. That, that was mentioned in
14 that decisions.

15 MR JORDASH: No. But the point is this about this decision
16 which is why I'm referring to the contents of it.

17 PRESIDING JUDGE: You see because, if we had said, that the
18 evidence of character is irrelevant in that decision then I
19 would see why you are coming in but I don't think that --
20 besides talking about the repetitiveness, repetitiveness, you
21 know, of certain portions of evidence, of certain facts in the
22 evidence, we never ever in that decision say that the evidence
23 you have adduced so far in those circumstances is irrelevant.

24 MR JORDASH: Well, if I can put it this way. If I can
25 answer Justice Boutet's remarks that it is not possible to

1 appeal this decision against a decision which on it's ratio is
2 in our favour. The adjournment was granted. So that's why I
3 referred to the overturn.

4 PRESIDING JUDGE: Even if it is in your favour partially,
5 you can appeal against those portions which you do not agree
6 with, it's possible. Why not.

7 MR JORDASH: In that case, what I would appreciate is, and
8 that is why I raise it, is a clarification with respect from
9 Your Honours, as to exactly what Your Honours meant. If Your
10 Honours are saying that --

11 JUDGE BOUTET: Mr Jordash, I 'm speaking for myself on this
12 issue. I don't think you can expect from the Bench, that the
13 Bench would give additional clarification on what is the meaning
14 of a decision that has been rendered as such. To me, the
15 decision speaks for itself. You give it whatever interpretation
16 you think is appropriate. I don't think we should as a court go
17 back to this decision and trying to further explain what we had
18 said, and to say that when we said this is what we meant and we
19 never meant to say this. At least this is not my understanding
20 of what Court ruling are all about, and I don't think that we
21 should go and explain what we meant when we said that decision,
22 but I spoke for myself, I didn't discuss with -- we didn't
23 discuss that this morning.

24 PRESIDING JUDGE: I conquer with what my learned brother
25 has stated there. I don't want to get there myself. I have

1 gotten there already, by raising the issue, you know, of whether
2 we did say, you know, that the evidence was irrelevant, which we
3 did not anyway. So it means that we never -- we never said you
4 know that character evidence which you are leading which has
5 something to do with -- which according to you has a nexus with
6 the provisions of Rule 93 is irrelevant. We never got there.

7 JUDGE THOMPSON: Yes, and I would like to say straight away
8 and that would be again subject to what an appellate Tribunal
9 will tell me as a matter of law, that Rule 93 would not apply to
10 the Defence case. That would be my own interpretation of the
11 law, as a matter of law subject to correction from an appellate
12 Chamber that Rule 93 is restrictive and the focus is on the
13 Prosecution's case. In other words, the analogy here, is to
14 similar fact evidence in the national system which a Prosecution
15 cannot lead to prove the crimes or the charges before the Court.
16 Generally, as a general Rule, similar fact evidence is not
17 admissible in the context of the national system to prove that
18 an accused person committed a crime, because there are
19 exceptional cases in the national system. And I think what Rule
20 92 -- 93, here is doing, is virtually reproducing some kind of
21 an analogous Rule which is applied in a municipal system for the
22 purposes of international criminal justice. Virtually saying
23 that similar fact evidence may be admissible in the interest of
24 justice and my own interpretation of the law, subject to
25 correction by an appellate Tribunal, would say that it doesn't

1 apply to the Defence case. That's would be my interpretation of
2 the law.

3 JUDGE BOUTET: Further buttressed by 93(b) Because, when
4 you read 93(b) it says has standing to show such a pattern
5 conduct shall, shall be disclose by the Prosecution, not by the
6 Defence. So I mean.

7 JUDGE THOMPSON: In other words, the Prosecution is not
8 allowed to produce evidence of similar fact to prove the
9 indictment, as a general Rule in the national system but here
10 there is an exception made to that. And so I don't see why the
11 Defence should complain, that the concept of character evidence
12 that you're leading in support of your clients case is governed
13 by Rule 93 as a matter of law.

14 MR JORDASH: Well --

15 JUDGE THOMPSON: That would be my own interpretation of the
16 law, besides subject to appellate --

17 PRESIDING JUDGE: I think to close this chapter, Mr
18 Jordash, I think granted, you say, that at least that decision
19 in a way it was favorable to you. It is that -- we don't to
20 want to delve into the merits of what you're talking about. We
21 do not want to carry out a postmortem or diagnosis of our own
22 decision. And the legal avenue out of this is, if you so wish
23 to appeal against that decision and just like any other party
24 can appeal against it and we'll close it and pursue the taking
25 of the next witness, because like you've confessed, like you've

1 put it yourself, you know, we don't have much time to get into
2 these arguments. Because I don't see us getting into this, you
3 know.

4 MR JORDASH: The difficulty I have is this: One, it has
5 always been my understanding that a decision cannot be appealed
6 unless it is against the party but having said that.

7 PRESIDING JUDGE: A decision has many compartments it has
8 many compartments. It has many compartments, I mean you could
9 -- it's a question of whether the entire decision, you know
10 satisfies your needs or it goes against the law, in one way or
11 the other. If it does go against the law or the interest, you
12 know, of your clients, then you could appeal against that issue.
13 It is possible.

14 MR JORDASH: Well, that's never been my understanding but
15 in any event what I would seek to appeal is the Courts ruling
16 today, that Rule 93 does not apply.

17 PRESIDING JUDGE: Where have we even made such a ruling --
18 we have not had any arguments on this. This is why we don't
19 want to get into this --

20 JUDGE THOMPSON: It's my view.

21 PRESIDING JUDGE: Into this issue. What my colleague was
22 saying.

23 JUDGE THOMPSON: I wasn't speaking for the Bench at all.

24 MR JORDASH: But I want to make an legal application to say
25 Rule 93 does apply.

1 JUDGE BOUTET: You want to make it now? Well, do you want
2 to make it now? That's why I ask you, are you making your
3 application now, Mr Jordash? Or are you just giving us
4 notification that you are like -- that are likely to -- that's
5 why I put it to you. If you are doing it now, fine, we'll
6 listen to you and we'll try to dispose of it.

7 MR JORDASH: What I'm trying to do is set out the
8 timetabling as we see it. And I'm inviting Your Honours to look
9 at the remaining time sit -- extended hours and part of the
10 reason for sitting extended hours is to hear argument concerning
11 Rule 93. And the reason -- the reason that's important to do
12 it, I would submit, before the close of our case is because
13 depending on what Your Honours ruling is on Rule 93, may well
14 depend upon whether I request that our case remains open in
15 order to reconsider the evidence which might need to be called
16 if Your Honours are considering all evidence pre-1996 as
17 marginally relevant as historical context. And or whether Your
18 Honours are considering character of the witness simply as was
19 indicated on Friday, relevant to the sentencing stage rather
20 than the liability stage..

21 JUDGE BOUTET: I don't think that's what we said, but
22 anyhow I would -- maybe that's what you got from what the
23 comments were from the Bench, Mr Jordash, but if that's what
24 you got that's not what we intended to say. Yes, character
25 evidence is important and is certainly relevant for sentencing,

1 but we never said, to my knowledge, that it is relevant only
2 for that purpose. I don't think we said that.

3 MR JORDASH: Well, this is the reason why I'm raising these
4 points, because I am requesting of the Bench that Your Honours
5 clarify the position on this so that we might be guided as to
6 what it is we are presenting as evidence, and what is likely to
7 be the Bench's overall approach to that evidence. Because it's
8 important not simply for us but also for the other teams. But I
9 speak on my behalf that the --

10 JUDGE BOUTET: Can I suggest Mr Jordash on this or so we
11 could move ahead. We will ask for the transcript what we said
12 in Court on Friday, look at it, and then hear what you may have
13 to say. As I say it's not my recollection that this is what we
14 said. If that's the way it came out, certainly speaking for
15 myself on this issue, I don't think it was ever intended to be
16 that limited, but I don't have the transcript in front of me.
17 It's very difficult to say "yes" or "no" and "maybe" and these
18 were really not decisions from the Court. These were response
19 to the questions you were putting to the Court at that time.
20 But if this is what the transcript said, maybe when we said that
21 at the time when -- in a direction that we didn't intend. But
22 rather than speak on this issue without having a transcript, Mr
23 Jordash, it's difficult to say you're right or we're wrong or
24 whatever it is.

25 MR JORDASH: If I can --

1 JUDGE THOMPSON: May I say something that I'm not being
2 judicially apologetic about this. I raised a fundamental issue
3 as far as my knowledge of the basic criminal process is, that
4 usually there is a dichotomy a bifurcation between the liability
5 phase of a trial and the sentencing phase, that in the national
6 systems evidence relating to character is usually reserved for
7 the sentencing phase. I made that as my own understanding of
8 the law, but I wasn't in fact discounting the possibility when
9 you came out with what I thought was a very attractive legal
10 argument, that you may in fact say that it's possible that you
11 can use character evidence at the liability stage to say that
12 your client did not commit crimes. I found this very creative
13 and novel, but I was basing my own knowledge on what at law
14 school I was taught, that usually character evidence is not
15 brought in to argue the liability or otherwise of the client, of
16 the accused person. That is what I understood the law and that
17 was my own thinking. But it was put there for argument and I
18 wasn't binding my two brother judges on this issue, but nor was
19 I stating it as the Court's position.

20 MR JORDASH: Well, I apologise for misreading what your
21 Your Honour's comments were, but this highlights the uncertainty
22 of --

23 PRESIDING JUDGE: And I would confirm that Justice
24 Thompson, at a certain stage in the proceedings, did say that he
25 cannot discount character evidence, you know, being used at the

1 liability stage, the liability-determination stage of the
2 proceedings. Even though he said what he said, he did mention
3 that in the course of his comments on Friday.

4 MR JORDASH: Well, absolutely no criticism was intended,
5 absolutely not.

6 JUDGE THOMPSON: I can assure that it's not taken that way.

7 MR JORDASH: Thank you, Your Honour.

8 JUDGE THOMPSON: But just to put the argument in focus, it
9 was a debate.

10 MR JORDASH: What I'm seeking is -- as Your Honours know
11 we've led a lot of evidence about which on one view could be
12 character, on another view, our view, is the acts and conduct of
13 the accused which reflect a consistent pattern of behavior from
14 the beginning of the war. We put a lot of weight on it because
15 we say it's important in terms of the liabilities expressed
16 within the indictment, especially the joint criminal enterprise
17 especially command responsibility. So to hear or to read a
18 decision or to hear remarks we suggest that that evidence is
19 going to be, or quite probably will be -

20 PRESIDING JUDGE: Probably. Don't say probably. Talk
21 categorically. Not probably. We want you to really say what
22 our decisions said. How have you read it?

23 MR JORDASH: Well, the decision says that pre-1996 is
24 historical --

25 PRESIDING JUDGE: Yes.

1 MR JORDASH: -- and only -- let me see the words spoken.

2 To a limited extent relevant.

3 PRESIDING JUDGE: Yes. Yes.

4 MR JORDASH: That's the issue.

5 PRESIDING JUDGE: Yes.

6 JUDGE BOUTET: To a limited extent.

7 PRESIDING JUDGE: That is it to a limited extent. What is
8 wrong with that? It speaks for itself.

9 MR JORDASH: The point is this: That we would take Rule 93
10 -- we could save these arguments until the closing, but in my
11 submission we ought to be as a Defence, entitled to look at what
12 approach Your Honours are taking and ask Your Honours --

13 PRESIDING JUDGE: We have taken our approach.

14 MR JORDASH: But we haven't argued --

15 PRESIDING JUDGE: We have taken our approach on this. I
16 think we better wrap up this argument. We have taken our
17 position on this and as I was saying on Friday, you know, a
18 judicial decision is not supposed to please all parties or even
19 a particular party in all it's compartments. We have taken our
20 time to analyze the situation, you know, and we were very, very
21 very, careful in analysing the entire situation. And at no
22 stage did we say -- did we say, you know, that the preindictment
23 historical period is not relevant. At no stage did we say, you
24 know, that character is not relevant. So this --

25 MR JORDASH: The question that -- I'm sorry, Your Honour.

1 PRESIDING JUDGE: Yes, no, go ahead, yes.

2 MR JORDASH: The question that remains, and this is what
3 I'm asking Your Honours to consider, and Your Honours haven't
4 considered submissions on this. That's why I say that the issue
5 --

6 JUDGE BOUTET: On 93?

7 MR JORDASH: Well, on the relevance of pre-1996 as relates
8 to Rule 93, and Your Honours haven't considered submissions on
9 it. And Your Honours, in my respectful submission, should
10 before the Defence are obliged to close their case.

11 JUDGE BOUTET: But why? Why? The rules are there. They
12 speak for themselves. I mean, obviously, I mean as you say, I'm
13 a bit at a loss to understand what you are saying this morning
14 in this respect, Mr Jordash. As you said you are about to close
15 your case and at this particular moment now you're asking the
16 Court to give a ruling, so you know if you're going to turn
17 right or turn left. I mean I'm a bit surprised of this
18 application now.

19 MR JORDASH: Well, because --

20 JUDGE BOUTET: If you had made an application I don't know
21 a year and a half ago, I would have understood. But at this
22 stage.

23 MR JORDASH: But there was nothing from Your Honours to
24 suggest that Your Honours was going to look at --

25 JUDGE BOUTET: Yeah, but your whole, your whole Defence, or

1 the majority of your Defence or the approach taken in the
2 strategic approach taken by you and your client is to say it
3 relies heavily on this particular aspect. Am I right?

4 MR JORDASH: No. It relies heavily on all aspects but
5 obviously the starting point of his conduct was the beginning --

6 JUDGE BOUTET: I'm not saying "solely and only," but yet
7 you rely heavily on that aspect of your Defence.

8 MR JORDASH: On a consistent pattern of conduct from --

9 JUDGE BOUTET: That's what I mean. The pattern of conduct
10 of the accused throughout is such that. So that's basically the
11 underlying strategic approach that you have taken in this
12 respect. That's what I'm saying.

13 MR JORDASH: But Your Honour's decision appears to suggest
14 well, in fact it's not a consistent part of conduct, it's simply
15 historical --

16 JUDGE THOMPSON: Let me intervene, respectfully. And we
17 didn't investigate that aspect, and we could not at that, this
18 point in time because that's the kind of argument or perception
19 that one would want to hear submissions on at the close of the
20 case, of the trial. And I would say in fact that what I just
21 said about Rule 93 is a judicial viewpoint that I hold unless
22 I'm persuaded by argument otherwise that it has an extended
23 application, and prepared to say as a matter of law and as a
24 judge I'm entitled to do that, unless I'm corrected by the
25 appellate Chamber or persuaded by Mr Jordash, that in fact, it

1 goes beyond Prosecution's evidence and it applies with equal
2 force to Defence evidence. These are all matters in the air. I
3 ask the question: Why would not this be a real issue that one
4 can articulate some solid closing arguments on, and try to
5 persuade the Court that even if the Court had indicated perhaps
6 in some interlocutory decision that it was going this way, a
7 different way. Yet when it comes to the final evaluation of the
8 case, these are matters that should be factored into the entire
9 process. That would be my thinking. That would be the kind of
10 exercise that I'd be prepared for.

11 MR JORDASH: Well, if Your Honour's view is shared by the
12 remainder of the honorable Bench then my concerns are completely
13 alleviated. What I'd wanted to achieve was the possibility of
14 addressing Your Honours on the probative value of those acts and
15 conduct throughout the conflict, pursuant to Rule 93. Or if not
16 Rule 93 then an equal but opposite rule of principal. And if
17 that's the case, then I won't need to proceed with the ruling.
18 But if we were being shuttered out at this stage then that was
19 my concern.

20 PRESIDING JUDGE: I don't think any issue -- I mean there
21 is any issue that is a taboo, you know, to raise when you are
22 are making your final closing brief in this case. I mean, these
23 are things which are -- I mean, the decision itself, I mean, we
24 cannot, we cannot tell you, you know you should move this way or
25 that way. And we have not stated, we have not taken a position

1 that the evidence you've led on character or on the pre-1996
2 issues, you know, is irrelevant. All we were saying, you know,
3 was that it was getting repetitive. Repetitive. That is all we
4 were talking about. And you don't need, you don't need to make
5 the point -- and that is where, why we went into the practice in
6 international criminal tribunals, which says that you can prove
7 an issue or a fact, you know, with just one witness, and that
8 is it. And we went further to say that even though that is the
9 law, it might be necessary in certain circumstances to have some
10 collaborative evidence which I am sure we've heard in this
11 particular case to make the point on repetitiveness. And if you
12 want to visit them or these issues which you want to raise now,
13 during your final brief at the close of the case for the
14 Defence, nothing precludes you from doing that. Nothing,
15 absolutely nothing.

