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[RUF10MAR08A-DG]

Monday, 10 March 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]

09:55:23AI

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.

09:55:23AI

09:55:40AI

09:55:43AI

MR JORDASH: Excuse me. Your Honour, no.

09:55:47AI

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

09:55:50AI

09:55:54AI

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

09:55:55AI

09:55:59AI

09:51:06PI

09:56:15AI

PRESIDING JUDGE: I see.

09:56:16AI

MR JORDASH: The waiver for today and so that the Court is informed, applies except as regards the evidence of General Opande and Mr Sesay wants to be present and also in relation to General Hassan, Mr Sesay has indicated he owes them his presence in Court, is how he puts it. And so the waiver will be subject

09:56:17AI

09:56:20AI

09:56:26AI

09:56:36AI

09:56:41AI

1 to those two ons. 09:56:46AI

2 PRESIDING JUDGE: It's -- it's -- it's your call, Mr -- I 09:56:51AI
3 mean, if he wants to be present, I mean, that is what it should 09:56:54AI
4 n for his absence is that, he has to talk with his lawyer. 09:58:45AI

5 MR JORDASH: Yes, I think that -- 09:58:05AI

6 PRESIDING JUDGE: He's waived his right all right to be 09:58:06AI
7 present, then for the following reasons. The following reasons 09:58:09AI
8 for his absence. He has to talk with his lawyer. No particular 09:58:13AI
9 reason is stated there. 09:58:19AI

10 MR JORDASH: No, that's curious statement. I spoke to him 09:58:22AI
11 over the weekend and I'm satisfied he'd made his mind up at that 09:58:27AI
12 stage. So I'm not sure what that indication is, but I'm 09:58:34AI
13 satisfied that his mind was made up and this is what he was 09:58:37AI
14 going to do. So that might be some miscommunication with the 09:58:42AI
15 detention staff, but as far as I'm concerned, he's -- 09:58:46AI

16 PRESIDING JUDGE: Let me put it this way. It is my 09:58:53AI
17 understanding that he does not even need to give us valid reason 09:58:59AI
18 to be present. All he needs to do is to say that he doesn't 09:59:02AI
19 want to be present and that's it, you know, and if he can 09:59:11AI
20 indicate that you know here, you know, I think if something can 09:59:11AI
21 be drawn up and he just indicates that he doesn't want to be 09:59:12AI
22 present, you know, that's fine. 09:59:16AI

23 JUDGE BOUTET: Reasons apply really if he's sick or these 09:59:18AI
24 kind of scenarios, well I -- 09:59:20AI

25 PRESIDING JUDGE: But for any reason which he doesn't want 09:59:22AI

1 to explain, he does not wish to be present he could easily say, 09:59:24AI
2 you know, that I don't just feel like attending Court today. 09:59:32AI
3 It's as simple as that. You can go on in my absence, my lawyer 09:59:35AI
4 is there. That's-- it's as simple as that. 09:59:40AI

5 JUDGE BOUTET: Don't just say I waive my right to be 09:59:44AI
6 present in Court period, that's it speak. 09:59:48AI

7 PRESIDING JUDGE: For the reasons, you know, he says, it's 09:59:53AI
8 just that I don't feel like attending Court today. 09:59:55AI

9 MR JORDASH: For the avoidance of doubt I wasn't present 09:59:59AI
10 when that was said. So I don't understand that any more than 10:00:01AI
11 Your Honours. 10:00:05AI

12 PRESIDING JUDGE: I know. I know. Court management can 10:00:05AI
13 you take this please. That's it behind you, here. So it would 10:00:08AI
14 be corrected, you know, properly filled, then maybe, we can deal 10:00:13AI
15 with those two documents later in the day. 10:00:17AI

16 MR JORDASH: Certainly, Your Honour. 10:00:20AI

17 PRESIDING JUDGE: Right. 10:00:23AI

18 MR JORDASH: There are a number of other subjects I'd like 10:00:25AI
19 to raise quite quickly, the second subject is that of 10:00:28AI
20 time-tabling. I think time is running out rapidly and what I'd 10:00:33AI
21 request is the possibility of sitting either extended hours and 10:00:38AI
22 or Wednesday afternoon, so as to be able to complete the 10:00:46AI
23 remaining witnesses by the close of play, on Thursday. If I 10:00:52AI
24 could indicate to Your Honours that there is a potential of six 10:00:57AI
25 witnesses left, four definites, those are Opande, General 10:01:05AI

1 Opande, General Hassan, DIS-129 and DIS-170. DIS-083 and 10:01:09AI
2 DIS-095 have only just arrived and we'll make final assessment 10:01:22AI
3 by the end of the day we hope. But in the event that the two 10:01:29AI
4 witnesses I've just mentioned are to be called it does make the 10:01:36AI
5 remaining time somewhat short. So I would request those 10:01:43AI
6 extended sitting times if possible. The third point I'd like to 10:01:49AI
7 raise is related to that request for additional time. And it's 10:01:56AI
8 based on a legal argument which I feel as though I am duty bound 10:02:04AI
9 to raise. And it concerns comments or directions made by Your 10:02:10AI
10 Honours, concerning the decision of the 5 March 2008, concerning 10:02:22AI
11 the written decision on the Sesay Defence application for a 10:02:29AI
12 weeks adjournment and concerns comments or directions made by 10:02:35AI
13 Your Honours, on Friday, concerning the effect of character 10:02:41AI
14 evidence and at some stage and I'm in Your Honours hands, I wish 10:02:50AI
15 to raise a legal argument in relation to those. I'm calling 10:02:54AI
16 them comments or directions because strictly speaking they are 10:03:01AI
17 not a decision or a ruling. Especially, those remarks made in 10:03:05AI
18 the written decision which strictly speaking are overturned. 10:03:10AI
19 But the legal argument I feel duty bound to raise concerns 10:03:16AI
20 Rule 93 of the rules and procedure in evidence. Which is 10:03:23AI
21 evidence of consistent pattern of conduct. And the -- if I 10:03:27AI
22 could simply say at this stage, that Your Honours comments and 10:03:34AI
23 directions would appear to suggest that Your Honours have 10:03:42AI
24 decided not to apply that Rule and particularly, I'm referring 10:03:46AI
25 to Paragraph 45 of the written decision of the 5 March, wherein 10:03:54AI