16 JUDGE BOUTET: I am not prepared to commit myself one way
17 or the other on this issue. We'll deal with that when it comes.
18 To me the decision is clear, it speak for itself. And you can
19 draw whatever inference you want from that decision. I'm not
20 prepared to comment on that decision. So you proceed the way
21 you want to proceed. We have spoken on that decision on the
22 issue that was in front of us. But other than that I'm not
23 prepared to commit myself one way or the other.

24 PRESIDING JUDGE: Maybe if you want a clearer or more
25 authoratative voice on that decision, the suggestion is nothing

1 prevails, nothing precludes you from appealing against it so
2 that you have what the position of the appeals Chamber would be
3 on what this Chamber has had to say in that decision.

4 MR JORDASH: Well, I take Your Honours comments today and I
5 shall leave it at that, and leave it to the closing submissions.
6 The final point to --

7 PRESIDING JUDGE: And on your request for extended hearings
8 and so on and so forth. We will look at it as a Chamber and we
9 will see how we proceed today and we'll determine what attitude
10 to adopt to extended sittings and so on before you close your
11 case.

12 MR JORDASH: Certainly. And for the purposes --

13 PRESIDING JUDGE: Yes. We cannot say anything about
14 that now. We can can't say 'no', we cannot say 'yes'.

15 MR JORDASH: Yes.

16 PRESIDING JUDGE: We will let you know as time goes
17 on.

18 MR JORDASH: Thank you. For the purposes of that
19 deliberation, would Your Honours take into account that we lost
20 a morning for the residual issues.

21 PRESIDING JUDGE: Which morning?

22 MR JORDASH: I think it was a Thursday morning. Or
23 certainly we lost several hours that day. Mr Cammegh will know.

24 PRESIDING JUDGE: Mr Cammegh?

25 MR JORDASH: But Your Honours recall the --

1 JUDGE BOUTET: You mean to say we lost court time, morning?

2 MR JORDASH: Yes. Yes. We lost court time.

3 PRESIDING JUDGE: We lost court time, yes.

4 MR JORDASH: But the final issue --

5 PRESIDING JUDGE: Mr Cammegh lost more court time, so maybe
6 it should reflect on his pay.

7 MR JORDASH: It might. The final issue, and I'm sorry to
8 delay the Court so much, is that of ^ General Apande. We're
9 trying to find out -- there's been some miscommunication
10 concerning when he's leaving the country, or when he wishes to
11 leave the country.

12 PRESIDING JUDGE: When he wishes to leave Sierra Leone?

13 MR JORDASH: Yes. Well, I'm being told it's Tuesday, but
14 the information we had was that it was Friday. So could I just
15 take quick instructions? There does seem to be some confusion.
16 WVS think Friday, the Kallon team think Tuesday. And the point
17 is, if he has to leave on Tuesday we'd like to make the
18 application at some point to perhaps interpose him to get him on
19 earlier today. He's the next witness after the present one.
20 But if it turns out that he has to leave on Tuesday we would be
21 inviting the Court to interpose him with the present witness so
22 that he may finish by the end of the day. But I think we could
23 let you know in terms of --

24 MS MYLVAGANAM: My Lord --

25 PRESIDING JUDGE: Mr Jordash -- yes?

1 MS MYLVAGANAM: My Lord I wonder if I could briefly address
2 the Court on this matter.

3 PRESIDING JUDGE: Yes, yes.

4 MS MYLVAGANAM: I'm fairly clear that General Apande is
5 anxious to leave on Tuesday. Maybe, there's been some
6 miscommunication through other channels --

7 PRESIDING JUDGE: May we find the solution? We're
8 prepared to take him on now.

9 MS MYLVAGANAM: I'm grateful. I wonder whether the Court
10 --

11 PRESIDING JUDGE: We're prepared to take him on now. Mr
12 Prosecution, would you -- I don't know, but.

13 MR HARDAWAY: This is Mr Harrison's witness, Your Honour.

14 PRESIDING JUDGE: Yes.

15 MR HARDAWAY: So I would need to communicate with him.

16 PRESIDING JUDGE: Please you know because we are getting to
17 the close of the case of the Prosecution and -- rather of the
18 Defence --

19 MR HARDAWAY: And Your Honour while --

20 PRESIDING JUDGE: -- and the first defendant. And the
21 Prosecution should be ready at all times. We are not going to
22 use hard rules of procedure and practice, you know to --

23 MR HARDAWAY: No. I understand that, Your Honour. This
24 was just brought up to us about a [indiscernible] position. I'm
25 sure with a phone call I can be able to speak to Mr Harrison.

1 PRESIDING JUDGE: Good. That's fine.

2 MR HARDAWAY: But as it also relates --

3 MR JORDASH: If I may say so. My learned friend --

4 PRESIDING JUDGE: Pardon me?

5 JUDGE BOUTET: We don't hear.

6 MR JORDASH: Well, it may be that it is not necessary. I
7 think there is a lack of clarity on this issue. I know my
8 learned friend is certain, but every information we've received,
9 and I think before we interpose him, I would respectfully ask
10 that we clarify through him.

11 PRESIDING JUDGE: No. No. No. Look --

12 MR JORDASH: He may not even be at Court at the moment.

13 PRESIDING JUDGE: Yes, may we know? Can you please consult
14 with your colleague, Ms Mylvaganam and see where we move from
15 here. Because a lot of pressure is being put on the Court. And
16 we understand and we are prepared to cope with that pressure to
17 take on witnesses, you know, who we think we should take
18 following the preferences of the Defence.

19 MR JORDASH: Your Honour, could --

20 PRESIDING JUDGE: So we want to know where we stand in
21 this. We don't want to impose a solution on you. Let us know
22 where we stand. And mark you, Mr Harrison, who is not here
23 although we can stand down the matter and maybe ask him to come.

24 MR JORDASH: And the General may well not be here at Court
25 either. Ms Ashraph has just gone out of Court. She's going to

1 check with WVS and check with the General, what is the actual
2 situation because we could speculate forever and a day. In the
3 meantime what I would respectfully request is, I know this
4 witness is desperate to get away too --

5 PRESIDING JUDGE: Every witness is desperate to get away.
6 Mr Jordash, we cannot, we cannot, the Court will not work on the
7 calendar of witnesses who are desperate to get away. When they
8 come here to testify on your behalf they must adjust themselves
9 to the timetable of Court. Every witness who comes wants to get
10 away and so on and so forth, and not more than one of them can
11 testify at any given time.

12 MR JORDASH: The point I was making was in my respectful
13 view every witness is as important as the other and their
14 concerns are equally valid. So that's my position. And if we
15 can get this witness done, I'd like that to be done.

16 PRESIDING JUDGE: Ms Mylvaganam, what's your position on
17 this, please?

18 MS MYLVAGANAM: Well, My Lord, I didn't really mean to
19 interfere. My concern was that understanding that General
20 Apande, who's been here for some days was expecting to fly out
21 on Tuesday. I was just hoping that the interest of the Court
22 and --

23 PRESIDING JUDGE: And you spoke to him Ms Mylvaganam?

24 MS MYLVAGANAM: I did, yes.

25 PRESIDING JUDGE: Yes.

1 MS MYLVAGANAM: And in fact both my understanding and Mr
2 Ogeto's understanding is that he was anticipating leaving
3 tomorrow. In fact Mr Ogeto currently is also trying to make
4 contact with him. And we thought it may be more sensible if he
5 was interposed. But certainly we don't want to interfere with
6 anybody else's case. We --

7 PRESIDING JUDGE: Yes, yes, finish what you have to say.

8 MS MYLVAGANAM: We don't want to interfere with the first
9 defendant's case unnecessarily, so I think perhaps the less said
10 by me at the moment, the better.

11 PRESIDING JUDGE: Right. Thank you, yes.

12 JUDGE THOMPSON: What is "anticipating to fly out." What
13 does that mean, tomorrow?

14 MS MYLVAGANAM: My understanding is, I believe there's a
15 Kenyan airflight on Tuesday which goes via Accra. So that is --

16 JUDGE THOMPSON: That is his final position, that he wants
17 to fly out tomorrow?

18 MS MYLVAGANAM: My Lord, Mr Ogeto is currently absolutely
19 clarifying the position because it was very clear from my
20 understanding of his position that he anticipated his testimony
21 concluding today. Now it's not likely to be long, but all the
22 same, you know, if he starts at 3.00 the chances are that it may
23 not finish. That's my anxiety.

24 JUDGE BOUTET: Yeah, but the flight is tomorrow evening,
25 it's not in the afternoon.

1 MS MYLVAGANAM: I'm not aware of exactly when.

2 JUDGE BOUTET: Kenyan Airlines fly in the afternoon. They
3 leave Lungi sometime in the evening.

4 PRESIDING JUDGE: I don't have a mastery of their calendar.

5 JUDGE BOUTET: But there's no flight from Lungi by Kenyan
6 Airlines in the afternoon. It's evening time. So maybe seven
7 or eight, I'm not sure, but certainly not in the day.

8 MS MYLVAGANAM: Well, I'm probably worrying unnecessarily.

9 JUDGE BOUTET: I think so, but I had one question for you.
10 Based on your comments, can I assume that he's a common witness.
11 I know nothing about that. So I assume because of your
12 intervention that you have some interest in General Apande. I
13 don't know.

14 MS MYLVAGANAM: Yes, I believe he's been filed as a common
15 witness. I believe there's been notification to that effect.

16 JUDGE BOUTET: Where and when?

17 PRESIDING JUDGE: I'm not aware of that, you know, up to
18 now. Maybe it has not yet been virtually put on the table of
19 the judges. I don't know.

20 MS MYLVAGANAM: My Lord, perhaps I could investigate that
21 at some appropriate time.

22 PRESIDING JUDGE: Please do and let us have some evidence
23 of that fact, you know, of the filing which remains to this
24 effect. So the solution now is that we take on this witness. A
25 witness who is on now. Mr Jordash, is that the solution?

1 MR JORDASH: Yes, please.

2 PRESIDING JUDGE: Can the witness be brought in now please,
3 and please can the Prosecution get on the line with Mr Harrison
4 to inform him that we may take General Opande --

5 MR HARDAWAY: That has already been done, Your Honour.

6 PRESIDING JUDGE: -- sometime in the course of today.

7 MR HARDAWAY: It was anticipated that General Opande would
8 be today, Your Honour, and Mr Harrison has been informed of that
9 during the break a call has been made.

10 [The witness entered court].

11 PRESIDING JUDGE: Okay. Now that Ms Ashraph is coming in,
12 I hope that she may have some information, you know, to relate
13 to us. Yes, Ms Ashraph has brought some good news or some bad
14 news?

15 MR JORDASH: It's in between news.

16 PRESIDING JUDGE: She has never brought bad news to us
17 anyway.

18 MR JORDASH: Maybe not to Your Honours.

19 PRESIDING JUDGE: Yes.

20 MR JORDASH: The news is that General Opande does want to
21 go tomorrow.

22 PRESIDING JUDGE: Yes.

23 MR JORDASH: He has only just informed WVS. So WVS do not
24 have or doubt whether he could get on the flight tomorrow. And
25 in any event, he's not in court; by the time he's brought, the

1 earliest he could go on is after lunch is the anticipated time
2 tabling. So I think this is why I say in between news. There's
3 a hope that he will leave tomorrow as Your Honour rightly
4 observes the flight is in the evening. I can indicate that I
5 will not be more than an hour with him in direct. And I don't
6 anticipate that if he were to start after this witness, that he
7 would not catch his flight tomorrow.

8 PRESIDING JUDGE: Everything should be done to enable him
9 to catch the flight. The flights are very -- at times very
10 difficult. Once you miss your flight, you have to stay here for
11 more days.

12 MR JORDASH: Yes, he could be here for the morning session
13 tomorrow with the flight schedule as we anticipated with Kenyan
14 Airlines.

15 PRESIDING JUDGE: He can be here tomorrow morning?

16 MR JORDASH: If I make it clearer, if he were to start
17 today and finish tomorrow morning, I think he would still catch
18 his flight, if he's on the flight.

19 PRESIDING JUDGE: So let's try and finish with this
20 witness.

21 MR JORDASH: Thank you.

22 PRESIDING JUDGE: I hope we shall before lunchtime.

23 WITNESS: DIS-091

24 DIRECT EXAMINATION MR JORDASH:

25

1 MR JORDASH:

2 Q. Good morning, Mr Witness.

3 A. Good morning, sir.

4 Q. Sorry to keep you waiting.

5 A. No problem, sir.

6 Q. What I'd like to do is to get around --

7 PRESIDING JUDGE: This is DIS-

8 MR JORDASH: 091.

9 PRESIDING JUDGE: And he is your forty-ninth or 50 --

10 JUDGE BOUTET: He's already testified.

11 PRESIDING JUDGE: Okay. Okay. Okay. We started on
12 Friday. That`s right. Okay. Okay. I remember now. I got it.
13 I thought it`s a new one.

14 MR JORDASH:

15 Q. Mr Witness I want to try to get around the
16 difficulties we were having on Friday?

17 A. Yes, sir.

18 Q. And I want to request the assistance of the WVS and
19 would you mind whispering to the WVS representative what your
20 exact title was within the mining unit with Your Honours, leave
21 could that be done? It saves us going into a closed session?

22 PRESIDING JUDGE: Or Court Management is here.

23 MR JORDASH: Or Court Management.

24 PRESIDING JUDGE: The witness unit which ever I mean it
25 doesn't matter. Witness unit, yes.

1 MR JORDASH: Do you follow what I want you to do, Mr
2 Witness?

3 A. No, sir.

4 Q. The man who's coming over to you, please whisper to
5 him in Krio what your --

6 A. Yes, sir.

7 Q. What your official title was within the mining unit;
8 do you understand? Switch off your microphone?

9 A. Yes, sir.

10 Q. Switch off your microphone though. Please tell the
11 man. Whisper.

12 JUDGE BOUTET: That's aloud whisper.

13 MR JORDASH: It's a shout I think.

14 PRESIDING JUDGE: Can you write it on a piece of paper for
15 us please. Take one from here. Take one from here.

16 MR JORDASH:

17 Q. Let me just see if we can clarify this. You told us
18 on Friday -- sorry -- I'll keep the paper for a moment if I may.
19 There might be some lack of clarity. Hit your microphone. You
20 told us on Friday that Kennedy was the mining commander when you
21 arrived in Koakoyima; is that correct or not.

22 A. Yes, sir. But when I ask what was my occupation in
23 that time but when we go to Koidu the commander changed to
24 Kennedy that is what I meant.

25 Q. What I'm asking you is: When you arrived --

1 A. Yes, sir.

2 Q. And Kennedy was the commander, and you started working
3 in the mining unit, what was your official title? Can you --
4 can you whisper that to the man? Do you understand my question?

5 A. Yes, sir, I understand the question.

6 Q. Can we try that again.

7 A. Okay. Let the man come and I will tell him.

8 JUDGE BOUTET: Maybe it would be easier if the Court
9 officer.

10 MR JORDASH: The lady from the Court Management could come
11 and do it on a piece of paper. Do you understand what I want
12 you to do?

13 PRESIDING JUDGE: Mr Jordash, you're tendering this.

14 MR JORDASH: Yes, please.

15 PRESIDING JUDGE: Mr Hardaway, I suppose you have no
16 objection to this.

17 MR HARDAWAY: No objection.

18 PRESIDING JUDGE: This documents is containing the
19 functions that DIS-091 was performing, it is admitted and marked
20 confidentially as Exhibit 303.

21 Yes, My Lord.

22 [Exhibit No.303 was admitted]

23 PRESIDING JUDGE: Please indicate the pseudonym of the
24 witness on this exhibit, so that we can trace it to him. Yes,
25 Mr Jordash, you may --

1 MR JORDASH: Thank you.

2 Q. You told us on Friday, Mr Witness, that civilians were
3 mining; is that right, from the mining unit?

4 A. Yes, sir, among the mining units there were civilians
5 who were mining.

6 Q. And do you know the number --

7 JUDGE BOUTET: Mr Jordash, this is early '99, December '98
8 time frame end December, early '99 that's what we're talking
9 about here or have you moved to another time.