1 Your Honours state that events pre-30 November 1996, have a 10:04:01AI
2 connection only one in a historical sense, then even that only 10:04:09AI
3 to a limited extent. And I would seek to argue before the close 10:04:21AI
4 of our case, that that is a misapplication of the law and in 10:04:27AI
5 particular, complete subversion of Rule 93, which requires Your 10:04:35AI
6 Honours to consider evidence of a consistent pattern of conduct. 10:04:40AI
7 And when I say evidence of a consistent pattern of conduct, I'm 10:04:45AI
8 including in that all of the evidence which we've led pre1996 10:04:49AI
9 but also the evidence which Your Honours have categorized as 10:04:53AI
10 character evidence which falls within the indictment period. I 10:04:58AI
11 feel duty bound to raise it before the close of our case because 10:05:05AI
12 if Your Honours ruling in the way suggested in the written 10:05:12AI
13 decision and in the way suggested on Friday during oral argument 10:05:16AI
14 then it places our Defence in a difficult situation. 10:05:23AI

15 JUDGE BOUTET: But are you arguing now? Or-- 10:05:26AI

16 MR JORDASH: No. I'm laying it out so Your Honours could 10:05:30AI
17 decide when this argument should be heard. The reason I -- 10:05:33AI

18 JUDGE BOUTET: Are you intending to appeal our decision on 10:05:38AI
19 the 5 March. That's one way, if you dont agree with it. That`s 10:05:41AI
20 one way of dealing with it and the Appeals Chamber may look into 10:05:46AI
21 this matter. 10:05:49AI

22 PRESIDING JUDGE: I also wanted to say, you know, whether 10:05:50AI
23 we did say in that decision that the evidence of character or 10:05:53AI
24 whatever which you have adduced is irrelevant. I do not know. 10:05:56AI
25 I'm not aware that we said that. That, that was mentioned in 10:06:05AI

1 that decisions. 10:06:08AI

2 MR JORDASH: No. But the point is this about this decision 10:06:09AI
3 which is why I'm referring to the contents of it. 10:06:13AI

4 PRESIDING JUDGE: You see because, if we had said, that the 10:06:15AI
5 evidence of character is irrelevant in that decision then I 10:06:17AI
6 would see why you are coming in but I don't think that -- 10:06:21AI
7 besides talking about the repetitiveness, repetitiveness, you 10:06:25AI
8 know, of certain portions of evidence, of certain facts in the 10:06:33AI
9 evidence, we never ever in that decision say that the evidence 10:06:41AI
10 you have adduced so far in those circumstances is irrelevant. 10:06:43AI

11 MR JORDASH: Well, if I can put it this way. If I can 10:06:50AI
12 answer Justice Boutet's remarks that it is not possible to 10:06:54AI
13 appeal this decision against a decision which on it's ratio is 10:06:59AI
14 in our favour. The adjournment was granted. So that's why I 10:07:03AI
15 referred to the overturn. 10:07:11AI

16 PRESIDING JUDGE: Even if it is in your favour partially, 10:07:11AI
17 you can appeal against those portions which you do not agree 10:07:14AI
18 with, it's possible. Why not. 10:07:17AI

19 MR JORDASH: In that case, what I would appreciate is, and 10:07:17AI
20 that is why I raise it, is a clarification with respect from 10:07:20AI
21 Your Honours, as to exactly what Your Honours meant. If Your 10:07:25AI
22 Honours are saying that -- 10:07:29AI

23 JUDGE BOUTET: Mr Jordash, I 'm speaking for myself on this 10:07:30AI
24 issue. I don't think you can expect from the Bench, that the 10:07:33AI
25 Bench would give additional clarification on what is the meaning 10:07:38AI

1 of a decision that has been rendered as such. To me, the 10:07:42AI
2 decision speaks for itself. You give it whatever interpretation 10:07:46AI
3 you think is appropriate. I don't think we should as a court go 10:07:49AI
4 back to this decision and trying to further explain what we had 10:07:52AI
5 said, and to say that when we said this is what we meant and we 10:07:56AI
6 never meant to say this. At least this is not my understanding 10:08:00AI
7 of what Court ruling are all about, and I don't think that we 10:08:03AI
8 should go and explain what we meant when we said that decision, 10:08:06AI
9 but I spoke for myself, I didn't discuss with -- we didn't 10:08:10AI
10 discuss that this morning. 10:08:13AI

11 PRESIDING JUDGE: I conquer with what my learned brother 10:08:15AI
12 has stated there. I don't want to get there myself. I have 10:08:20AI
13 gotten there already, by raising the issue, you know, of whether 10:08:23AI
14 we did say, you know, that the evidence was irrelevant, which we 10:08:27AI
15 did not anyway. So it means that we never -- we never said you 10:08:31AI
16 know that character evidence which you are leading which has 10:08:36AI
17 something to do with -- which according to you has a nexus with 10:08:40AI
18 the provisions of Rule 93 is irrelevant. We never got there. 10:08:46AI

19 JUDGE THOMPSON: Yes, and I would like to say straight away 10:08:51AI
20 and that would be again subject to what an appellate Tribunal 10:08:54AI
21 will tell me as a matter of law, that Rule 93 would not apply to 10:08:59AI
22 the Defence case. That would be my own interpretation of the 10:09:04AI
23 law, as a matter of law subject to correction from an appellate 10:09:08AI
24 Chamber that Rule 93 is restrictive and the focus is on the 10:09:16AI
25 Prosecution's case. In other words, the analogy here, is to 10:09:21AI

1 similar fact evidence in the national system which a Prosecution 10:09:26AI
2 cannot lead to prove the crimes or the charges before the Court. 10:09:29AI
3 Generally, as a general Rule, similar fact evidence is not 10:09:36AI
4 admissible in the context of the national system to prove that 10:09:41AI
5 an accused person committed a crime, because there are 10:09:50AI
6 exceptional cases in the national system. And I think what Rule 10:09:55AI
7 92 -- 93, here is doing, is virtually reproducing some kind of 10:09:59AI
8 an analogous Rule which is applied in a municipal system for the 10:10:04AI
9 purposes of international criminal justice. Virtually saying 10:10:10AI
10 that similar fact evidence may be admissible in the interest of 10:10:15AI
11 justice and my own interpretation of the law, subject to 10:10:20AI
12 correction by an appellate Tribunal, would say that it doesn't 10:10:24AI
13 apply to the Defence case. That's would be my interpretation of 10:10:28AI
14 the law. 10:10:32AI

15 JUDGE BOUTET: Further buttressed by 93(b) Because, when 10:10:33AI
16 you read 93(b) it says has standing to show such a pattern 10:10:36AI
17 conduct shall, shall be disclose by the Prosecution, not by the 10:10:42AI
18 Defence. So I mean. 10:10:45AI

19 JUDGE THOMPSON: In other words, the Prosecution is not 10:10:46AI
20 allowed to produce evidence of similar fact to prove the 10:10:48AI
21 indictment, as a general Rule in the national system but here 10:10:52AI
22 there is an exception made to that. And so I don't see why the 10:10:57AI
23 Defence should complain, that the concept of character evidence 10:11:02AI
24 that you're leading in support of your clients case is governed 10:11:07AI
25 by Rule 93 as a matter of law. 10:11:12AI

1 MR JORDASH: Well -- 10:11:15AI

2 JUDGE THOMPSON: That would be my own interpretation of the 10:11:17AI
3 law, besides subject to appellate -- 10:11:19AI

4 PRESIDING JUDGE: I think to close this chapter, Mr 10:11:23AI
5 Jordash, I think granted, you say, that at least that decision 10:11:27AI
6 in a way it was favourable to you. It is that -- we don't to 10:11:30AI
7 want to delve into the merits of what you're talking about. We 10:11:43AI
8 do not want to carry out a postmortem or diagnosis of our own 10:11:45AI
9 decision. And the legal avenue out of this is, if you so wish 10:11:51AI
10 to appeal against that decision and just like any other party 10:11:55AI
11 can appeal against it and we'll close it and pursue the taking 10:11:59AI
12 of the next witness, because like you've confessed, like you've 10:12:06AI
13 put it yourself, you know, we don't have much time to get into 10:12:10AI
14 these arguments. Because I don't see us getting into this, you 10:12:13AI
15 know. 10:12:17AI

16 MR JORDASH: The difficulty I have is this: One, it has 10:12:18AI
17 always been my understanding that a decision cannot be appealed 10:12:25AI
18 unless it is against the party but having said that. 10:12:29AI

19 PRESIDING JUDGE: A decision has many compartments it has 10:12:32AI
20 many compartments. It has many compartments, I mean you could 10:12:35AI
21 -- it's a question of whether the entire decision, you know 10:12:39AI
22 satisfies your needs or it goes against the law, in one way or 10:12:43AI
23 the other. If it does go against the law or the interest, you 10:12:46AI
24 know, of your clients, then you could appeal against that issue. 10:12:50AI
25 It is possible. 10:12:53AI

1 MR JORDASH: Well, that's never been my understanding but 10:12:54AI
2 in any event what I would seek to appeal is the Courts ruling 10:12:56AI
3 today, that Rule 93 does not apply. 10:13:02AI

4 PRESIDING JUDGE: Where have we even made such a ruling -- 10:13:07AI
5 we have not had any arguments on this. This is why we don't 10:13:11AI
6 want to get into this -- 10:13:14AI

7 JUDGE THOMPSON: It's my view. 10:13:16AI

8 PRESIDING JUDGE: Into this issue. What my colleague was 10:13:17AI
9 saying. 10:13:20AI

10 JUDGE THOMPSON: I wasn't speaking for the Bench at all. 10:13:20AI

11 MR JORDASH: But I want to make an legal application to say 10:13:23AI
12 Rule 93 does apply. 10:13:26AI

13 JUDGE BOUTET: You want to make it now? Well, do you want 10:13:28AI
14 to make it now? That's why I ask you, are you making your 10:13:30AI
15 application now, Mr Jordash? Or are you just giving us 10:13:32AI
16 notification that you are like -- that are likely to -- that's 10:13:43AI
17 why I put it to you. If you are doing it now, fine, we'll 10:13:43AI
18 listen to you and we'll try to dispose of it. 10:13:43AI

19 MR JORDASH: What I'm trying to do is set out the 10:13:43AI
20 time-tabling as we see it. And I'm inviting Your Honours to 10:13:44AI
21 look at the remaining time sit -- extended hours and part of the 10:13:48AI
22 reason for sitting extended hours is to hear argument concerning 10:13:53AI
23 Rule 93. And the reason -- the reason that's important to do 10:13:59AI
24 it, I would submit, before the close of our case is because 10:14:04AI
25 depending on what Your Honours ruling is on Rule 93, may well 10:14:13AI

1 depend upon whether I request that our case remains open in 10:14:13AI
2 order to reconsider the evidence which might need to be called 10:14:17AI
3 if Your Honours are considering all evidence pre-1996 as 10:14:21AI
4 marginally relevant as historical context. And or whether Your 10:14:26AI
5 Honours are considering character of the witness simply as was 10:14:35AI
6 indicated on Friday, relevant to the sentencing stage rather 10:14:37AI
7 than the liability stage.. 10:14:41AI

8 JUDGE BOUTET: I don't think that's what we said, but 10:14:43AI
9 anyhow I would -- maybe that's what you got from what the 10:14:45AI
10 comments were from the Bench, Mr Jordash, but if that's what you 10:14:48AI
11 got that's not what we intended to say. Yes, character evidence 10:14:53AI
12 is important and is certainly relevant for sentencing, but we 10:14:56AI
13 never said, to my knowledge, that it is relevant only for that 10:14:59AI
14 purpose. I don't think we said that. 10:15:02AI

15 MR JORDASH: Well, this is the reason why I'm raising these 10:15:04AI
16 points, because I am requesting of the Bench that Your Honours 10:15:06AI
17 clarify the position on this so that we might be guided as to 10:15:11AI
18 what it is we are presenting as evidence, and what is likely to 10:15:16AI
19 be the Bench's overall approach to that evidence. Because it's 10:15:24AI
20 important not simply for us but also for the other teams. But I 10:15:29AI
21 speak on my behalf that the -- 10:15:32AI

22 JUDGE BOUTET: Can I suggest Mr Jordash on this or so we 10:15:35AI
23 could move ahead. We will ask for the transcript what we said 10:15:39AI
24 in Court on Friday, look at it, and then hear what you may have 10:15:42AI
25 to say. As I say it's not my recollection that this is what we 10:15:45AI