10 MR JORDASH: Early 1999.

11 JUDGE BOUTET: Early '99.

12 MR JORDASH: Within a month after Koidu Town was
13 recaptured.

14 JUDGE BOUTET: Yes, yes.

15 MR JORDASH:

16 Q. So civilians in the mining unit were mining, how many
17 were mining after your arrival?

18 A. According to Commander Kennedy, he said could only get
19 manpower up to 50.

20 Q. And what was the daily schedule for the mining unit
21 and the civilians working in the mining unit. Do you understand
22 my question?

23 A. You mean -- that is what I want to ask. You mean the
24 time or the work.

25 Q. What I want you to do is explain how the mining unit

1 worked. What would happen in the morning and take us through
2 how it was organised. Would you start work in the morning.

3 A. Yes, sir, we start work in the morning.

4 Q. Would everyone start in the morning?

5 A. Well, the work that starts in the morning has no time
6 limit. It depends on the group that was appointed to do the
7 work. They all start off together at nine, until nine maybe
8 they were assembled. That was when they started working.

9 Q. So where were they assembled?

10 A. Well, there was a place where we pray every morning
11 both Christian and English. After that, you go to get -- try to
12 get food. After that you try to assemble to go.

13 Q. Who would go and get food or try and get food?

14 A. Well, the commander would request for food from other
15 high commands around him saying we don't have food and they'd
16 bring it.

17 Q. And who would the food be given to?

18 A. First, Mr Kallon helped greatly to give civilian food
19 for the mining.

20 Q. And how often would food be given?

21 A. Well, food -- when food comes they share it maybe for
22 a week. If it's finished it depends how it comes weekly or
23 every two weeks.

24 Q. Mr Witness, I think they are requesting that you sit
25 further back. Sit a bit further back. Yes, that's fine. So

1 food would be given in the morning, after prayers, then what
2 would happen.

3 A. Well, anybody would find his own group, so they would
4 assemble them go to work.

5 Q. And how many people in a group?

6 A. Well, the group will be according to the scale of the
7 work. Sometime the group would be in five, it depends on the
8 nature of the job. That is how they share them into groups.

9 Q. And when you arrived and the immediate time afterward,
10 where was mining taking place under the mining unit.

11 A. At Congo Bridge, palm oil swamp.

12 PRESIDING JUDGE: What swamp, palm oil swamp.

13 THE WITNESS: Yes, sir. Yes, sir.

14 MR JORDASH:

15 Q. Where is palm oil swamp, where was that?

16 A. Just around Koakoyima.

17 Q. Anywhere else it was taking place at that time?

18 A. Train Seven.

19 Q. 20 -- 7

20 A. Train Seven

21 Q. Train seven? Where was train seven?

22 A. Just around there.

23 Q. Around where?

24 A. Koakoyima. You be in the town and see all these
25 places I'm talking about.

1 Q. Anywhere else?

2 A. Well, the ones that were deployed in that area, these
3 are the ones I could remember for now.

4 Q. Where was -- do you know a place called Benz?

5 A. Benz Garage.

6 Q. Yes, Benz Garage?

7 A. Benz Garage, that was a place for construction, Train
8 Seven and Congo Bridge surrounds Benz Garage.

9 Q. Did the number of civilian miners remain at 50 after
10 your arrival?

11 A. No.

12 Q. What happened?

13 A. Before I came, Sam Bockarie had given an order to the
14 other target commander to inform them that I am coming to Kono.
15 So all the people who knew about mining should move together
16 with their families to join me. Should come and meet at the
17 village. The village's name has escaped me a bit but it's by
18 the river to cross.

19 Q. Okay. So did they come with you?

20 A. Yes. The number of miners were among -- the number of
21 miners were among the group as I came with is about 70.

22 Q. 70 miners or the group in total was 70?

23 A. No. Apart from the 50 that I met the ones I came with
24 were 70.

25 Q. And how big was your total group that you went with?

1 A. Well, it was a large number but when I entered the
2 families, the miners family that had joined us when we took all
3 of them the man power, the 70 and 50, we had a total of 300 men
4 and women.

5 Q. So let me understand this. There were miners in that
6 300, yes?

7 A. All of them inclusive. Inclusive.

8 Q. There was miners families?

9 A. Yes.

10 Q. Was there anyone else in the --

11 A. Yes. Some miners maybe will have two wives, three or
12 four children. Then some men were older men but they too was
13 based in Kono so they came and we took them to be people who
14 lead in prayers, Muslims. When we are praying they will lead us
15 in prayers. Then we also had Christians, they were based in
16 Kono too. We took them to the -- they led prayers in the
17 Christian way.

18 Q. Were any of the group native to Kono?

19 A. Yes, there were plenty Kono people, there were many
20 among us.

21 Q. Where had they been in Kailahun, do you know?

22 A. I didn't quite get your question.

23 Q. The natives of Kono who were in the 300, had they been
24 living in Kailahun, if so, why?

25 A. I have still not understood the question well.

1 Q. I will try and break it down. There are Kono natives
2 in the 300; am I correct?

3 A. Yes, sir, they were there.

4 Q. Had they been living in Kailahun prior to going to
5 Kono?

6 A. Yes, sir they were there.

7 Q. Why had they been living in Kailahun?

8 A. Well, some of them, it was in the first attack, so
9 they decided to join the rebels called freedom fighters. They
10 took them along. Some of them went with their entire families
11 and they were with them.

12 Q. Why did they return to Kono at this time; do you know
13 that?

14 A. Well, I can't tell because --

15 Q. Because?

16 A. An order came from the commander that Kono is now
17 safe. So they should go back to Kono.

18 Q. Who said that Kono was safe, which commander?

19 A. Sam Bockarie. He said people should come back.

20 Q. And these civilians who came back, these natives of
21 Kono, had they been living in one place in Kailahun or different
22 places?

23 A. They were not in one place that was why Sam Bockarie
24 sent message to all the targets that people were staying, to
25 civilians saying that they must come to Kono as Kono was now

1 safe.

2 Q. And when you arrived in Koakoyima, was koakyima
3 safe -- was Kono safe from what you observed?

4 A. Yes, at that time when we got I think about a week
5 when we experience that the jet was coming but it did not come
6 from that time everybody relaxed.

7 Q. And before we go back to mining, were there civilians
8 in Koakoyima when you arrived besides those in the mining unit?

9 A. We saw other civilians around, the township and the
10 towns around Koakoyima.

11 Q. What were they doing?

12 A. Well, that time, I saw them brushing their -- around
13 their houses, some planting corns, some were brushing so they
14 could plough rice.

15 Q. Now, just back to mining?

16 A. Yes, sir.

17 Q. Who did you report to?

18 A. Talking about Koakoyima.

19 Q. I'm talking about when you first arrive you become
20 what you told us on the piece of paper you were and I'm asking
21 --

22 A. Hmm. Hmm.

23 Q. When you took that job, who did you report to?

24 A. To Kennedy.

25 Q. And on a day-to-day basis, what were you doing?

1 Describe a typical day?

2 A. Okay. If I make sure if somebody was sick I should
3 know about it and then send for medical treatment for that
4 person and if the working tools are not complete among other
5 people, they could ask me then I would ask those who were
6 responsible for that to give them supplies like shovels,
7 shakers, or bucket.

8 Q. And where did the civilian miners live?

9 A. We were living in Koakoyima, in the same house. We
10 shared the same house.

11 Q. Sorry. Who shared the same house?

12 A. The civilians, all of the civilians. They will decide
13 to sleep in the room outside of the house or in the house.
14 Anywhere that was convenient for them was where they lived.

15 Q. This isn't coming across very clearly. On the one
16 hand we've heard the same house on the other hand we've heard
17 wherever was convenient. What does this mean?

18 A. We and the civilians had no barrier that they
19 shouldn't go this way or shouldn't go that way. Some houses,
20 before going there you would have met civilians there who have
21 cleaned around the house. You would then ask them. Which room
22 have you taken. Then you would say, I have taken this room for
23 me and my relations. Then you ask him which one was empty.
24 That one I am not ready to occupy so you could occupy that.

25 Q. And are we talking one house or many houses?

1 A. All the abandoned houses in Koakoyima when we came we
2 occupied all of those houses.

3 Q. Right. What were the houses like? What was the state
4 of the houses where the civilians lived?

5 A. Just like how they were, the way we left them some
6 houses had beds, there were mattresses they were very much like
7 that when we returned.

8 Q. Right. Were the houses the same or different to other
9 civilians in Koakoyima who were not in the mining unit?

10 A. Yes, because when we returned there were no civilians.
11 There were only houses. When we returned, we told people
12 whoever wanted to occupy a place should look for a place.

13 Q. Right. Okay I think that's relatively clear. What
14 did the civilians receive, if anything, for the mining?

15 MR HARDAWAY: Objection.

16 PRESIDING JUDGE: Yes.

17 MR HARDAWAY: Your Honour, the basis of this objection is
18 going to be in two parts. The first part is that the
19 Prosecution will submit that this is repetitive testimony and in
20 support the Prosecution would rely upon Chamber's decision of
21 5 March on the application for a weeks adjournment.

22 PRESIDING JUDGE: Yes. How do we determine as to whether
23 the testimony is repetitive. When we don't have the response to
24 the question. He may have another response which might be
25 different from what --

1 MR HARDAWAY: Perhaps I was a bit premature, Your Honour,
2 I'll wait.

3 PRESIDING JUDGE: Yes. Yes, Mr Jordash, you understand the
4 thrust of his objection.

5 MR JORDASH: I barely dare moved. I know Mr Hardaway is up
6 again very shortly.

7 Q. Did the civilian miners receive anything?

8 A. Well, like -- like what?

9 Q. Well, you tell me. You were there?

10 PRESIDING JUDGE: For the work they did.

11 THE WITNESS: Okay. Let me say they were not -- they were
12 not getting money for the work they were doing, but they were
13 promised. I think Foday Sankoh told them they were fighting the
14 war that he had no money and being Sierra Leoneans they saw what
15 was happening in the country and things were difficult that they
16 should all come together and give a helping hand. Then they all
17 consented to help.

18 MR JORDASH:

19 Q. But did they -- you told us that they received food?

20 PRESIDING JUDGE: Mr Hardaway is that response, you know,
21 different from what --

22 MR HARDAWAY: It is, Your Honour. I'm happy with that
23 response.

24 PRESIDING JUDGE: It is. Right. Thank you.

25 MR JORDASH:

1 Q. Food and you talk about medical treatment, was this --
2 did the civilians pay for this?

3 A. After they had -- after they were told, the civilians
4 asked what about food affaires. And they were told they were
5 going to be given food and clothes. Then they would be given
6 medicine. That was happening.

7 Q. And how were the miners treated?

8 A. When you felt sick, you would go and report to any
9 other person you met in the -- at the hospital. He would check
10 you, if they found out that you were to be admitted you would be
11 admitted. If you were to be given medicine and for you to
12 return home and given medicine. After you have in a good state
13 then you go back to work.

14 Q. At what times were food -- are sorry. At what times
15 were clothes given?

16 A. That one -- except by the will of God they will send
17 for junks but it was not -- it was not from month to month. It
18 would take quite sometime. Sometimes the commander would
19 decide, this time around let us send for those people, for the
20 miners and they would send it. It was not frequent.

21 Q. If a civilian found a diamond, what would happen?
22 Would anything happen?

23 A. Yes, sir.

24 Q. What would happen?

25 A. Civilians, they too had their own commander. They

1 would give it to that person.

2 Q. Would they receive anything in return?

3 A. Sometimes, if they had a good thing they would come
4 happily and they say: "Commander we have come oh, we want you
5 to boost our morals". Sometimes we give them drinks, cigarettes
6 or any other thing he could afford. Even money. We would give
7 to them.

8 Q. And did you observe whether the civilians were willing
9 or unwilling to work?

10 A. Well, to what I saw they were willing, because no one
11 complained. Sometimes in the morning they would ask where are
12 we going today?

13 PRESIDING JUDGE: That's okay. We heard all that evidence.
14 Let's move on.

15 MR JORDASH:

16 Q. Who was the -- was there an official or commander
17 within the mining unit, who the diamonds were given to?

18 A. Yes, sir.

19 Q. Who is that?

20 A. When they got diamonds would bring it to Alpha Turay
21 who was operational commander, then who bring to Kennedy who was
22 the commander. Kennedy would call me, call the other
23 authorities, sit together they'd weigh it, after weighing it,
24 then they write the person who took the diamond to them, the
25 dates on which the color of the diamond would be written, the

1 weight of the diamond would be written, the percentage as well.

2 Then they would give it to Kennedy, who would keep it.

3 Q. Where would Kennedy keep it?

4 A. In his house. He kept it in his house.

5 Q. What would Kennedy do with it?

6 A. Well, sometimes I'll be in my house, he will call me
7 saying: "Mosquito has sent -- saying materials have finished".
8 If there is anything we should send it. Since I don't read and
9 write he just showed me the papers. Most times I'll be near the
10 radio site and hear him talking but most times it was on paper.

11 Q. Did Kennedy have a radio set?

12 A. Yes.

13 Q. Where was it --

14 A. Yes, sir.

15 THE INTERPRETER: Learned counsel, it seems as if the
16 witness is not listening to the interpretation he's listening to
17 you. Can you please be advised.

18 MR JORDASH:

19 Q. Wait for the translation, Mr Witness?

20 A. Okay, sir.

21 Q. Don't listen --

22 A. Okay, sir.

23 Q. You said the radio set was at Kennedy's house; is that
24 correct?

25 A. Yes, sir.

1 Q. Do you know who Kennedy would report to?

2 A. Yes, he told me. Most time I would hear the voice on
3 the radio.

4 Q. Who did he report to?

5 A. Mosquito.

6 Q. What happened to the diamonds after they'd gone to
7 Kennedy's house?

8 A. If he's ready to send them, the diamonds to Mosquito,
9 he would call civilians, the commanders who were their leaders,
10 he would call the joint security and tell them that Mosquito
11 says we should send the diamond. Let's come and see and have a
12 look at these ones we have. We come and then check it and check
13 it against the registrations, to see if they are correct. Then
14 the unit will select people, the joint security would select
15 people. Kennedy who was the commander will give the bodyguards
16 and they will take the diamonds to Mosquito.

17 Q. Which named persons would take the diamonds to
18 Mosquito?

19 A. Well, okay Mr Michael Kumba could go with them,
20 Mohammed Kamara could take diamonds to Mosquito, Pa Saidu
21 Bangura could take diamonds to Mosquito or even the Operational
22 Commander, Alpha Turay. He too could take diamonds to him.

23 Q. Just so that we're clear, how do you know this?

24 A. Where we were called upon to sit down to sort out
25 these things. Where all the arrangements would be done in front

1 of us. The person who would be taking diamonds would sign in a
2 book to show that he's taking such quantities.

3 Q. As far as you're aware did Kennedy ever report to Issa
4 Sesay?

5 A. No, I did not see that happening.

6 Q. As far as you're aware did any of these men who you've
7 just named, Kumba, Turay and so on, take diamonds to Mr Sesay?

8 A. Well, I don't know. Maybe, if we gave it to them.
9 But if somebody was given a diamond he takes it direct to
10 Mosquito.

11 Q. Did you know anyone referred to as PC?

12 A. Yes, sir.

13 Q. Who was he?

14 A. When I came, I met he was appointed mining supervisor.

15 Q. Can you just describe him, briefly, for us please?

16 A. He's tall, if I can -- his complexion looks like that
17 man who is sitting over there who makes his hands like this.
18 That man who is over there who's looking at me. That is the
19 complexion of that men. That man by the black something.

20 Q. So the lighter skinned security guard there between --
21 between the two?

22 A. After the one with the glasses, the one you meet next
23 that's his completion.

24 Q. So lighter skin, black, do you agree with that? Not
25 quite as light as him?

1 A. Yes.

2 Q. Thank you.

3 A. Yes, sir.

4 Q. Did the mining continue on this system for some time?

5 Did there come a point when it stopped or not?

6 A. Yes, they changed the mining policy.

7 Q. Are you able to say when it changed?

8 A. I can't tell the exact time but the time it was at the
9 time when Foday Sankoh went to sign the Lome Peace Accord. When
10 he went, he held a meeting with us. Three days after he changed
11 the mining policy.

12 Q. So how long after the signing of the Peace Accord
13 approximately, was it when the mining system changed?

14 A. Well, when he got to Freetown we heard he was in
15 Freetown. It was about three weeks before he went to us.

16 Q. So three weeks after you think you heard of the Peace
17 Accord?

18 A. No, sir. When he got to Freetown after the signing
19 when he got there in three weeks time he went to us.

20 Q. Was this in -- which year was this?

21 A. I don't know the year.

22 Q. Well, if this agreement was signed -- it was signed in
23 July 1999, okay, you could take that from me. It was signed in
24 July 1999. How long after that, do you think, when the mining
25 system changed?