1 said. If that's the way it came out, certainly speaking for 10:15:49AI
2 myself on this issue, I don't think it was ever intended to be 10:15:53AI
3 that limited, but I don't have the transcript in front of me. 10:15:56AI
4 It's very difficult to say "yes" or "no" and "maybe" and these 10:16:00AI
5 were really not decisions from the Court. These were response 10:16:05AI
6 to the questions you were putting to the Court at that time. 10:16:08AI
7 But if this is what the transcript said, maybe when we said that 10:16:11AI
8 at the time when -- in a direction that we didn't intend. But 10:16:16AI
9 rather than speak on this issue without having a transcript, Mr 10:16:20AI
10 Jordash, it's difficult to say you're right or we're wrong or 10:16:25AI
11 whatever it is. 10:16:29AI

12 MR JORDASH: If I can -- 10:16:30AI

13 JUDGE THOMPSON: May I say something that I'm not being 10:16:31AI
14 judicially apologetic about this. I raised a fundamental issue 10:16:33AI
15 as far as my knowledge of the basic criminal process is, that 10:16:38AI
16 usually there is a dichotomy a bifurcation between the liability 10:16:42AI
17 phase of a trial and the sentencing phase, that in the national 10:16:48AI
18 systems evidence relating to character is usually reserved for 10:16:52AI
19 the sentencing phase. I made that as my own understanding of 10:16:56AI
20 the law, but I wasn't in fact discounting the possibility when 10:17:01AI
21 you came out with what I thought was a very attractive legal 10:17:06AI
22 argument, that you may in fact say that it's possible that you 10:17:10AI
23 can use character evidence at the liability stage to say that 10:17:14AI
24 your client did not commit crimes. I found this very creative 10:17:20AI
25 and novel, but I was basing my own knowledge on what at law 10:17:24AI

1 school I was taught, that usually character evidence is not 10:17:29AI
2 brought in to argue the liability or otherwise of the client, of 10:17:33AI
3 the accused person. That is what I understood the law and that 10:17:39AI
4 was my own thinking. But it was put there for argument and I 10:17:42AI
5 wasn't binding my two brother judges on this issue, but nor was 10:17:45AI
6 I stating it as the Court's position. 10:17:51AI

7 MR JORDASH: Well, I apologise for misreading what your 10:17:53AI
8 Your Honour's comments were, but this highlights the uncertainty 10:17:57AI
9 of -- 10:18:01AI

10 PRESIDING JUDGE: And I would confirm that Justice 10:18:03AI
11 Thompson, at a certain stage in the proceedings, did say that he 10:18:06AI
12 cannot discount character evidence, you know, being used at the 10:18:13AI
13 liability stage, the liability-determination stage of the 10:18:21AI
14 proceedings. Even though he said what he said, he did mention 10:18:29AI
15 that in the course of his comments on Friday. 10:18:34AI

16 MR JORDASH: Well, absolutely no criticism was intended, 10:18:39AI
17 absolutely not. 10:18:43AI

18 JUDGE THOMPSON: I can assure that it's not taken that way. 10:18:43AI

19 MR JORDASH: Thank you, Your Honour. 10:18:43AI

20 JUDGE THOMPSON: But just to put the argument in focus, it 10:18:46AI
21 was a debate. 10:18:48AI

22 MR JORDASH: What I'm seeking is -- as Your Honours know 10:18:50AI
23 we've led a lot of evidence about which on one view could be 10:18:52AI
24 character, on another view, our view, is the acts and conduct of 10:18:56AI
25 the accused which reflect a consistent pattern of behavior from 10:19:02AI

1 the beginning of the war. We put a lot of weight on it because 10:19:05AI
2 we say it's important in terms of the liabilities expressed 10:19:10AI
3 within the indictment, especially the joint criminal enterprise 10:19:14AI
4 especially command responsibility. So to hear or to read a 10:19:19AI
5 decision or to hear remarks we suggest that that evidence is 10:19:22AI
6 going to be, or quite probably will be - 10:19:25AI

7 PRESIDING JUDGE: Probably. Don't say probably. Talk 10:19:28AI
8 categorically. Not probably. We want you to really say what 10:19:31AI
9 our decisions said. How have you read it? 10:19:35AI

10 MR JORDASH: Well, the decision says that pre-1996 is 10:19:36AI
11 historical -- 10:19:40AI

12 PRESIDING JUDGE: Yes. 10:19:40AI

13 MR JORDASH: -- and only -- let me see the words spoken. 10:19:41AI
14 To a limited extent relevant. 10:19:47AI

15 PRESIDING JUDGE: Yes. Yes. 10:19:50AI

16 MR JORDASH: That's the issue. 10:19:51AI

17 PRESIDING JUDGE: Yes. 10:19:52AI

18 JUDGE BOUTET: To a limited extent. 10:19:52AI

19 PRESIDING JUDGE: That is it to a limited extent. What is 10:19:53AI
20 wrong with that? It speaks for itself. 10:19:55AI

21 MR JORDASH: The point is this: That we would take Rule 93 10:19:57AI
22 -- we could save these arguments until the closing, but in my 10:20:01AI
23 submission we ought to be as a Defence, entitled to look at what 10:20:05AI
24 approach Your Honours are taking and ask Your Honours -- 10:20:10AI

25 PRESIDING JUDGE: We have taken our approach. 10:20:13AI

1 MR JORDASH: But we haven't argued -- 10:20:16AI

2 PRESIDING JUDGE: We have taken our approach on this. I 10:20:18AI
3 think we better wrap up this argument. We have taken our 10:20:20AI
4 position on this and as I was saying on Friday, you know, a 10:20:24AI
5 judicial decision is not supposed to please all parties or even 10:20:29AI
6 a particular party in all it's compartments. We have taken our 10:20:33AI
7 time to analyze the situation, you know, and we were very, very 10:20:37AI
8 very, careful in analysing the entire situation. And at no 10:20:41AI
9 stage did we say -- did we say, you know, that the preindictment 10:20:50AI
10 historical period is not relevant. At no stage did we say, you 10:20:54AI
11 know, that character is not relevant. So this -- 10:20:59AI

12 MR JORDASH: The question that -- I'm sorry, Your Honour. 10:21:02AI

13 PRESIDING JUDGE: Yes, no, go ahead, yes. 10:21:05AI

14 MR JORDASH: The question that remains, and this is what 10:21:06AI
15 I'm asking Your Honours to consider, and Your Honours haven't 10:21:08AI
16 considered submissions on this. That's why I say that the issue 10:21:13AI
17 -- 10:21:16AI

18 JUDGE BOUTET: On 93? 10:21:17AI

19 MR JORDASH: Well, on the relevance of pre-1996 as relates 10:21:19AI
20 to Rule 93, and Your Honours haven't considered submissions on 10:21:22AI
21 it. And Your Honours, in my respectful submission, should 10:21:27AI
22 before the Defence are obliged to close their case. 10:21:32AI

23 JUDGE BOUTET: But why? Why? The rules are there. They 10:21:35AI
24 speak for themselves. I mean, obviously, I mean as you say, I'm 10:21:38AI
25 a bit at a loss to understand what you are saying this morning 10:21:42AI

1 in this respect, Mr Jordash. As you said you are about to close 10:21:45AI
2 your case and at this particular moment now you're asking the 10:21:49AI
3 Court to give a ruling, so you know if you're going to turn 10:21:53AI
4 right or turn left. I mean I'm a bit surprised of this 10:21:57AI
5 application now. 10:22:00AI

6 MR JORDASH: Well, because -- 10:22:01AI

7 JUDGE BOUTET: If you had made an application I don't know 10:22:04AI
8 a year and a half ago, I would have understood. But at this 10:22:06AI
9 stage. 10:22:09AI

10 MR JORDASH: But there was nothing from Your Honours to 10:22:09AI
11 suggest that Your Honours was going to look at -- 10:22:12AI

12 JUDGE BOUTET: Yeah, but your whole, your whole Defence, or 10:22:15AI
13 the majority of your Defence or the approach taken in the 10:22:17AI
14 strategic approach taken by you and your client is to say it 10:22:21AI
15 relies heavily on this particular aspect. Am I right? 10:22:25AI

16 MR JORDASH: No. It relies heavily on all aspects but 10:22:29AI
17 obviously the starting point of his conduct was the beginning -- 10:22:34AI

18 JUDGE BOUTET: I'm not saying "solely and only," but yet 10:22:37AI
19 you rely heavily on that aspect of your Defence. 10:22:40AI

20 MR JORDASH: On a consistent pattern of conduct from -- 10:22:43AI

21 JUDGE BOUTET: That's what I mean. The pattern of conduct 10:22:47AI
22 of the accused throughout is such that. So that's basically the 10:22:50AI
23 underlying strategic approach that you have taken in this 10:22:53AI
24 respect. That's what I'm saying. 10:22:56AI

25 MR JORDASH: But Your Honour's decision appears to suggest 10:22:59AI

1 well, in fact it's not a consistent part of conduct, it's simply 10:23:02AI
2 historical -- 10:23:05AI

3 JUDGE THOMPSON: Let me intervene, respectfully. And we 10:23:08AI
4 didn't investigate that aspect, and we could not at that, this 10:23:12AI
5 point in time because that's the kind of argument or perception 10:23:14AI
6 that one would want to hear submissions on at the close of the 10:23:17AI
7 case, of the trial. And I would say in fact that what I just 10:23:21AI
8 said about Rule 93 is a judicial viewpoint that I hold unless 10:23:27AI
9 I'm persuaded by argument otherwise that it has an extended 10:23:32AI
10 application, and prepared to say as a matter of law and as a 10:23:38AI
11 judge I'm entitled to do that, unless I'm corrected by the 10:23:41AI
12 appellate Chamber or persuaded by Mr Jordash, that in fact, it 10:23:45AI
13 goes beyond Prosecution's evidence and it applies with equal 10:23:50AI
14 force to Defence evidence. These are all matters in the air. I 10:23:55AI
15 ask the question: Why would not this be a real issue that one 10:24:00AI
16 can articulate some solid closing arguments on, and try to 10:24:07AI
17 persuade the Court that even if the Court had indicated perhaps 10:24:13AI
18 in some interlocutory decision that it was going this way, a 10:24:19AI
19 different way. Yet when it comes to the final evaluation of the 10:24:23AI
20 case, these are matters that should be factored into the entire 10:24:26AI
21 process. That would be my thinking. That would be the kind of 10:24:31AI
22 exercise that I'd be prepared for. 10:24:35AI

23 MR JORDASH: Well, if Your Honour's view is shared by the 10:24:37AI
24 remainder of the honourable Bench then my concerns are 10:24:39AI
25 completely alleviated. What I'd wanted to achieve was the 10:24:44AI

1 possibility of addressing Your Honours on the probative value of 10:24:49AI
2 those acts and conduct throughout the conflict, pursuant to Rule 10:24:53AI
3 93. Or if not Rule 93 then an equal but opposite rule of 10:25:00AI
4 principal. And if that's the case, then I won't need to proceed 10:25:10AI
5 with the ruling. But if we were being shuttered out at this 10:25:15AI
6 stage then that was my concern. 10:25:18AI

7 PRESIDING JUDGE: I don't think any issue -- I mean there 10:25:23AI
8 is any issue that is a taboo, you know, to raise when you are 10:25:26AI
9 making your final closing brief in this case. I mean, these are 10:25:30AI
10 things which are -- I mean, the decision itself, I mean, we 10:25:33AI
11 cannot, we cannot tell you, you know you should move this way or 10:25:40AI
12 that way. And we have not stated, we have not taken a position 10:25:45AI
13 that the evidence you've led on character or on the pre-1996 10:25:50AI
14 issues, you know, is irrelevant. All we were saying, you know, 10:25:57AI
15 was that it was getting repetitive. Repetitive. That is all we 10:26:01AI
16 were talking about. And you don't need, you don't need to make 10:26:06AI
17 the point -- and that is where, why we went into the practice in 10:26:08AI
18 international criminal tribunals, which says that you can prove 10:26:13AI
19 an issue or a fact, you know, with just one witness, and that is 10:26:17AI
20 it. And we went further to say that even though that is the 10:26:20AI
21 law, it might be necessary in certain circumstances to have some 10:26:24AI
22 collaborative evidence which I am sure we've heard in this 10:26:30AI
23 particular case to make the point on repetitiveness. And if you 10:26:33AI
24 want to visit them or these issues which you want to raise now, 10:26:37AI
25 during your final brief at the close of the case for the 10:26:43AI