1 A. I don't know the time they signed. I don't know the
2 time he got here, but three weeks when we heard that they've
3 signed. Then he went to Kono. That was the first visit. I
4 think that was the first time he went there. He had never been
5 there.

6 Q. Okay. I think that's clear. I think that's clear.
7 And how did it change and why?

8 A. Well, Foday Sankoh went, he asked the commanders and
9 the civilians, saying how are you mining it? Since you came to
10 Kono, what is the mining system you are using. Then we said we
11 are just using the system you ask us to use. It is the same
12 systems that we are still using.

13 Q. Go on.

14 A. Then he said but now he shouldn't be so any longer.
15 He said it is -- he asked how was NPRC mining in Kono when they
16 took over. Then the people said two-pile system. How was the
17 AFRC mining when they took power. They said two-pile. They
18 said now, since we've captured Kono, we should use the two-pile
19 system. Then the civilians came together and said those who
20 were in that mining unit, they should be supported. They should
21 open a diamond office so that when they have diamonds, they
22 could go and sell it there. Then Foday Sankoh said I am going
23 to open a diamond office but implement the two-pile system
24 first. So from that time the two-pile system came in to
25 existence again.

1 Q. Thank you. Just -- we're nearly there. Just I want
2 to clear up a few last remaining subjects. Before the mining
3 turned to two-pile, were there armed men with the civilians with
4 the civilian miners?

5 MR HARDAWAY: Objection.

6 PRESIDING JUDGE: Yes, Mr --

7 MR HARDAWAY: Again, Your Honour, this is based on
8 repetitiveness. That many witnesses have been led by the
9 Defence as related to --

10 PRESIDING JUDGE: To say that -- what have they said.

11 MR HARDAWAY: There are no armed men with the civilians in
12 terms of mining.

13 PRESIDING JUDGE: This man is saying, 'yes'. This man is
14 saying 'yes'.

15 MR JORDASH: I'm happy to leave the subject.

16 MR HARDAWAY: All right.

17 MR JORDASH: If Mr Hardaway doesn't want me to lead that
18 then.

19 MR HARDAWAY: Be my guest.

20 MR JORDASH:

21 Q. Did you say yes there was armed men. What were they
22 armed for?

23 A. We, our own group of civilians, we had armed men who
24 would help to go and find food. They would escort us. Even the
25 civilians had their own.

1 Q. Did you know ^ Porte Fillet?

2 A. I know him. He's one of the commanders and he had arm
3 -- he had weapons too.

4 PRESIDING JUDGE: Who is this.

5 MR JORDASH: Porte Fillet.

6 PRESIDING JUDGE: Huh.

7 THE WITNESS: It was a mining commander Porte Fillet.

8 PRESIDING JUDGE: Porte Fillet.

9 THE WITNESS: Yes, sir.

10 MR JORDASH:

11 Q. Was there anywhere in Koakoyima for civilians to
12 report complaints to?

13 A. Yes, sir.

14 Q. Who was that?

15 A. We have the G5. If anything went wrong, even among
16 the mining units there were G5s. If anything happened they will
17 go there, they were with the joint security.

18 Q. You say even amongst their mining unit there were G5.
19 Are you saying G5 were in the mining unit or G5 is outside the
20 mining unit?

21 A. What I mean to say because they were not part of the
22 mining unit, but for them to see what was going on among the
23 soldiers and the civilians they would go there to see what was
24 going on.

25 Q. Did you observe if there were any dance troops in

1 Koakoyima at this time?

2 PRESIDING JUDGE: If there were any.

3 MR JORDASH: Dance troops.

4 THE WITNESS: Yes, sir. We had a dance troop there which
5 we all supported.

6 MR JORDASH:

7 Q. This have anything to do with the mining unit?

8 A. Yes. Yes. Because that was where we went to
9 socialize. People would dance, everybody had to feel good.

10 Q. When you say we, who are you referring to?

11 A. The mining commander, the civilian miners, when this
12 thing was happening, we feel good.

13 Q. After the mining turned to two-pile, did the mining
14 unit continue to exist in the same way?

15 A. That time when the two-pile came in to -- came in to
16 existence, everybody was mining for himself. Even the civilians
17 who had ^ no machines, nobody asked them to -- they too said it
18 was their own pay.

19 Q. Was there a mining office?

20 A. From then the mining office was created.

21 Q. What did the mining office do from them?

22 A. Okay. It was said at that time the soldiers were
23 mining for themselves. When you got your diamond you would take
24 it to the office to sell.

25 Q. Did the mining office do anything else?

1 PRESIDING JUDGE: Are you saying that it is only the
2 soldiers who sold the diamonds in the mining office. Since they
3 were mining for themselves.

4 THE WITNESS: Well, it was requested that when they got
5 their diamonds they would have no opportunity to go to Kenema or
6 Bo but there is an office around when they receive diamond, get
7 diamonds, they would sell it to the office.

8 MR JORDASH:

9 Q. What about civilians?

10 A. The civilians, if they too wanted, they would sell it
11 to the office.

12 Q. If they didn't want to sell it to the office, was
13 there anywhere else they could sell it?

14 A. Traders were coming in who were buying diamonds. They
15 were coming in from all over.

16 Q. Finally, Mr Witness, did you hear about anything
17 happening to Kennedy concerning the joint security unit?

18 A. Yes, sir. I know about that one, sir.

19 Q. Could you tell us briefly what that was all about?

20 A. Yes, sir.

21 Q. Go ahead.

22 A. Sometimes, I cannot recall the date, the diamond was
23 brought to the Operational Commander, Alpha Turay. I was called
24 to go and weigh the diamond. I cannot again recall the
25 percentage. I gave it to them. After having given them, I

1 returned home, but those diamonds that were registered any time
2 they are ready to do them, they will recheck it. After that
3 checking, it was noticed that some other diamonds were missing.
4 So it was found out that that particular diamond I weighed had
5 got missing. At that time it was a small quarrel between the
6 operational manager and the-- so he said he had given to you.
7 This one said, 'no' you have not given it to me. That continued
8 --

9 PRESIDING JUDGE: That was a quarell between Turay and
10 Kennedy.

11 THE WITNESS: Yes, sir. So the report went onto the
12 Brigade commander Peter Vandí. Vandí was told --

13 MR JORDASH:

14 Q. Go ahead.

15 A. Peter Vandí said, he said how can you two just with
16 your -- two of you -- how can you just be responsible for the
17 misplace of the diamond. He said go and explain yourself at the
18 office.

19 Q. Which office?

20 A. At the MP office at Koakoyima. Peter Vandí sent to
21 the MP that the people should be investigated, but still, this
22 one said no, this one said no. So they were punished. Later
23 Kennedy admitted that Alpha Turay had given him the diamond but
24 he didn't know where he had placed the diamond. So they were
25 released. Then he came to my house. He came to me and asked

1 that we should go and apologise to Alpha Turay. That was how it
2 happened.

3 Q. Just picking up on something you said, why was the
4 report made to Peter Vandi?

5 A. He was the brigade commander. There was no other
6 person other than his operation.

7 Q. Who did as concerns mining issues the joint security
8 unit report to? Who did, you told us about the MPs getting
9 involved here. Who did the joint security report to at this
10 time?

11 A. At that time it was to Mosquito.

12 Q. So did this incident, involving Kennedy, the MPs,
13 Peter Vandi, have anything to do with Issa Sesay?

14 A. No. He had no hands in it.

15 Q. Why not as far as you're concerned?

16 A. I didn't know that --

17 PRESIDING JUDGE: Has Issa Sesay been in that area, at that
18 time.

19 THE WITNESS: I cannot remember.

20 PRESIDING JUDGE: You do not remember. You do not remember
21 whether Issa Sesay was there or not?

22 THE WITNESS: He was not there.

23 MR JORDASH:

24 Q. Did he come -- are you aware whether he came to Kono
25 at all around 1999 before the mining turned to two-pile?

1 A. When the mining office had been open it was shortly
2 after I saw him at Koakoyima.

3 Q. And this incident with Kennedy, did this happen before
4 the opening of the office or after?

5 A. It was later.

6 Q. Was it before --

7 PRESIDING JUDGE: You mean the incident occurred before or
8 after the opening of the mining office? What's the response.

9 MR JORDASH: That's what wasn't clear.

10 THE WITNESS: This incident had taken place well before the
11 office was established.

12 MR JORDASH: I think that's what the witness said the first
13 time as well. That is what I heard, but it wasn't translated
14 like that. So -- I've got no further questions. Thank you.
15 Thank you very much, Mr Witness.

16 PRESIDING JUDGE: Thank you.

17 THE WITNESS: Yes, sir.

18 PRESIDING JUDGE: Ms Mylvaganam, do you have any questions?

19 MS MYLVAGANAM: No, thank you, My Lord. No questions.

20 PRESIDING JUDGE: No questions. Thank you. Mr Cammegh.

21 MR CAMMEGH: I'm in the process of taking instructions. I
22 might have one or two questions. I notice the time though.

23 PRESIDING JUDGE: No. We wanted to wrap it up before going
24 on break. We are begging for time now. If you say it's one or
25 two questions, that's fine. We'll take it. We'll take them.

1 MR CAMMEGH: I need to take instructions first, if you
2 don't mind. Thank you.

3 PRESIDING JUDGE: Right.

4 MR CAMMEGH: I'm in Mr Gbao's hands. Thank you. I will be
5 very brief, Mr Witness.

6 CROSS-EXAMINED BY MR CAMMEGH:

7 MR CAMMEGH:

8 Q. Did you ever become aware of Augustin Gbao?

9 A. Yes, I know him.

10 Q. You told us about your knowledge of Kennedy, did you
11 ever become aware of an incident where Augustin Gbao had
12 attempted to report Kennedy for harassment?

13 A. Well, I don't know about that.

14 Q. Let me see if I could jog your memory. Were you aware
15 of an MP office in the town of Giema in Kailahun District?

16 A. Yes, sir.

17 Q. Did you ever become aware of an incident in late 1996,
18 where Sam Bockarie abused and molested Augustin Gbao outside
19 that MP office in Giema?

20 A. Yes, they were bosses. When such things occur, we
21 don't know where it happens.

22 Q. I'm sorry. You said -- I didn't quite get the
23 translation. It sounded like there were bosses, but I'm sure it
24 wasn't that. Could the translator repeat the answer please?

25 A. Sometimes on occasions where they meet themselves,

1 somethings will happen, and we don't know what happens between
2 them.

3 PRESIDING JUDGE: So you don't know if there was an
4 incident like that?

5 THE WITNESS: Nothing at all.

6 MR CAMMEGH:

7 Q. I'll try and be specific. If you don't know the
8 answer, then I'll leave it, but specifically, I'm asking you
9 this: Did you become aware of an incident where Sam Bockarie
10 molested Augustin Gbao for trying to report Kennedy for
11 harassment. And that incident took place at the Giema MP office
12 in late 1996. Did you ever become aware of that incident?

13 A. I don't remember that.

14 MR CAMMEGH: All right. I'll accept your answer, Mr
15 Witness. Thank you very much. There's no further questions.

16 PRESIDING JUDGE: Learned counsel, the Chamber will recess
17 for a couple of minutes, and we'll resume to continue the
18 proceedings with cross-examination by Mr Hardaway for the
19 Prosecution. We will rise, please.

20 [A recess was taken at 11.40.]

21 [RUF10MAR08B_LK].

22 [Upon resuming at 12.10 p.m.]

23

24 PRESIDING JUDGE: Yes, we are resuming the session. Mr
25 Hardaway, you may proceed, please.

1 MR HARDAWAY: Thank you, your Honour.

2 Q. Good morning, Mr witness.

3 A. Good morning sir.

4 Q. I have a few questions for you, all right?

5 A. All right, sir.

6 Q. If there is anything you don't understand, please ask
7 me to repeat it again, okay?

8 A. Yes, sir.

9 Q. Now you had mentioned that when the civilians went out
10 to search for food there would be armed guards with you; is that
11 correct?

12 A. Yes, it happened.

13 Q. Okay. Now, it would be also correct to say that while
14 the civilians were mining at Koakoyima, there were also armed
15 guards at the mining sites; isn't that true?

16 A. At mining site, guns could not go there.

17 Q. I put it to you Mr Witness, that at the mining sites
18 at Koakoyima and throughout Kono, that there were armed guards
19 at the mining sites. How do you respond?

20 A. Well, the miners where we were, who were operating on
21 RUF guns, were not there.

22 Q. Now, Mr Witness you had testified that it was an
23 all-volunteer effort for mining in the beginning, is that
24 correct? And by beginning I mean, after Sam Bockarie mentioned
25 that it was a volunteer effort; is that correct?

1 PRESIDING JUDGE: It is Bockarie who mentioned that?

2 MR HARDAWAY: I'm trying to find out that, Your Honour.

3 PRESIDING JUDGE: It's not Bockarie who said so.

4 MR HARDAWAY:

5 Q. Who, Mr Witness, said that the mining should be
6 volunteer?

7 A. I don't understand the question you are asking me.

8 Q. Remember, in your evidence, sir, when you mentioned
9 that the civilians did not receive money for mining, and that
10 they were asked to volunteer to mine for the RUF. Do you
11 remember that?

12 A. I said that.

13 Q. Who was it that said that the mining should be
14 volunteer?

15 A. It started with Foday Sankoh, then to Sam Bockarie.

16 Q. Okay. Mr Witness, I put it to you that the mining in
17 Koakoyima was not to volunteer, that in fact the civilians were
18 forced to mine by the RUF. How do you respond?

19 A. It did not happen. That did not happen at all.

20 Q. Now, Mr Witness, when you arrived Kennedy was the
21 mining commander, correct?

22 A. Yes, sir, in Kono.

23 Q. And the mining under Kennedy was RUF minin; isn't that
24 also correct?

25 A. Where Kennedy was, it was for RUF.

1 Q. Forgive me, Mr Witness, I need to backtrack for a
2 little bit. I put it to you Mr Witness that civilians were
3 forced to mine for the RUF, otherwise they would be beaten or
4 killed. How do you respond?

5 A. Well, they were not forcing anybody. I don't feel
6 like that. I did not experience that.

7 Q. Now, Mr Witness, you said that when you arrived you
8 came with 70 miners and their families, is that also correct?

9 A. True.

10 Q. And this was done under the instruction of Sam
11 Bockarie, is that also correct?

12 A. Yes, sir.

13 Q. I put it to you Mr Witness that these miners and their
14 families were forced to go with you to Koakoyima. How do you
15 respond?

16 A. I don't believe they were forced at all.

17 Q. Now, when you travelled to Koakoyima with these miners
18 and their families, there were armed guards with you; isn't that
19 correct?

20 A. The civilians who had guns did not travel. They had
21 guns to protect themselves from the Kamajors.

22 Q. The RUF had armed guards with your group; is that
23 correct?

24 A. Which group?

25 Q. The group that you brought to Koakoyima. There were

1 RUF fighters with guns in your group?

2 A. We had units armed which only would go with us when we
3 were going to search for food or we were going on a trip.

4 Q. So would the answer be Yes, there were guard units
5 with you when you brought the miners and their families to
6 Koakoyima?

7 A. Yes. I had a gun.

8 MR HARDAWAY: I'm not asking you --

9 PRESIDING JUDGE: Mr Witness, answer the question, please.
10 Answer the question. Put the question to him --

11 THE WITNESS: Yes, sir.

12

13 THE WITNESS: Yes, sir. Yes, sir.

14 PRESIDING JUDGE: It's not whether you had a gun or not.

15 THE WITNESS: Yes, sir. Yes, sir.

16 PRESIDING JUDGE: Put the question to him, please.

17 MR HARDAWAY:

18 Q. Mr Witness, there were armed RUF fighters in your
19 group when you travelled to Koakoyima with the miners and their
20 families. That's correct, isn't it?

21 A. I was the only person who had a gun in that group.

22 MR HARDAWAY: So --

23 PRESIDING JUDGE: Excuse me, there were no armed RUF
24 personnel?

25 MR HARDAWAY:

1 Q. And would it be correct to say that when you combined
2 the miners and their families, you travelled with approximately
3 --

4 PRESIDING JUDGE: So in that group of 70 that went with
5 you, you were the only one who had a gun?

6 THE WITNESS: I had AK rifle, the civilians, the civilians
7 had single barrels.

8 MR HARDAWAY:

9 Q. How many civilians had guns?

10 A. Well, I can't tell the number now that had guns, but
11 there were civilians who had guns.

12 Q. Can you guess? Was it many? Was it a few?

13 A. If even they were small, it would be up to ten.

14 Q. Okay. Now, Mr Witness, when you and your group arrived
15 at Koakoyima, the civilians who had guns, what happened to them?