1 Defence, nothing precludes you from doing that. Nothing, 10:26:47AI
2 absolutely nothing. 10:26:53AI

3 JUDGE BOUTET: I am not prepared to commit myself one way 10:26:55AI
4 or the other on this issue. We'll deal with that when it comes. 10:26:58AI
5 To me the decision is clear, it speak for itself. And you can 10:27:02AI
6 draw whatever inference you want from that decision. I'm not 10:27:05AI
7 prepared to comment on that decision. So you proceed the way 10:27:09AI
8 you want to proceed. We have spoken on that decision on the 10:27:12AI
9 issue that was in front of us. But other than that I'm not 10:27:19AI
10 prepared to commit myself one way or the other. 10:27:21AI

11 PRESIDING JUDGE: Maybe if you want a clearer or more 10:27:25AI
12 authoritative voice on that decision, the suggestion is nothing 10:27:28AI
13 prevails, nothing precludes you from appealing against it so 10:27:32AI
14 that you have what the position of the appeals Chamber would be 10:27:35AI
15 on what this Chamber has had to say in that decision. 10:27:39AI

16 MR JORDASH: Well, I take Your Honours comments today and I 10:27:43AI
17 shall leave it at that, and leave it to the closing submissions. 10:27:45AI
18 The final point to -- 10:27:50AI

19 PRESIDING JUDGE: And on your request for extended hearings 10:27:52AI
20 and so on and so forth. We will look at it as a Chamber and we 10:27:56AI
21 will see how we proceed today and we'll determine what attitude 10:28:01AI
22 to adopt to extended sittings and so on before you close your 10:28:12AI
23 case. 10:28:19AI

24 MR JORDASH: Certainly. And for the purposes -- 10:28:19AI

25 PRESIDING JUDGE: Yes. We cannot say anything about 10:28:19AI

1 that now. We can can't say 'no', we cannot say 'yes'. 10:28:22AI

2 MR JORDASH: Yes. 10:28:22AI

3 PRESIDING JUDGE: We will let you know as time goes 10:28:25AI

4 on. 10:28:27AI

5 MR JORDASH: Thank you. For the purposes of that 10:28:27AI

6 deliberation, would Your Honours take into account that we lost 10:28:29AI

7 a morning for the residual issues. 10:28:33AI

8 PRESIDING JUDGE: Which morning? 10:28:37AI

9 MR JORDASH: I think it was a Thursday morning. Or 10:28:38AI

10 certainly we lost several hours that day. Mr Cammegh will know. 10:28:42AI

11 PRESIDING JUDGE: Mr Cammegh? 10:28:48AI

12 MR JORDASH: But Your Honours recall the -- 10:28:49AI

13 JUDGE BOUTET: You mean to say we lost court time, morning? 10:28:51AI

14 MR JORDASH: Yes. Yes. We lost court time. 10:28:54AI

15 PRESIDING JUDGE: We lost court time, yes. 10:28:54AI

16 MR JORDASH: But the final issue -- 10:28:56AI

17 PRESIDING JUDGE: Mr Cammegh lost more court time, so maybe 10:28:59AI

18 it should reflect on his pay. 10:29:02AI

19 MR JORDASH: It might. The final issue, and I'm sorry to 10:29:04AI

20 delay the Court so much, is that of General Opande. We're 10:29:22AI

21 trying to find out -- there's been some miscommunication 10:29:23AI

22 concerning when he's leaving the country, or when he wishes to 10:29:26AI

23 leave the country. 10:29:30AI

24 PRESIDING JUDGE: When he wishes to leave Sierra Leone? 10:29:31AI

25 MR JORDASH: Yes. Well, I'm being told it's Tuesday, but 10:29:33AI

1 the information we had was that it was Friday. So could I just 10:29:35AI
2 take quick instructions? There does seem to be some confusion. 10:29:41AI
3 WVS think Friday, the Kallon team think Tuesday. And the point 10:29:51AI
4 is, if he has to leave on Tuesday we'd like to make the 10:29:56AI
5 application at some point to perhaps interpose him to get him on 10:30:01AI
6 earlier today. He's the next witness after the present one. 10:30:04AI
7 But if it turns out that he has to leave on Tuesday we would be 10:30:07AI
8 inviting the Court to interpose him with the present witness so 10:30:12AI
9 that he may finish by the end of the day. But I think we could 10:30:15AI
10 let you know in terms of -- 10:30:21AI
11 MS MYLVAGANAM: My Lord -- 10:30:38AI
12 PRESIDING JUDGE: Mr Jordash -- yes? 10:30:40AI
13 MS MYLVAGANAM: My Lord I wonder if I could briefly address 10:30:42AI
14 the Court on this matter. 10:30:46AI
15 PRESIDING JUDGE: Yes, yes. 10:30:47AI
16 MS MYLVAGANAM: I'm fairly clear that General Opande is 10:30:49AI
17 anxious to leave on Tuesday. Maybe, there's been some 10:30:52AI
18 miscommunication through other channels -- 10:30:55AI
19 PRESIDING JUDGE: May we find the solution? We're prepared 10:30:57AI
20 to take him on now. 10:31:00AI
21 MS MYLVAGANAM: I'm grateful. I wonder whether the Court 10:31:00AI
22 -- 10:31:00AI
23 PRESIDING JUDGE: We're prepared to take him on now. Mr 10:31:02AI
24 Prosecution, would you -- I don't know, but. 10:31:05AI
25 MR HARDAWAY: This is Mr Harrison's witness, Your Honour. 10:31:08AI

1 PRESIDING JUDGE: Yes. 10:31:08AI

2 MR HARDAWAY: So I would need to communicate with him. 10:31:11AI

3 PRESIDING JUDGE: Please you know because we are getting to 10:31:14AI

4 the close of the case of the Prosecution and -- rather of the 10:31:16AI

5 Defence -- 10:31:20AI

6 MR HARDAWAY: And Your Honour while -- 10:31:20AI

7 PRESIDING JUDGE: -- and the first defendant. And the 10:31:20AI

8 Prosecution should be ready at all times. We are not going to 10:31:24AI

9 use hard rules of procedure and practice, you know to -- 10:31:28AI

10 MR HARDAWAY: No. I understand that, Your Honour. This 10:31:32AI

11 was just brought up to us about a [indiscernible] position. I'm 10:31:34AI

12 sure with a phone call I can be able to speak to Mr Harrison. 10:31:37AI

13 PRESIDING JUDGE: Good. That's fine. 10:31:37AI

14 MR HARDAWAY: But as it also relates -- 10:31:41AI

15 MR JORDASH: If I may say so. My learned friend -- 10:31:45AI

16 PRESIDING JUDGE: Pardon me? 10:31:48AI

17 JUDGE BOUTET: We don't hear. 10:31:49AI

18 MR JORDASH: Well, it may be that it is not necessary. I 10:31:51AI

19 think there is a lack of clarity on this issue. I know my 10:31:59AI

20 learned friend is certain, but every information we've received, 10:32:02AI

21 and I think before we interpose him, I would respectfully ask 10:32:05AI

22 that we clarify through him. 10:32:10AI

23 PRESIDING JUDGE: No. No. No. Look -- 10:32:10AI

24 MR JORDASH: He may not even be at Court at the moment. 10:32:11AI

25 PRESIDING JUDGE: Yes, may we know? Can you please consult 10:34:49AI

1 with your colleague, Ms Mylvaganam and see where we move from 10:34:52AI
2 here. Because a lot of pressure is being put on the Court. And 10:34:57AI
3 we understand and we are prepared to cope with that pressure to 10:35:04AI
4 take on witnesses, you know, who we think we should take 10:35:08AI
5 following the preferences of the Defence. 10:35:17AI

6 MR JORDASH: Your Honour, could -- 10:35:21AI

7 PRESIDING JUDGE: So we want to know where we stand in 10:35:22AI
8 this. We don't want to impose a solution on you. Let us know 10:35:25AI
9 where we stand. And mark you, Mr Harrison, who is not here 10:35:29AI
10 although we can stand down the matter and maybe ask him to come. 10:35:33AI

11 MR JORDASH: And the General may well not be here at Court 10:35:38AI
12 either. Ms Ashraph has just gone out of Court. She's going to 10:35:42AI
13 check with WVS and check with the General, what is the actual 10:35:51AI
14 situation because we could speculate forever and a day. In the 10:35:55AI
15 meantime what I would respectfully request is, I know this 10:35:56AI
16 witness is desperate to get away too -- 10:36:00AI

17 PRESIDING JUDGE: Every witness is desperate to get away. 10:36:00AI
18 Mr Jordash, we cannot, we cannot, the Court will not work on the 10:36:04AI
19 calendar of witnesses who are desperate to get away. When they 10:36:07AI
20 come here to testify on your behalf they must adjust themselves 10:36:12AI
21 to the timetable of Court. Every witness who comes wants to get 10:36:16AI
22 away and so on and so forth, and not more than one of them can 10:36:20AI
23 testify at any given time. 10:36:22AI

24 MR JORDASH: The point I was making was in my respectful 10:36:24AI
25 view every witness is as important as the other and their 10:36:27AI

1 concerns are equally valid. So that's my position. And if we 10:36:31AI
2 can get this witness done, I'd like that to be done. 10:36:35AI

3 PRESIDING JUDGE: Ms Mylvaganam, what's your position on 10:36:39AI
4 this, please? 10:36:41AI

5 MS MYLVAGANAM: Well, My Lord, I didn't really mean to 10:36:42AI
6 interfere. My concern was that understanding that General 10:36:46AI
7 Opande, who's been here for some days was expecting to fly out 10:36:50AI
8 on Tuesday. I was just hoping that the interest of the Court 10:36:54AI
9 and -- 10:36:57AI

10 PRESIDING JUDGE: And you spoke to him Ms Mylvaganam? 10:36:58AI

11 MS MYLVAGANAM: I did, yes. 10:37:01AI

12 PRESIDING JUDGE: Yes. 10:37:02AI

13 MS MYLVAGANAM: And in fact both my understanding and Mr 10:37:04AI
14 Ogeto's understanding is that he was anticipating leaving 10:37:08AI
15 tomorrow. In fact Mr Ogeto currently is also trying to make 10:37:12AI
16 contact with him. And we thought it may be more sensible if he 10:37:15AI
17 was interposed. But certainly we don't want to interfere with 10:37:18AI
18 anybody else's case. We -- 10:37:22AI

19 PRESIDING JUDGE: Yes, yes, finish what you have to say. 10:37:26AI

20 MS MYLVAGANAM: We don't want to interfere with the first 10:37:30AI
21 defendant's case unnecessarily, so I think perhaps the less said 10:37:34AI
22 by me at the moment, the better. 10:37:36AI

23 PRESIDING JUDGE: Right. Thank you, yes. 10:37:38AI

24 JUDGE THOMPSON: What is "anticipating to fly out." What 10:37:39AI
25 does that mean, tomorrow? 10:37:43AI

1 MS MYLVAGANAM: My understanding is, I believe there's a 10:37:46AI

2 Kenyan air-flight on Tuesday which goes via Accra. So that is 10:37:48AI

3 -- 10:37:53AI

4 JUDGE THOMPSON: That is his final position, that he wants 10:37:53AI

5 to fly out tomorrow? 10:37:55AI

6 MS MYLVAGANAM: My Lord, Mr Ogeto is currently absolutely 10:37:58AI

7 clarifying the position because it was very clear from my 10:38:01AI

8 understanding of his position that he anticipated his testimony 10:38:06AI

9 concluding today. Now it's not likely to be long, but all the 10:38:10AI

10 same, you know, if he starts at 3.00 the chances are that it may 10:38:15AI

11 not finish. That's my anxiety. 10:38:20AI

12 JUDGE BOUTET: Yeah, but the flight is tomorrow evening, 10:38:23AI

13 it's not in the afternoon. 10:38:27AI

14 MS MYLVAGANAM: I'm not aware of exactly when. 10:38:29AI

15 JUDGE BOUTET: Kenyan Airlines fly in the afternoon. They 10:38:34AI

16 leave Lungi sometime in the evening. 10:38:36AI

17 PRESIDING JUDGE: I don't have a mastery of their calendar. 10:38:37AI

18 JUDGE BOUTET: But there's no flight from Lungi by Kenyan 10:38:41AI

19 Airlines in the afternoon. It's evening time. So maybe seven 10:38:45AI

20 or eight, I'm not sure, but certainly not in the day. 10:38:47AI

21 MS MYLVAGANAM: Well, I'm probably worrying unnecessarily. 10:38:51AI

22 JUDGE BOUTET: I think so, but I had one question for you. 10:38:53AI

23 Based on your comments, can I assume that he's a common witness. 10:38:55AI

24 I know nothing about that. So I assume because of your 10:39:00AI

25 intervention that you have some interest in General Opande. I 10:39:05AI

1 don't know. 10:39:07AI

2 MS MYLVAGANAM: Yes, I believe he's been filed as a common 10:39:07AI
3 witness. I believe there's been notification to that effect. 10:39:10AI