16 A. The single barrel guns, they gave it to them, if they
17 were going somewhere, if they saw any animal that they would
18 kill to eat, they could do that.

19 Q. So is it your evidence that when you and the miners
20 and their families arrived in Koakoyima, those civilians who had
21 guns kept them? Sir, there's no reason to look over to the
22 other side, I'm the one asking you the questions. Shall I
23 repeat the question?

24 A. Ask it.

25 Q. It is -- is it your evidence that when you arrived

1 with the miners and their families in Koakoyima, that those
2 civilians who had guns were allowed to keep them?

3 A. It is theirs. They gave it to them.

4 PRESIDING JUDGE: Were they allowed to keep them, Mr
5 Witness?

6 THE WITNESS: Yes, sir. Yes, sir.

7 PRESIDING JUDGE: Please.

8 THE WITNESS: Yes, sir. Yes, sir.

9 MR HARDAWAY:

10 Q. I put it to you Mr Witness, that no civilians were
11 allowed to carry firearms while they were with the RUF. How do
12 you respond?

13 A. They allowed them.

14 Q. Now, at the time you were travelling, you were a
15 member of the RUF; is that correct?

16 A. Yes, sir.

17 Q. And that's why you were allowed to carry an Ak-47,
18 because you were a member of RUF, correct?

19 A. Yes, sir.

20 Q. Mr Witness, I put it to you that there were armed
21 guards travelling with you and the miners on trip to Koakoyima.
22 How do you respond?

23 A. It was only me and the civilian men who had arms.

24 Q. I put it to you, Mr Witness, that those armed guards
25 of the RUF were there to keep the civilians from escaping. How

1 do you respond?

2 A. That did not happen.

3 Q. Now, Mr Witness, moving on to Koakoyima, it's true
4 that the civilians who were mining for the RUF at Koakoyima
5 lived in the civilian camps at Koakoyima, isn't that the case?

6 A. Well, we had no civilian camps in Koakoyima.

7 Q. I put it to you, Mr Witness, that there were indeed
8 civilian camps at Koakoyima. How do you respond?

9 A. We did not live in camps, we lived in the town.

10 Q. I put it -- well, hold on. When the civilian went to
11 mine in Koakoyima, they were escorted by armed guards back and
12 forth, were they not?

13 A. Those civilians as I had told you, they had single
14 barrel guns, it was possible their commander would go with them,
15 but not RUF, not RUF fighters.

16 PRESIDING JUDGE: Which commander? Those armed civilians
17 who had single barrel guns, they had a commander.

18 THE WITNESS: Hmm -- the miners were ten in a group, and
19 among the ten there was a commander. And the one commander is a
20 civilian. He had a single barrel among them.

21 MR HARDAWAY:

22 Q. So the commander with the single barrel would go to
23 the civilians, go with the civilians when they went to the
24 mining site? That's correct, isn't it?

25 A. He wouldn't go with them with the gun.

1 Q. I put it to you Mr Witness, that in Koakoyima and
2 through out Kono, civilians were escorted to the mining sites by
3 armed men. How do you respond?

4 A. I did not hear or see it.

5 Q. I put it to you Mr Witness that many of the civilians
6 including the ones you brought with you and their families had
7 been captured by the RUF and forced to mine for them. How do you
8 respond?

9 A. RUF did not force any civilian to go and mine for him.

10 Q. Now, Mr Witness you would agree with me that part of
11 the job to the mining commander was to ensure that the mining
12 work got done, right?

13 A. I don't understand the question.

14 Q. Part of the job of the mining commander would be to
15 make sure that the mining work was accomplished; is that
16 correct?

17 A. Yes.

18 Q. About also that when the diamonds were found, those
19 diamonds would be reported to the mining commander. Also
20 correct, isn't it?

21 A. Yes, when they got it.

22 Q. And also part of the job of the mining commander was
23 to make sure that the civilian workers did not steal the
24 diamonds, isn't that also true?

25 A. They too did not want anybody to tell them any

1 stories, something.

2 PRESIDING JUDGE: Mr Witness, answer the question, please.

3 MR HARDAWAY:

4 Q. Shall I repeat the question?

5 A. Repeat the question.

6 Q. It was also part of the job of the mining commander to
7 make sure that the civilian workers did not steal the diamonds,
8 correct?

9 A. Yes.

10 Q. And to ensure that the civilian workers did not steal
11 the diamonds, there were guards at the mining site to oversee
12 the civilians; isn't that correct?

13 A. Yes. In mining you'll watch me, I'll watch you. It
14 happened. So soldiers will watch and the civilians would watch
15 soldiers.

16 Q. So there were guards at the mining site watching the
17 civilians to make sure they did not steal, is that correct?

18 A. Yes.

19 Q. These guards were armed, weren't they?

20 A. No. They had no guns.

21 Q. Part of the job of these guards was to ensure
22 discipline among the civilian workers; isn't that correct?

23 A. I don't understand the question.

24 Q. I'll ask a different one and move back. Part of the
25 job of the guards was to make sure that the mining work was done

1 by the civilians. That's correct, isn't it?

2 A. Yes, to their commanders.

3 Q. Part of it, part of their job was also to make sure
4 that the civilians would not run away or escape. Isn't that
5 also true?

6 A. We wouldn't think about civilians running away at all.

7 Q. Mr Witness --

8 A. Yes, sir.

9 Q. -- part of the job was to make sure civilians would
10 not escape?

11 MR JORDASH: Objection. The witness has answered the
12 question. They did not think --

13 PRESIDING JUDGE: He did not answer the question, he did
14 not answer the question. I was going to say he should answer
15 the question. He did not answer the question. And let him
16 answer the questions, please.

17 MR HARDAWAY: Shall I repeat?

18 PRESIDING JUDGE: Please put the question to him.

19 MR HARDAWAY:

20 Q. Mr Witness?

21 A. Yes, sir.

22 Q. Part of the job of the armed guards was to make sure
23 that the civilians did not escape, is that correct?

24 A. That's not true.

25 Q. Okay. And I put it to you again, Mr Witness that these

1 guards at the mining pits were in fact armed. How do you
2 respond?

3 PRESIDING JUDGE: He has said they were not armed.

4 MR HARDAWAY: I'll move on, Your Honour.

5 PRESIDING JUDGE: Yes.

6 MR HARDAWAY:

7 Q. During the time you were in Kono did you learn that
8 senior RUF commanders had been engaged in private diamond
9 mining?

10 A. I don't understand that.

11 Q. Did you see or hear of RUF big men engaged in diamond
12 mining for themselves?

13 A. I don't understand that.

14 Q. Did you hear or see that Issa Sesay was diamond mining
15 in
16 Kono?

17 A. He was not part of our unit.

18 Q. That's not the question.

19 A. I did not see that.

20 Q. Did you see or hear of Issa Sesay diamond mining in
21 Kono for himself?

22 A. No.

23 Q. Did you see or hear of Morris Kallon engaged in
24 diamond mining in Kono for himself?

25 A. No.

1 Q. I put it to you Mr Witness, that senior RUF commanders
2 including Issa Sesay and Morris Kallon were engaged in private
3 mining in Kono. How do you respond?

4 A. Well, I do not know about the private work, I know
5 about the mining units and their work.

6 Q. So if I put it to you that senior RUF commanders such
7 as Issa Sesay and Morris Kallon forced civilians to mine for
8 them, you would have no knowledge of that; is that correct?

9 A. I did not hear or see that.

10 MR HARDAWAY: Let me have a moment, your Honour.

11 PRESIDING JUDGE: Yes, you may.

12 MR HARDAWAY: Thank you, Your Honours.

13 Q. Mr Witness, you had stated --

14 A. Yes, sir.

15 Q. -- that when a diamond was found and it went to
16 Kennedy, there would be a joint security unit who would take the
17 diamond to Sam Bockarie, is that correct?

18 A. They would provide security, they are not the ones who
19 take the diamond. The miners would take the diamond. The joint
20 security would be there to give them security until they get it
21 to him.

22 Q. Let me, backtrack, Mr Witness. I apologise.

23 A. Okay, no problem.

24 Q. Who did Kennedy report to?

25 A. Sam Bockarie, Mosquito.

1 Q. He reported to Mosquito directly; is that your
2 evidence?

3 A. Yes, sir.

4 Q. I put it to you, Mr Witness, that in fact Kennedy
5 reported to Issa Sesay. How do you respond?

6 A. By what I understand, all the diamonds went to
7 Mosquito.

8 PRESIDING JUDGE: Your response is that Issa -- or rather
9 Kennedy never reported to Issa.

10 THE WITNESS: In my presence, not at all.

11 MR HARDAWAY:

12 Q. Did you hear of Kennedy reporting to Issa Sesay?

13 A. This is what -- this is the place I heard that. I
14 have never heard it from that end.

15 Q. I put it to you, Mr Witness, that Kennedy would hand
16 the diamonds over to Issa Sesay, who would then forward the
17 diamonds on to Mosquito. How do you respond?

18 A. I don't know what transpired between them, I don't
19 know about that.

20 Q. Now, Mr Witness, you said in the beginning that armed
21 men with civilians -- when they went on food-finding
22 missions, correct?

23 A. Yes, it happened sometimes.

24 Q. Those armed men were there to make sure that the
25 civilians didn't run away, isn't that correct?

1 A. It's not correct.

2 Q. Now, Mr Witness, you said that after you heard of the
3 Lome Peace Accord that the the mining system changed into a
4 two-pile system, is that correct?

5 A. The question you are asking me I will not answer it
6 because I don't understand it.

7 Q. Okay. After you heard of the Lome Peace Accord, Foday
8 Sankoh said there would now be a two-pile system in Kono. Is
9 that your evidence?

10 A. I did not hear Foday Sankoh went to Kono, I saw him
11 facially and then he passed other than this is what we will
12 operate now.

13 Q. All right. Now, who was the mining commander at that
14 time?

15 A. At that time Kennedy had left. Michael Kumba, was the
16 commander.

17 Q. And this would still be considered RUF government
18 mining, isn't that correct?

19 A. That's it.

20 Q. I put it to you, Mr Witness, that there was no
21 two-pile system in Kono ever. That any diamond found would go
22 straight to the RUF and the civilians got nothing. How do you
23 respond?

24 A. Two-pile was there. The two-pile started when Foday
25 Sankoh came. That was what was going on.

1 Q. So you disagree with me when I put it to you that
2 there was no two-pile system?

3 A. I disagree. There was a two-pile system.

4 MR HARDAWAY: Let me have a moment, your Honour.

5 PRESIDING JUDGE: Yes, please.

6 MR HARDAWAY: Thank you, Your Honours.

7 Q. I only have a few more questions for you, Mr Witness.

8 A. Yes, sir.

9 Q. Now you had mentioned the G5 in your evidence, right?

10 A. Yes, sir.

11 Q. At any point in your dealings -- let me rephrase that.
12 At any point, did you tell anyone that you were a member of the
13 G5?

14 A. I don't understand the question.

15 Q. Did you speak to people who were representing Issa
16 Sesay before you came to testify here at the Special Court?

17 A. Well, I don't know them, the ones you are talking
18 about.

19 Q. Did you speak to people from the Special Court before
20 you came here to give your evidence?

21 A. I just saw people with who took statements from me,
22 they said they are working here.

23 Q. Okay. The people who took statements from you, did you
24 tell them that you were a member of the G5?

25 A. They remove me from the G5 and send me to the mining

1 unit.

2 Q. Did you tell -- were you a member of the G5?

3 A. I was not a member any longer.

4 PRESIDING JUDGE: Were you? Were you? Were you ever a
5 member of the G5? Before they removed you from there. Were you
6 ever?

7 THE WITNESS: I have never joined. I never joined the G5
8 unit.

9 MR HARDAWAY:

10 Q. Did you tell the people who took your statements that
11 you were in fact a member of the G5?

12 A. I can't say so. G5 you should be educated and I'm not
13 educated so.

14 Q. So this is a very simple question, Mr Witness: Did
15 you tell the people who took your statement that you were a
16 member of the G5?

17 A. I was not a G5, and I did not tell anybody that I was
18 a G5.

19 JUDGE BOUTET: I think that there seems to be some
20 confusion here. The witness inserts that he was not a G5.
21 You're asking if he was a member of the G5 unit.

22 MR HARDAWAY: Okay, I'll clarify, Your Honour. I
23 apologise.

24 JUDGE BOUTET: But that may be why we are getting into
25 this difficulty.

1 MR HARDAWAY:

2 Q. If I've confused you, Mr Witness, I apologise. I
3 will take it step-by-step. Were you a member of the G5?

4 A. I was not a G5 member from the starting to the end.

5 Q. And did you tell the people who took your statements
6 that you were ever a member of the G5?

7 A. I have answered this question, saying I was not a G5
8 until now.

9 Q. Mr Witness, did you tell the people who took your
10 statement that you were a member of the G5?

11 PRESIDING JUDGE: The witness has answered that question.

12 MR HARDAWAY: Very well, your Honour.

13 PRESIDING JUDGE: Yes, he has answered that question. He
14 had said, I did not tell anybody that I was a G5.

15 MR HARDAWAY: Very well, your Honour. If I may have one
16 last moment.

17 PRESIDING JUDGE: Yes, you may.

18 MR HARDAWAY: Thank you, Your Honours.

19 Q. Mr Witness, I have no further questions of you.

20 MR WITNESS: Yes, sir.

21 MR HARDAWAY: Thank you for your time.

22 MR HARDAWAY: Your Honours, I have completed my
23 cross-examination.

24 PRESIDING JUDGE: Thank you.

25 PRESIDING JUDGE: Mr Jordash, any re-examination please?

1 MR JORDASH: No, thank you.

2 PRESIDING JUDGE: Thank you.

3 PRESIDING JUDGE: Well, Mr Witness, we are --

4 THE WITNESS: Yes, sir.

5 PRESIDING JUDGE: We are through. We thank you very much
6 for coming to testify before us, and to share your knowledge of
7 these events you know with the Tribal. Again we thank you very
8 much for coming and we wish you the very best in the pursuit of
9 your daily occupations. And above all a safe journey back to
10 your place of abode. Thank you.

11 THE WITNESS: Thank you, sir.

12 PRESIDING JUDGE: Can the witness get assisted out of Court
13 please.

14 MR JORDASH: May I pop out of Court, just for one minute to
15 speak to the next witness, please.

16 PRESIDING JUDGE: Yes, you may. You may please. We will
17 wait for you here.

18 [The witness withdrew 12.45 p.m]

19 PRESIDING JUDGE: Mr Ogeto, yes.

20 MR OGETO: Good afternoon, My Lords.

21 PRESIDING JUDGE: I just want to take advantage of these
22 few minutes and address the issue of, the issue that we raised
23 this morning about common witness.

24 PRESIDING JUDGE: Yes.

25 MR OGETO: Whether the next witness is a common witness and

1 I just want to remind the Chamber that I have addressed this
2 issue previously, and indicated that there were certain
3 witnesses who were common to the Sesay and Kallon defence. And
4 I did give the pseudonyms of those witnesses, and Mr Opande's
5 pseudonym is one of those that I provided on the 28th of
6 February, 2008. The Prosecution is aware of this.

7 PRESIDING JUDGE: But, not as expressly as you did for
8 DIS-310 and DMK-147

9 MR OGETO: No. It was the same day, My Lords.

10 PRESIDING JUDGE: The same day?

11 MR OGETO: Yes, the same day for the three of them.

12 PRESIDING JUDGE: For the three of them?

13 MR OGETO: For the three of them, yes, My Lords.

14 JUDGE BOUTET: Who's the third, if I may ask again, Mr
15 Ogeto?

16 MR OGETO: Okay, My Lords.

17 JUDGE BOUTET: Opande and what's number three?

18 MR OGETO: Number three is Hassan.

19 JUDGE BOUTET: The other witness that Mr Jordash is
20 calling?

21 MR OGETO: Yes, My Lords.

22 JUDGE BOUTET: These two witnesses are common to you and Mr
23 Jordash?

24 MR OGETO: Yes, My Lords.

25 JUDGE BOUTET: Okay.

1 MR OGETO: And I indicated this in the transcripts on 28th
2 of February 2008.

3 PRESIDING JUDGE: I see, okay.

4 MR OGETO: At Page 130.

5 JUDGE BOUTET: I'm sorry you said Page 130? You are
6 quoting from the transcript.

7 PRESIDING JUDGE: It's in the same filing as 310 and
8 DMK-147.

9 MR OGETO: Yes, My Lords.

10 PRESIDING JUDGE: Yes.

11 MR OGETO: It's Pages 126 there was a fairly detailed
12 discussion of this issue from Page 126 to Page 131. So the
13 issue comes up quite clearly.

14 JUDGE BOUTET: Thank you.

15 PRESIDING JUDGE: Yes, Mr Hardaway still on this issue?

16 MR HARDAWAY: Yes, just to note, that was the understanding
17 of the Prosecution as well. And while I'm on my feet, I didn't
18 -- I never had a chance to respond to Mr Jordash's first motion
19 as it related to asking for an extension of the seating hours
20 and there would be no objection from the Prosecution as related
21 to that in terms of presenting evidence.

22 PRESIDING JUDGE: That's okay. We've noted that.

23 MR JORDASH: Hmm -- I --

24 PRESIDING JUDGE: Yes, Mr Jordash.

25 MR JORDASH: As Your Honours are aware the next witness is

1 General Opande and I note that his screen is still there and the
2 curtains are still there, so I thought I'd better bring that to
3 Your Honour's attention, that the witness has foregone any claim
4 or application for protective measures and they have been
5 rescinded.

6 PRESIDING JUDGE: But he had been beneficiary through your
7 application of some protective measures or so --

8 MR JORDASH: From the, I think the November 2006
9 application, yes.

10 PRESIDING JUDGE: That's right, yes. Now you want these
11 Orders, you know, to be lifted.

12 MR JORDASH: Well, I think Your Honours --

13 PRESIDING JUDGE: At his request?

14 MR JORDASH: No, Your Honours have already lifted them.

15 PRESIDING JUDGE: From the application that we have granted
16 for the Prosecution? Right, okay, we've done that already.
17 That's okay. In fact what I was expecting was that maybe you
18 were rising to ask for a reinstatement of those measures.

19 MR JORDASH: No. No, thank you.

20 PRESIDING JUDGE: Right. Okay. And can the screen be
21 removed, please. I'm not asking Mr Hardaway to remove the
22 screens.

23 MR JORDASH: I'm wondering, Your Honour, if there might be
24 a sort of delay in removing the screens that by the time the
25 witness would be in it would be lunch. I'm wondering if it

1 would be more economical to --

2 PRESIDING JUDGE: We want to have him in, swear him in, you
3 know, and then we will do some preliminaries, and we want to
4 gain some time as to.

5 MR JORDASH: While this is happening, I was expecting Mr
6 Sesay to be in Court, so I don't know if --

7 PRESIDING JUDGE: No. We have to go on, please. He will
8 come. I'm sure we are just going to finish the preliminaries
9 then he can come in the afternoon.

10 MR JORDASH: Certainly.

11 PRESIDING JUDGE: The count of witnesses, Mr Jordash, this
12 would be --

13 MR JORDASH: I think the 49th.

14 JUDGE BOUTET: 50.

15 MR JORDASH: Oh, 50.

16 JUDGE BOUTET: 50 by my account.

17 MR JORDASH: Thank you.

18 MR JORDASH: I should have said the language is English.

19 PRESIDING JUDGE: Right.

20 PRESIDING JUDGE: Can you swear the witness in, please? Mr
21 Jordash, this is DIS?

22 MR JORDASH: 249, Your Honour.

23 MR OGETO: It is also DMK-147, My Lord.

24 PRESIDING JUDGE: Okay. Just a minute. 147?

25 MR OGETO: Yes, My Lord.

1 PRESIDING JUDGE: What was DMK 13 -- what was DIS --

2 MR OGETO: I'm sorry, My Lords. I'm sorry.

3 PRESIDING JUDGE: Yes.

4 MR OGETO: This is DMK-130.

5 PRESIDING JUDGE: 130.

6 MR OGETO: Yes, My Lords. DMK-130.

7 PRESIDING JUDGE: 130.

8 MR OGETO: 130. My appologies.

9 PRESIDING JUDGE: Yes.

10 [DIS-249 sworn].

11 PRESIDING JUDGE: Yes, Mr Jordash you may proceed with
12 your examination-in-chief.

13 MR JORDASH: Thank you.

14 [EXAMINED BY MR JORDASH]

15 MR JORDASH: Good afternoon.

16 THE WITNESS: Good afternoon, Wayne.

17 MR JORDASH: As you know I represent Issa Sesay. As you
18 know I'll be asking you questions first and then followed by
19 others including lawyers for Mr Kallon, and the Prosecution to
20 your left. Could I ask you first for your full name, please.

21 A. My name is Daniel Ishmael Opande.

22 PRESIDING JUDGE: Daniel?

23 THE WITNESS: Ishmael OPANDE.

24 MR JORDASH:

25 Q. And just a few more details if I may. Date of birth,

1 please?

2 A. Mr Jordash, whoever is translating is interfering with
3 you, so I can't really get you. So if he can wait until you
4 have address me, so that I can get you correctly.

5 PRESIDING JUDGE: I hope the translation booth is getting
6 that comment.

7 INTERPRETER: Your Honours, we are getting his comment but the
8 Court should assist with the channel from that point. That is
9 why he is getting the interpretation from here. The channel
10 should be changed to English.

11 MR JORDASH: Thank you very much for indicating that.

12 Q. Let me ask the question again, and obviously indicate
13 if there still is a problem. Could I ask you your date of
14 birth, please?

15 A. My date of birth is 18 August 1943.

16 Q. Does that make you 64?

17 A. I think so.

18 Q. And where were you born?

19 A. I was born in Southnyanza district of Kenya. This is
20 western Kenya.

21 Q. And where do you currently reside?

22 A. The country, I currently reside in Eldoret Kenya, but
23 I sometimes stay in Nairobi.

24 Q. And your current occupation, please?

25 A. I'm retired. Very much so.

1 Q. Let me take you through your previous occupations.

2 Were you once in the armed forces of Kenya?

3 A. Yes, I was.

4 Q. How long did you serve in the armed forces of Kenya?

5 A. I served for over 42 years. Forty-two years and a
6 bit.

7 Q. And what rank did you reach in the armed forces of
8 Kenya?

9 A. I was able to complete -- oh, I was able to get to a
10 lieutenant general.

11 Q. Does that mean the appropriate address is general?

12 A. Yes.

13 Q. Thank you. And during your time with the armed forces
14 of Kenya, did you have cause to serve with the United Nations?

15 A. Yes, I did on several occasions.

16 Q. Could I start you in 1989? What was your employment
17 at that time?

18 A. I was inducted into the UN peace keeping in early 1980
19 -- hmm-- 9, in Namibia, as deputy force commander.

20 Q. And from 1989 to 1990, did you also have another
21 occupation or post?

22 A. Yes, after Namimbia, I was sent to Mozambique as a
23 facilitator between Renamo and the then Fredino government in
24 trying to come up with an agreeable solution to their problems
25 in their country.

1 Q. And Renamo, what does that stand for?

2 A. Renamo was a rebel group which was opposed to the
3 government, the then government of Mozambique.

4 Q. And you occupied that particular post until when?

5 A. I occupied it until late 1993, when finally a peace
6 accord was signed.

7 Q. After at what appears to have been a successful
8 process there, where did you then go?

9 A. After that I was picked by the then secretary-general
10 to go to Liberia and head the newly formed UN observer mission
11 in Liberia.

12 Q. Which year did you take up that position and how long
13 did it last?

14 PRESIDING JUDGE: It is to head the mission general?

15 THE WITNESS: Not really. I was heading the military
16 observer mission. There was a head of the mission who was a
17 civilian, but I was like number two.

18 MR JORDASH:

19 Q. Does it follow that you were the top military --

20 A. Yes, I was.

21 Q. -- personnel. Thank you?

22 Q. And that started in which year and was on-going until
23 when?

24 A. That was late 1993 and up to 1995 when I left and went
25 back home.

1 Q. When you say you went back home, you mean back to the
2 armed forces of Kenya?

3 A. Yes, back to the armed forces of Kenya.

4 Q. When was your next mission with the United Nations?

5 A. My next mission came in--

6 PRESIDING JUDGE: General did you say 1993 to 1995?

7 THE WITNESS: Yes, 1995. Middle of 1995.

8 PRESIDING JUDGE: Okay. Yes, your next mission?

9 THE WITNESS: My next mission was the year 2000 when I came
10 to Sierra Leone to head the military contingent of UNAMSIL.

11 MR JORDASH:

12 Q. And --

13 PRESIDING JUDGE: You were sent here to do what, was it to
14 head --

15 THE WITNESS: To head the military contingent, the force
16 commander of UNAMSIL, Your Honour.

17 MR JORDASH:

18 Q. And just briefly. Obviously we'll go through some of
19 what that entailed but the post was?

20 A. The first commander.

21 Q. And the remit of the post? What were you asked to do?

22 A. I was to head the military contingent. In other words
23 the force commander commanding the entire UN peacekeeping
24 military component.

25 Q. Thank you. And how long did you occupy that post?

1 A. I stayed on the job from late 2000 until when I left
2 here in late 2003.

3 Q. And where did you go from Sierra Leone?

4 A. I was appointed straightaway from this mission to head
5 to Liberia once more to head again the UN military contingent in
6 Liberia, which was known as UNMIL.

7 Q. And how long did you continue in that post?

8 A. I continued for I think exactly one year and a bit.
9 Just a year and a bit.

10 PRESIDING JUDGE: So we may stop here now, if we may.
11 General, you said you were there for slightly over a year --

12 THE WITNESS: Yes, sir.

13 PRESIDING JUDGE: Well, learned counsel the Chamber will
14 recess for lunch and we will resume the session at 2.30. We
15 will rise, please.

16 [Luncheon recess taken at 1.02 p.m]

17 PRESIDING JUDGE: Good afternoon, learned counsel, we'll
18 resume the proceedings. Mr Witness, good afternoon.

19 THE WITNESS: Good afternoon, sir.

20 MR JORDASH: Your Honour.

21 PRESIDING JUDGE: Yes.

22 MR JORDASH: May I indicate for the record upon arrival
23 back after lunch, we were served approximately 60 pages of
24 UNAMSIL press briefings by the Prosecution with no prior notice
25 of this material. I'm not exactly sure what their intentions

1 are, but this is what the situation is. The witness hasn't as
2 yet seen this material. We have only just in the Defence seen
3 this material. I haven't had an opportunity to discuss it with
4 my client. I have quickly read it in the time that's been
5 allowed but I put that on the record at this point.

6 PRESIDING JUDGE: I think it's fair to put it on the
7 record. It's not good for you to be taken unawares. 60 page
8 document even if you were to look at it for one hour. It's not
9 enough. I don't know for what purpose the Prosecution is going
10 to use it, but I think it would have been fair, you know, if
11 there was any anticipation that the Defence would have to see it
12 for it to have been disclosed before now.

13 MR CAMMEGH: Your Honour, can I add my voice to those
14 comments. I'm about halfway through this document. All I would
15 say is this: If the Prosecution's intention is to introduce this
16 as an Exhibit as evidence of the contents or the truth of the
17 contents by way of the flexible admissibility rule that we heard
18 so much about last week, I appreciate this is not my witness,
19 but it certainly in terms of joint criminal enterprise and
20 individual --

21 PRESIDING JUDGE: Whose press releases are these.

22 MR CAMMEGH: Well, Your Honour, it's rather sort of
23 amorphously set out, its briefings press, releases from Sierra
24 Leone UNAMSIL, a United Nations document. It entirely hearsay,
25 in terms of its commentary and Your Honour, I would say in terms

1 of, you know, if we could use that doctrine of fundamental
2 fairness for want of anything else evidentially worthless but I
3 am very concerned about the purpose to which the Prosecution
4 seek to refer to this material.

5 PRESIDING JUDGE: Let's see how far we go. Let's see how
6 far we go.

7 MR CAMMEGH: I should say and I'm sorry to spend more time.

8 PRESIDING JUDGE:

9 MR CAMMEGH: I am halfway through it and that's skim
10 reading it, there's an awful lot of material here.

11 MR CAMMEGH: I think to say we feel ambushed just to put it
12 lightly.

13 PRESIDING JUDGE: Yes, Ms Mylvaganam, I'm sure you have the
14 same comments.

15 MS MYLVAGANAM: My Lord, may I just emphasise one
16 difficulty not only do we have this material to assimilate it is
17 unclear whether this represents the entirety of the press
18 briefings for 2001, but in addition, there is no material that
19 relates to 2002, and I can tell Your Lordships that attempt that
20 we have made to obtain that material have not been fruitful
21 because they are archived in New York. So the Prosecution do
22 not have it, seems the entirety of the picture available to
23 them. The Defence have now material the Prosecution seek to
24 rely by virtue of that category of material. It's unclear
25 whether that's the entirety of the material even for that year.

1 So I'm just putting that on the record, so My Lord, you
2 understand that the Defence are really perhaps not in the best
3 position to rebuttal, deal with this material.

4 PRESIDING JUDGE: Thank you. Maybe we should hear from Mr
5 Harrison.

6 MR HARRISON: I explained to Ms Mylvaganam that they were
7 located on a website. The website is well-known to the Court
8 it's called Sierra Leone web and all of the documents were taken
9 from that public website and I explained I think to Ms
10 Mylvaganam that I saw on that website releases from 2003, 2002,
11 2001 and I think I saw from 2000 and perhaps from 1999 but at
12 any rate, it's a public website which everyone has access to.

13 PRESIDING JUDGE: It will depend on -- in any event it will
14 depend on what you want to do with that material, you know, that
15 we are not here -- we not there yet. Yes, Mr Jordash, I think
16 you may continue with the General and see how we move from
17 there.

18 MR JORDASH: Certainly.

19 PRESIDING JUDGE: All right.

20 MR JORDASH:

21 Q. Good afternoon, General. I'm sorry we've kept you
22 waiting.

23 A. It's okay.

24 Q. Let me take you to the year 2000. Can you recall when
25 it was you first came to Sierra Leone?

1 A. I actually came to Sierra Leone much earlier than the
2 year 2000 when I was in Liberia the 90 --

3 PRESIDING JUDGE: Maybe the -- maybe counsel is wanting to
4 know when you came to Sierra Leone in 2000. You had been here
5 before I suppose.

6 THE WITNESS: Yeah.

7 MR JORDASH: That I didn't know.

8 Q. Let me ask you, when you came before 2000, was that
9 concerning the UNAMSIL mission of 2000 or was that on a separate
10 unrelated --

11 A. Not at all. That was the time when Sierra Leone was
12 under, I think, captain Strasser and I was sent here to come and
13 make contacts with them because I was then the chief military
14 observer in Liberia.

15 Q. Right. Can I take you then to 2000. Was 2000 the
16 time you came for the second time?

17 A. Yes, 2000, I think it was in May, immediately after
18 the May eighth or fifth I can't remember, you know, when peace
19 keepers were taken hostage in the north of the county. I came
20 with delegation of the Kenyan parliamentarians to--

21 Q. And the purpose of the visit?

22 A. It was a fact-finding mission. Back at home there was
23 a lot of unhappiness about the way in which our soldiers had
24 been taken hostages, some had been killed and the such. The
25 population had a right to, you know, find out whether we

1 deployed our troops here with proper protection and a mandate
2 that would protect them in peace keeping.

3 Q. And who was the leader of the delegation?

4 A. It was the minister for defence.

5 Q. And your position within it?

6 A. I was the most senior military officer there. They
7 assumed that I was the second in commander. That's what I was
8 told.

9 Q. And apart from the observational role you were coming
10 to play, did you have as a delegation, any other role as regards
11 to the hostages?

12 A. Yes, we had another role of talking to President
13 Taylor who, you know, we assumed and we believed had some
14 influence over the RUF. Hence, he could facilitate the release
15 of the hostages and also the bodies of our soldiers who, until
16 that time, were somewhere in the north of this country and we
17 did not know where they were and we wanted those bodies to be
18 repatriated back home.

19 Q. At that stage, had any of the hostages been released?

20 A. Yes, some had already been released and there were
21 others who were still in transit between Sierra Leone, Liberia,
22 and here, back here.

23 Q. Did you hear of one General Mulinge?

24 A. Yes, I knew him very well.

25 Q. And were you informed as to his situation?

1 A. Yes, I was.

2 Q. And what was it?

3 A. His situation was that he was taken hostage, but by
4 that time he had decided although he could have been released
5 because I remember when we talked to Charles Taylor, he made us
6 understand that Mulinge was ready to be released but Mulinge had
7 decided he would be the last one to be released.

8 Q. And were you informed as to the whereabouts of Foday
9 Sankoh?

10 A. Yes. We were told that he was in Pademba Road prison.

11 Q. Were you informed as to whose custody he was under?

12 A. Yes, we were told he was under the custody of the
13 Sierra Leonean government.

14 Q. Did you have any contact with him?

15 A. Yes, we did. We requested President Kabbah that we
16 wanted to go and meet with him in the prison in his cell which
17 was allowed.

18 Q. Did you meet with President Kabbah personally on that
19 issue?

20 A. Yes, we did.

21 Q. Can you recall President Kabbah's response to it.

22 A. He said yes, arrangements would be made for you
23 and it was made, if I remember well, the same day?

24 Q. And did you attend at Pademba Road prison?

25 A. Yes, I did.

1 Q. Can you explain what happened there?

2 A. We got into the cell, which was very dark, and Foday
3 Sankoh was lying on a mat on the floor, but as the door was
4 opened he got up. Actually he got up and sat and then as it
5 became a little clearer, lighter because even us as we went in
6 this room was very dark. We couldn't really see very well but
7 us, we did, and we introduced ourselves. Who we were, what our
8 mission was and we had a conversation with him.

9 Q. And can you recall the substance or detail of the
10 conversation?

11 A. Yes, the leader of our delegation which was the
12 minister for our Defence put it very clear to him the reason why
13 we wanted to see him or meet with him. The first one was of
14 course we expressed our disgust or he expressed our governments
15 disgust at the way in which our troops were treated by the RUF,
16 taken hostage, peace keepers, some had been killed. We don't
17 even know where the bodies are and the second one was asking him
18 whether he was still in control of the RUF and if he was, we
19 wanted him to order the release of the peace keepers. We did
20 not only ask for the release of Kenyan peace keepers if I
21 remember very well the minister stated that all peace keepers
22 should be released.

23 Q. Can you recall Foday Sankoh's response?

24 A. He indicated that he was still the leader of RUF but
25 as we could see he was no longer in control because he's

1 incarcerated in his cell, and his freedom is in the hand of
2 President Kabbah and if we could talk to President Kabbah to
3 release him he would get in touch with his commanders on the
4 ground to make sure that all peace keepers are released.

5 Q. Did you form an impression as to his sincerity?

6 A. I was a little amazed at his reactions and I don't
7 know whether because he had been in this dark cell for so long
8 but he didn't look to me as if he would probably go through with
9 what he was indicating that he would do. I may be wrong, but
10 that was my impression of him.

11 Q. Thank you.

12 PRESIDING JUDGE: That he would not -- you mean that he
13 would not fulfill his engagement to have the hostages released.

14 THE WITNESS: That was my fear.

15 PRESIDING JUDGE: You had that impression.

16 THE WITNESS: That was my fear. That was my fear, Your
17 Lordship. Maybe he would, maybe he wouldn't. I don't know.
18 That was my fear. I wasn't sure. It could only be tested if he
19 was released and he made it possible for them to be released or
20 not.

21 PRESIDING JUDGE: Thank you.

22 MR JORDASH:

23 Q. On this same trip was there any further contact or
24 communication with President Kabbah by the delegation?

25 A. Yes, after that we went back and saw President Kabbah

1 and thanked him for facilitating our mission because we were
2 here for I think about ten days we were, you know, here for
3 about ten days. So now our final day we went back and thanked
4 him and we wished him well.

5 Q. Was there any -- if you recall -- further conversation
6 with President Kabbah as to the continued incarceration of Foday
7 Sankoh?

8 A. No. Because we were not going to plead for Foday
9 Sankoh to be released. Ours was if we wanted our hostages to be
10 released. That's it.

11 Q. Thank you. During this same trip to Sierra Leone, did
12 you come across General Jetly?

13 A. Yes, in fact General Jetly was the first one we met if
14 I remember and he briefed us at the Mammy Yoko headquarters, of
15 UNAMSIL on the happenings during the hostage taking and there
16 after.

17 Q. Did you receive any information on this trip
18 concerning General Jetly's relationship with Foday Sankoh or the
19 RUF?

20 A. Yes, I did. First of all, during General Jetly's
21 briefing to us, it was clear to us that he had a rather strain
22 relationship with Foday Sankoh because he stated that Foday
23 Sankoh was a liar and had caused all the problems which brought
24 the debunk and subsequent hostage taking, he believed. That's
25 what he told us and then we also had another meeting with the

1 SRSG because our briefing by Jetly was Jetly alone and the
2 briefing by the SRSG Adenigie was also with and Adenigie alone
3 and I think there may have been one or two of his own political
4 staff there but I remember. So again, during our discussions
5 with the SRSG, the SRSG more or less confirmed a strange
6 relationship between the force commander and the leadership of
7 the RUF.

8 Q. Thank you. Now following the completion of this
9 mission, when was it that you next came to Sierra Leone --

10 A. I came back and I hope I'm not mixing the two
11 Liberia and here but I came back late 2000 when I had now been
12 named the next force commander of UNAMSIL.

13 Q. And can you recall the purpose of that particular
14 trip?

15 A. I think the first time was the like a reki [sic] a
16 very quick reki. After I had reported to New York to be briefed
17 in New York about my next assignment which was to be the force
18 commander.

19

20 Q. After this trip did you return again?

21 A. Yes. I returned to come over, to take over my duties
22 of the force commander.

23 Q. Would this be late 2000?

24 A. Yes. Yes. November, I think, November.

25 Q. Upon arrival did you receive or undertake any

1 briefings?

2 A. Yes, when I arrived, of course, I wanted a full
3 briefing. I requested for a full briefing by the acting force
4 commander, my Chief of staff and my chief military observer and
5 of course the SRSG. Those were the key people I wanted to have
6 a briefing from so that I would be in the picture of -- as the
7 status of peace process and what had happened since I was last
8 here.

9 Q. The briefing took place in which location?

10 A. The briefing took place in Mammy Yoko UNAMSIL
11 headquarters. Most of them were done in the briefing room and I
12 think all of them were done in the briefing room in Mammy Yoko.

13 Q. In that first week did you travel outside to Freetown?

14 A. Yes. I arrived here, if I remember well on a Saturday
15 and the following day I went out, you know, to begin what
16 transpired as a two-week familiarisation visit of my own, to
17 visit to all my troops wherever they were deployed throughout
18 Sierra Leone.

19 Q. Were you in contact with the RUF leadership when you
20 first arrived?

21 A. No.

22 Q. Was there a reason for that?

23 A. Because UNAMSIL after that time, I learned they had
24 cut any direct communication with RUF after the May 2000
25 activities.

1 Q. Do you know if that had been advertent or inadvertent?

2 A. I think it was a decision which was taken at the
3 UNAMSIL's leadership.

4 Q. Were you able to ascertain the reasons for that.

5 A. No, I didn't. But I think nobody wanted to get in
6 touch with the RUF. Because I asked reasons why but nobody
7 really gave me any good reasons.

8 Q. Was this something that concerned you?

9 A. Yes, it did concern me as a peace keeper especially as
10 coming here to be the force commander, I felt it was my duty to
11 make contact with all the parties to the conflict which included
12 CDF, RUF and SLA and also the government, so that I would know
13 where we are and where we are going as far as this peace keeping
14 is concerned.

15 Q. Concerning your objectives did you identify any
16 immediate priorities?

17 A. Yes, I did. My immediate priorities which I then
18 discussed with my boss The SRSG, was that the first thing we
19 need to do is re-establish contact with the RUF and the CDF. It
20 was felt that with the CDF we had no problem because they were
21 under the government controlled area, supposed to be government
22 controlled areas, so we had no problem, but the RUF, we did not
23 have contact and they were in the north part of the country. So
24 I said this is the first priority for us to do, so that we know
25 what the RUF is doing out there. If we are are going to

1 eventually reunify the country because that was our major
2 priority to reunify the country under the government leadership.
3 Then we have to get the RUF on board. That was my first
4 priority. The second priority was of course to deploy -- deploy
5 my troops you know throughout Sierra Leone but prior to that I
6 had to restructure my force because my force at that time when I
7 came on board it was a force which was disjointed. A large
8 number of the troops were going back, two contingents -- very
9 large contingents were going back to their country.

10 Q. Did you receive any information about Issa Sesay at
11 this time?

12 A. Yes, I was told that the RUF -- when I told the SRSG
13 that I believe that the first priority for is to get -- for me
14 is to open the channel of communication between the RUF. There
15 is a leader an interim leader actually the SRSG said the leader,
16 leader of the RUF was Issa Sesay.

17 Q. Did the SRSG provide any information as to how it was
18 Issa Sesay became the leader?

19 A. Yes. He told me that Issa Sesay was actually hand
20 picked by the ECOWAS leaders, after special meeting had taken
21 place in Abuja. Since the ECOWAS had decided that Foday Sankoh
22 was no longer reliable and could not be entrusted again with the
23 leadership of RUF.

24 Q. Was anything said about why Issa Sesay had been hand
25 picked?

1 A. Yes. They said that looking through the leaders after
2 Foday Sankoh of the RUF senior leaders of the RUF they felt that
3 Issa Sesay met their criteria of being a moderate and somebody
4 who they could count on to cooperate in the peace process and
5 also I think that was also their key, that since he had been, I
6 think, the field commander, he would be able to ensure
7 disarmment and bring the combatants to disarmament.

8 Q. Was anything said at that time or information provided
9 concerning Issa Sesay and civilians?

10 A. His what?

11 Q. Issa Sesay and civilians? Issa Sesay's attitude?

12 A. I think what they said was that he was a moderate. I
13 didn't get that specific you know him and civilians.

14 Q. Were you briefed about any other commanders?

15 A. No, not really. Not really. Because the SRSG didn't
16 have much information about the command structure. I think he
17 wanted me to go and find out for myself.

18 JUDGE BOUTET: Mr Jordash, would you mind repeating your
19 last question. I didn't get the -- neither the question or the
20 answer. I apologise for that. Sorry.

21 MR JORDASH: Certainly the question was did the general
22 receive any briefings about other commanders.

23 THE WITNESS: The RUF commanders, no.

24 MR JORDASH:

25 Q. Was any contact made with Issa Sesay?

1 A. Yes.

2 Q. Do you know how that came about?

3 A. I -- after my briefings, getting all my briefings and
4 getting the nod or the go ahead by the SRSG that I should, we
5 should re-establish communication between us and the RUF, I
6 directed my chief military observer, General Chizuzi, to get on
7 with it and to make sure that he arranges for a meeting between
8 me and Issa Sesay as soon as possible.

9 Q. Did a meeting take place.

10 A. Yes, a meeting took place. In fact two. One after
11 the other.

12 Q. Could I ask the witness please to be given copies of
13 Defence Exhibits 167, Your Honours, pages 2,4,6,17 and
14 DIS-Exhibit 195. These have been served into the Court
15 Management several days ago.

16 JUDGE BOUTET: Pardon, what were the last ones?

17 MR JORDASH: DIS-Exhibit 167, Your Honours, page 2,4,6,17.
18 And DIS-Exhibit 195, Exhibit page 2,4,6,23.

19 PRESIDING JUDGE: Yes, please. Can we be given --

20 MR JORDASH: If there's a problem I'll hand my exhibits to
21 the General and the General can look at them and talk us through
22 them I think.

23 MS KAMUZORA: My Lord, I'm trying to find them on the
24 record.

25 MR HARRISON: Just so that there's no duplication of

1 effort, 195 is already an Exhibit in the trial and it's Exhibit
2 in the Trial Number 210.

3 MR JORDASH: I'm grateful, that's right. I'll just stay
4 with that exhibit for the moment and ask the General to have a
5 look at that.

6 PRESIDING JUDGE: What does the witness have before him is
7 it Exhibit 210?

8 MR JORDASH: Your Honour, yes.

9 PRESIDING JUDGE: Yes.

10 MR JORDASH:

11 Q. Do you recognise -- does that bring back --

12 A. Yes, it brings back.

13 Q. Did you receive that?

14 A. Yes, I did.

15 Q. And did that precede the meeting?

16 A. Yes.

17 PRESIDING JUDGE: Did that do what, Mr Jordash?

18 MR JORDASH: Precede, precede the meeting.

19 PRESIDING JUDGE: You mean Exhibit 210.

20 MR JORDASH: Yes.

21 PRESIDING JUDGE: Preceded the meeting.

22 MR JORDASH: Yes.

23 JUDGE BOUTET: Would it be possible to have a copy of it
24 because my binders, I just check it just to see if I've got it
25 there as well. It's not -- we don't have it. 210 is not there.

1 MR JORDASH: Certainly. Could I ask that the copy that the
2 witness has be handed to Your Honours. Does Your Honour have a
3 copy?

4 JUDGE BOUTET: Yes, we do.

5 MR JORDASH: May I also ask that the witness be given copy
6 of DIS-Exhibit 196 and looking at it, it may well have been
7 exhibited as well. If anyone could assist me on that.

8 PRESIDING JUDGE: You are referring to three documents now.

9 MR JORDASH: No.

10 PRESIDING JUDGE: There is 167, DIS-Exhibit 167;
11 DIS-Exhibit 195 which is a Court Exhibit 210.

12 MR JORDASH: Court Exhibit 210.

13 PRESIDING JUDGE: Is 195.

14 MR JORDASH: Yes. And then --

15 PRESIDING JUDGE: You are now adding 196.

16 MR JORDASH: 196.

17 PRESIDING JUDGE: As Defence Exhibit 196.

18 MR JORDASH: Yes.

19 Q. Before we get to Defendant's Exhibit 196, could you
20 just explain briefly what happened at the meeting?

21 A. I arrived at the place of meeting, which was not built
22 up area. And Issa Sesay and his colleagues accompanied by what
23 I thought was protection party, his own protection party came,
24 and we met for the first time. I introduced myself, who I was
25 and what my purpose was in Sierra Leone, I explained to him my

1 job as a force commander. I also explained to him that my
2 responsibility as the force commander would be to ensure that
3 our troops, once I have sufficient number of troops, to deploy
4 throughout the country which included the so-called RUF area of
5 control and the CDF area of control or government area of
6 control throughout the ground. In other words, to reunify in
7 the country, and I gave him a quick brief on how I intended to
8 do this. I remember explaining to him that it may not be
9 tomorrow, the deployment will not be tomorrow. It will take a
10 little bit of time until I have a sufficient number of troops,
11 and once I deploy, it was going to be his responsibility to
12 ensure that he withdraws all his troops because I knew that
13 through my own information that they had their own combatants
14 manning key areas and key roads. So I explained to him that
15 once we deploy, we take over all those areas and we will be in
16 charge, in control, of all those areas and his combatants will
17 no longer man roads, or roadblock s or protect facilities. We
18 will do that. And then after that, I asked him whether he
19 understood what I was saying and he said he did. I asked him
20 whether he was the RUF leader, he said he was interim leader,
21 yes. I asked him whether the RUF was committed to the peace
22 process, the implementation of the accord which was signed in
23 Lome and he said, yes, the RUF was committed they were all
24 committed for, you know, peace. And he stated that before I
25 deploy, he asked me that, before you deploy your troops, I would

1 request you to give me time, so that I can go around all the RUF
2 controlled areas and sensitize the -- his commanders and his
3 combatants on the necessity for them to cooperate with us in
4 carrying out our mandates. And I said, yes, you could go ahead,
5 and I said when you are ready let me know.

6 Q. Was it clear then or did it become clear later why it
7 was he requested such a period of time to sensitize?

8 A. Yes, it became clear to me that perhaps there was
9 decenting views amongst his own leadership or command,
10 commanders, that was one thing and secondly, I think that as a
11 result of what happened in May, Issa was concerned that he
12 didn't want to -- a situation to arise again with an UNAMSIL or
13 the UN, and he wanted this time around for us to start on an
14 even footing because I also explained to him that this time
15 around and I remember telling him this time around when I deploy
16 my troops, I will deploy troops who will not be taken hostages.
17 And you better tell your men and women that we mean business.
18 If you are interested in peace as you say you are interested in
19 peace, make sure that this message goes loud and clear and he
20 was quite happy with that.

21 Q. At this time or soon there after, was anything
22 mentioned about Foday Sankoh's incarceration?

23 A. Yes. I remember not only soon after but it went on
24 and on and on every now and then we would meet with various
25 leadership of the RUF. They would ask for a -- for us to

1 facilitate or the government to facilitate the release of their
2 leader, and this eventually appeared to me as if it was coming
3 from not each and everyone of them, but some factions within the
4 RUF because I later learn that really RUF was not one entity.

5 Q. Perhaps you could just give a brief explanation as to
6 what you mean by that?

7 A. There were faction -- it was an organisation which was
8 a very loose organisation. Although, it was RUF and people
9 thought RUF was one whole organisation, but I think after the
10 going away of Foday Sankoh, in other words, incarceration of
11 Foday Sankoh, it splintered into various groups. There were
12 those who supported Foday Sankoh, they are those who did not
13 want to hear of anything other than Foday Sankoh. They would
14 only go with what Foday Sankoh stated or said or wanted, but
15 there was another group, and I believe this was the group that
16 Issa Sesay aligned himself with, which was for peace. Although,
17 even Issa Sesay himself did not literally said Foday Sankoh is
18 no more, and I remember him asking me, you know, me on one or
19 two other occasions, you know, that they would want to see Foday
20 Sankoh eventually released, but he was on one side, the side
21 that wanted the peace process to move on.

22 Q. Could I ask for you to have a look at a document.
23 It's Defence Exhibit 196. Your Honours, page 2,4,6, 26. Again,
24 the General could have my copy.

25 PRESIDING JUDGE: That's Defence Exhibit 196.

1 MR JORDASH: Yes, I'm grateful to one --

2 PRESIDING JUDGE: Is it -- is it already a court Exhibit?

3 MR JORDASH: It is Court Exhibit 211.

4 PRESIDING JUDGE: Court Exhibit 291?

5 MR JORDASH: 211.

6 PRESIDING JUDGE: 211. Sorry.

7 MR JORDASH: Yes.

8 Q. I'm not sure if you've seen that recently or not,
9 General?

10 A. Yes, I saw it.

11 Q. Yes.

12 A. Yeah.

13 Q. Are you able to offer any explanation concerning what
14 Issa Sesay was informing you about concerning the website?

15 A. Yeah, if I remember well, there was information which
16 came out through the website or press or something like that
17 which stated that -- which implied that the RUF, despite what
18 they had stated earlier on, was not going to move on in and tell
19 them with what they had agreed between us until when -- until
20 Foday Sankoh is released. And I think this is what this was
21 trying to clarify that, that was not the case.

22 Q. Thank you. After that first meeting, when was your
23 next contact with Mr Sesay; do you recall?

24 A. After that meeting, I made it clear to my chief
25 military observer and also Issa Sesay, that I would like us to

1 continue to be in constant touch through telephonic
2 communication as and when necessary me and him or my chief
3 military observer General Chizuzi and him through his
4 headquarters, his staff. So there were several such contacts
5 and also meetings arranged thereafter to plan and agree on
6 deployment so we had several meetings thereafter or contacts.

7 Q. I should have probably asked you this: Did you come
8 across someone called Muckson Sesay?

9 A. The name rings a bell but I can't very well remember,
10 you know.

11 Q. Okay. Did you have personal contact?

12 PRESIDING JUDGE: What Sesay?

13 MR JORDASH: Muckson. M U C K S O N.

14 PRESIDING JUDGE: And the General says he doesn't remember.

15 MR JORDASH: Yes.

16 Q. Did you have -- were you after this first meeting, in
17 direct contact with Mr Sesay?

18 A. Yes. He gave me his cell -- it was not cell phone I
19 think it was satellite phone number and I also gave him my
20 contact, you know, number. So as and when I wanted to talk to
21 him I would call him or he would call me, yes.

22 Q. Could I just -- you may have answered this but I want
23 to be clear on the record, as far as you're aware, when was this
24 the first time anyone had direct communication with Sesay from
25 UNAMSIL since UNAMSIL abduction?

1 A. I believe so because during my briefings just before I
2 took over command it was made quite clear to me that we were not
3 in contact with that headquarters.

4 Q. Thank you. In these early meetings and communications
5 did you form an impression about Mr Sesay?

6 A. Yes, I did.

7 Q. Could you share with us?

8 A. Yes, I formed an opinion that here was a young man who
9 was propelled into leadership both political and military
10 leadership with perhaps very little experience in political
11 leadership. He may have been excellent, I don't know, or a good
12 field commander, but in my view, he didn't have very much
13 political acumen. He was -- he looked to me as a very honest,
14 he knew what he wanted to do and when I talked to him he showed
15 respect to me as an elder. And I told him that I would also
16 reciprocate if he did what I expected him to do, which was to
17 cooperate with us in the peace process right up to the end of
18 it.

19 Q. And in these -- this early meeting and the --
20 thereafter communications was the issue of civilians discussed?

21 A. Yes. In fact, even in the first meeting when I asked
22 Issa Sesay whether he had any questions, you know, to ask me
23 pose to me, one of them was his concern for the plight of the
24 civilian population in the RUF controlled area. He complained
25 that the civilians in the CDF controlled areas or government

1 controlled areas had access to humanitarian assistance yet the
2 civilians in RUF controlled areas were denied such access and he
3 was concerned that the UN should do something about it.

4 Q. Do you know if that came to pass, that the UN did
5 something?

6 A. Exactly. I promised him that as and when I get back
7 to Freetown, I will pass this information to my boss the SRSG
8 and humanitarian, you know, agencies, but I cautioned him that
9 unless they cooperate and open the roads leading into those
10 areas then of course, it might be difficult for the civilians,
11 you know, to be given access to humanitarian or relief goods
12 which he said as soon as we are ready to deploy he will be
13 willing to let the relief agencies come back.

14 Q. And after you made it clear that cooperation was
15 necessary in order to achieve those aims, did you obtain
16 cooperation from Mr Sesay?

17 A. Yes, we did.

18 Q. You mentioned the RUF not being -- I'm paraphrasing
19 but not being a unified whole?

20 A. Yeah.

21 Q. Did you come across Gibril Massaquoi?

22 A. Yes, I did.

23 Q. Were you in these early days into 2001, able to meet
24 or receive information about him?

25 A. Yes, we met -- I met with him several occasions.

1 Q. What was your impression about him?

2 A. Gibril Massaquoi in my own opinion was claiming and
3 that not only Gibril but several of the RUF leadership that he
4 was a military man, but he played more of a politician role in
5 the RUF.

6 Q. And did you meet him?

7 A. I did.

8 Q. And did he express any views concerning Issa Sesay and
9 what he was trying to do?

10 A. He expressed two distinct views, one about Foday
11 Sankoh and it looked to me or it appeared to me and I was
12 convinced that it was his view that he was one of those who are
13 very, very strong on the RUF will not cooperate with us until
14 the leader is released Foday Sankoh because he stated that to
15 me. And the second one, he also showed sometimes even direct
16 defiance of any instructions that Issa Sesay gave to his to
17 organisation which would facilitate to our own deployment for
18 example, our military observers, redeploying our military
19 observers and our own troops and even when the time for
20 disarmament, you know, kicked off, he was not very happy with
21 the disarmament because it was going to be undertaken without
22 the release of Foday Sankoh.

23 Q. Excuse me a moment. Did you come across Mike Lamin?

24 A. Yes, I did.

25 Q. What kind of attitude were you able to discern from

1 him?

2 A. Mike Lamin was the same, like Massaquoi. Very hard
3 liner, I would say.

4 Q. Were you able to discern Mike Lamin's view of Mr
5 Sesay?

6 A. I don't think he got on very well with Issa Sesay, and
7 that I, myself, noted for example, when we had a meeting when he
8 was there and Issa Sesay was there and I could see, you know,
9 the way he treated Issa Sesay. He did not respect his
10 leadership.

11 Q. Thank you. Can I take you now to 2001 and April 2001.
12 Did you receive a call from a -- or any information from
13 Brigadier General Allie Hassan?

14 A. Yes, I did.

15 Q. Can you recall what that was about at that time?

16 A. Yes, he called me. I don't want to use the word
17 excited but he was concerned that he had received instructions
18 or information from Issa Sesay who was --

19 PRESIDING JUDGE: Who called you. Who was General Allie
20 Hassan.

21 A. General Allie Hassan was my sector commander in
22 Magburaka, and he was the one who who had more troops under his
23 command deployed in RUF controlled areas, at that time.

24 PRESIDING JUDGE: Thank you. General I just wanted to know
25 who he was.

1 THE WITNESS: Yes, and he stated that Issa Sesay told him
2 that CDF contingent, large contingent of CDF had crossed the
3 border from Guinea and they were heading to Kono with a view of
4 of course, you know, throwing out the RUF from Kono and as they
5 were doing this they were displacing or there was a large
6 displacement of civilians in there way coming homng into Kono
7 from all directions.

8 Q. And was Issa Sesay involved in this in any sense?

9 A. He was already there in Kono himself, trying to read
10 or decide on what to do.

11 Q. And did Issa Sesay make any requests from --

12 A. He did and he asked me to deploy the UN or UNAMSIL
13 troops now. He was ready to hand over Kono to the UN to avoid a
14 blood bath between CDF and the RUF.

15 Q. Did Mr Sesay at that time state any fears concerning
16 civilians?

17 A. Yes, he said that already as the CDF were converging
18 on to Kono there was a large number of civilians who had been
19 killed, some had been, you know, displaced and they were heading
20 -- they were heading to the town which is Kono and they were not
21 able to, you know, be able to protect all of those people or
22 give them accommodation and food and whatever.

23 Q. At any time in this period was there any contact
24 between you and Foday Sankoh?

25 A. I did have one or two contacts with Foday Sankoh

1 thereafter. Especially, you know, as -- before disarmament,
2 before disarmament began I think when he was transferred into
3 our hostel choitram hostel which was under our you know control.
4 It was a military hostel mand by our medical -- military medical
5 team.

6 Q. Were you able to speak to him?

7 A. I did speak to him.

8 Q. Was he able to respond in any way?

9 A. Yeah.

10 Q. In most cases whenever I went to see, you know, not
11 only him, I used to go and visit the hospital to see our own
12 military personnel, who were sick in the hospital. I would go
13 and see Foday Sankoh, also. He would respond to me. He knew
14 who I was.

15 Q. Did he comment on disarmament at any time?

16 A. He wasn't happy about disarmament. He wasn't happy
17 about disarmament.

18 Q. Are you able, just briefly, to describe what the Abuja
19 Agreement or meetings were about?

20 A. I think the Abuja Agreement, the basic tenet of the
21 Abuja Agreement was to re-- as I think Ambassador Adenigie had
22 stated to re-- bring the RUF back on to the fold, the RUF
23 leadership back on to the fold as a partner to implement the
24 Peace Accord, the original peace accord and also to set out the
25 time frame for disarmament and demobilization.

1 Q. Do you recall when that direct Abuja process began?

2 A. I think Abuja was in December, if I remember, I think
3 it was in December 2000.

4 PRESIDING JUDGE: General, if I may know, when was some
5 evidence that Sankoh was detained in Abuja was that at --

6 THE WITNESS: I was not here.

7 PRESIDING JUDGE: You were not here yet.

8 THE WITNESS: I was not here yet, Your Lordship.

9 PRESIDING JUDGE: Thank you.

10 THE WITNESS: Yeah.

11 PRESIDING JUDGE: Nothing in your records, you know, gave
12 you a clue as to why he was detained.

13 THE WITNESS: I saw some of those records then because some
14 of my readings was to look back what had happened I saw some of
15 those. I think his incarceration there was to send a signal to
16 him, that he better cooperate with ECOWAS.

17 Q. And following the Abuja Agreements, were there
18 meetings arranged? Tri-parti meetings?

19 A. Yes, in fact, immediately after the Abuja Tri-parti
20 meetings were arranged between UNAMSIL, RUF and the government
21 of Sierra Leone.

22 Q. And during this whole process of the Abuja and the
23 consequential meetings, were you in contact with Mr Sesay?

24 A. Oh, yes, I was.

25 Q. How was he conducting himself in relation to the

1 commitments made?

2 A. He was amnuable to the agreement in Abuja because I
3 believe he attended the Abuja meeting. I did not, but I
4 arranged for them to go there but he was amunable to the Abuja
5 Agreement and he stated that he was committed to the peace
6 process and the organisation which he was leading which was RUF
7 would deliver on the agreement.

8 Q. And let me take you forward to September 2001, was
9 anything happening around this time in Kono concerning
10 disarmament?

11 A. Yes, that is as a result of the movement which the CDF
12 made from Guinea towards Kono and in order to avert a potential
13 danger for the entire peace process and disarmament, we decided
14 three, you know, groups decided we would then disarm Kono
15 immediately after that, or do a symbolic disarmament of those
16 CDF troops who had come into Kono while we were waiting for, the
17 major disarmament to take place. So I attended that meeting and
18 of course it was agreed, Issa was there and I think even the
19 late chief Hinga Norman was there.

20 PRESIDING JUDGE: Where was the meeting, General.

21 THE WITNESS: In Kono.

22 PRESIDING JUDGE: In Kono.

23 THE WITNESS: In Kono. Then it was followed by another
24 meeting which I think the heads of state, ECOWAS heads of state,
25 you know, attended in Kono.

1 MR JORDASH:

2 Q. Were you present when Kono was finally disarmed?

3 A. The disarmament of Kono. No, I don't think so. I
4 don't think so. I think I was there when the initial
5 disarmament took place I was there.

6 Q. Sorry. That's my confusion. That's what I was
7 referring to?

8 A. Yeah, I was there. I was there.

9 Q. Who else was there?

10 A. My deputy Mattin Naguay was there, Issa Sesay was
11 there, I think even the late chief Norman Hinga was there, there
12 were several other dignitaries, and the paramount chiefs were
13 there.

14 Q. Was Mr Sesay there?

15 A. Yes, Sesay was there. I think -- I can't remember
16 whether Morris Kallon was also there but there was several
17 dignitaries or people from there -- the RUF side because it was
18 a big thing.

19 Q. Do you recall approximately when this was?

20 A. That could have been in September.

21 Q. Of 2001?

22 A. Yeah, yeah.

23 Q. Did Mr Sesay speak at the?

24 A. Oh, yes, he did.

25 Q. What kind of speech did he give?

1 A. Sesay made a very strong impassioned speech stating
2 their commitment to the entire peace process and that's why they
3 were going to ensure that Kono is disarmed because until that
4 time very few people believed that Kono will ever be disarmed.
5 In other words, the RUF would let go Kono. It was in the press.
6 I myself was challenged, by people that I was not going to be
7 able to make the RUF or, you know, disarm in Kono. So Issa
8 reiterated their commitment to this and showed, you know, told,
9 you know, his combatants to ensure that they all disarm in Kono
10 and throughout the country.

11 Q. And if you were asked as I'm asking to assess the
12 importance of Issa Sesay to this process what would you say?

13 A. It was Sesay is what? Could you repeat it.

14 Q. Yes. Could you assess Mr Sesay's role in the
15 importance or otherwise of that role to this process?

16 A. I think he was key to the process right through. I
17 think he was.

18 Q. Now, after this stage of disarmment, were there any
19 visits by leaders to Kono?

20 A. Yes, I think that's the one I alluded to earlier on.

21 Q. The ECOWAS leaders?

22 A. The ECOWAS leadership in December, I think, because I
23 was away on leave. I remember that.

24 Q. And were you briefed on the meeting?

25 A. Yes, I was briefed when I came back by my deputy

1 General --

2 PRESIDING JUDGE: December 2001.

3 THE WITNESS: Yes, sir. General Martin Naguay. He briefed
4 me on what transpired.

5 MR JORDASH:

6 Q. And briefly what did he brief you, can you recollect?

7 A. He briefed me that the ECOWAS leaders, reiterated,
8 you know, their commitment to ensuring that the peace process
9 was, you know, which was in their view up to that time was
10 moving in the right direction would be completed in, you know,
11 as was envisaged. They reiterated their commitment and
12 satisfaction in the leadership, then leadership of RUF. They, I
13 think -- not I think. They congratulated Issa for doing what he
14 had done up to that time to ensure that Kono was disarmed and
15 being handed back to the government would be handed back to the
16 government.

17 Q. Thank you. Your Honours, I noticed the time. I'm
18 happy to continue. I'm about to deal with a different subject,
19 but I'm happy to continue.

20 PRESIDING JUDGE: The Chamber will recess for a few minutes
21 and we'll resume to continue with the examination-in-chief of
22 the General. We will rise, please.

23 [Break taken at 4.36 p.m.]

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