4 JUDGE BOUTET: Where and when? 10:39:14AI

5 PRESIDING JUDGE: I'm not aware of that, you know, up to 10:39:15AI
6 now. Maybe it has not yet been virtually put on the table of 10:39:18AI
7 the judges. I don't know. 10:39:22AI

8 MS MYLVAGANAM: My Lord, perhaps I could investigate that 10:39:23AI
9 at some appropriate time. 10:39:27AI

10 PRESIDING JUDGE: Please do and let us have some evidence 10:39:29AI
11 of that fact, you know, of the filing which remains to this 10:39:31AI
12 effect. So the solution now is that we take on this witness. A 10:39:36AI
13 witness who is on now. Mr Jordash, is that the solution? 10:39:40AI

14 MR JORDASH: Yes, please. 10:39:43AI

15 PRESIDING JUDGE: Can the witness be brought in now please, 10:39:44AI
16 and please can the Prosecution get on the line with Mr Harrison 10:39:46AI
17 to inform him that we may take General Opande -- 10:39:49AI

18 MR HARDAWAY: That has already been done, Your Honour. 10:39:53AI

19 PRESIDING JUDGE: -- sometime in the course of today. 10:39:56AI

20 MR HARDAWAY: It was anticipated that General Opande would 10:39:58AI
21 be today, Your Honour, and Mr Harrison has been informed of that 10:40:01AI
22 during the break. A call has been made. 10:40:05AI

23 [The witness entered court]. 10:40:09AI

24 PRESIDING JUDGE: Okay. Now that Ms Ashraph is coming in, 10:40:09AI
25 I hope that she may have some information, you know, to relate 10:40:48AI

1 to us. Yes, Ms Ashraph has brought some good news or some bad 10:40:51AI
2 news? 10:41:11AI

3 MR JORDASH: It's in between news. 10:41:12AI

4 PRESIDING JUDGE: She has never brought bad news to us 10:41:14AI
5 anyway. 10:41:18AI

6 MR JORDASH: Maybe not to Your Honours. 10:41:19AI

7 PRESIDING JUDGE: Yes. 10:41:20AI

8 MR JORDASH: The news is that General Opande does want to 10:41:21AI
9 go tomorrow. 10:41:26AI

10 PRESIDING JUDGE: Yes. 10:41:26AI

11 MR JORDASH: He has only just informed WVS. So WVS do not 10:41:27AI
12 have or doubt whether he could get on the flight tomorrow. And 10:41:34AI
13 in any event, he's not in court; by the time he's brought, the 10:41:37AI
14 earliest he could go on is after lunch is the anticipated time 10:41:39AI
15 tabling. So I think this is why I say in between news. There's 10:41:43AI
16 a hope that he will leave tomorrow as Your Honour rightly 10:41:48AI
17 observes the flight is in the evening. I can indicate that I 10:41:52AI
18 will not be more than an hour with him in direct. And I don't 10:42:01AI
19 anticipate that if he were to start after this witness, that he 10:42:04AI
20 would not catch his flight tomorrow. 10:42:08AI

21 PRESIDING JUDGE: Everything should be done to enable him 10:42:10AI
22 to catch the flight. The flights are very -- at times very 10:42:16AI
23 difficult. Once you miss your flight, you have to stay here for 10:42:16AI
24 more days. 10:42:20AI

25 MR JORDASH: Yes, he could be here for the morning session 10:42:22AI

1 tomorrow with the flight schedule as we anticipated with Kenyan 10:42:28AI
2 Airlines. 10:42:33AI

3 PRESIDING JUDGE: He can be here tomorrow morning? 10:42:33AI

4 MR JORDASH: If I make it clearer, if he were to start 10:42:35AI
5 today and finish tomorrow morning, I think he would still catch 10:42:38AI
6 his flight, if he's on the flight. 10:42:43AI

7 PRESIDING JUDGE: So let's try and finish with this 10:42:46AI
8 witness. 10:42:48AI

9 MR JORDASH: Thank you. 10:42:48AI

10 PRESIDING JUDGE: I hope we shall before lunchtime. 10:42:49AI

11 WITNESS: DIS-091 10:42:53AI

12 DIRECT EXAMINATION MR JORDASH: 10:42:53AI
13 10:42:55AI

14 MR JORDASH: 10:42:55AI

15 Q. Good morning, Mr Witness. 10:42:55AI

16 A. Good morning, sir. 10:42:57AI

17 Q. Sorry to keep you waiting. 10:42:58AI

18 A. No problem, sir. 10:43:00AI

19 Q. What I'd like to do is to get around -- 10:43:04AI

20 PRESIDING JUDGE: This is DIS- 10:43:08AI

21 MR JORDASH: 091. 10:43:10AI

22 PRESIDING JUDGE: And he is your forty-ninth or 50 -- 10:43:17AI

23 JUDGE BOUTET: He's already testified. 10:43:22AI

24 PRESIDING JUDGE: Okay. Okay. Okay. We started on 10:43:24AI
25 Friday. That`s right. Okay. Okay. I remember now. I got it. 10:43:27AI

1 I thought it`s a new one. 10:43:35AI

2 MR JORDASH: 10:43:36AI

3 Q. Mr Witness I want to try to get around the 10:43:36AI

4 difficulties we were having on Friday? 10:43:41AI

5 A. Yes, sir. 10:43:43AI

6 Q. And I want to request the assistance of the WVS and 10:43:44AI

7 would you mind whispering to the WVS representative what your 10:43:49AI

8 exact title was within the mining unit with Your Honours, leave 10:43:54AI

9 could that be done? It saves us going into a closed session? 10:43:58AI

10 PRESIDING JUDGE: Or Court Management is here. 10:44:04AI

11 MR JORDASH: Or Court Management. 10:44:07AI

12 PRESIDING JUDGE: The witness unit which ever I mean it 10:44:09AI

13 doesn't matter. Witness unit, yes. 10:44:11AI

14 MR JORDASH: Do you follow what I want you to do, Mr 10:44:21AI

15 Witness? 10:44:21AI

16 A. No, sir. 10:44:21AI

17 Q. The man who's coming over to you, please whisper to 10:44:21AI

18 him in Krio what your -- 10:44:26AI

19 A. Yes, sir. 10:44:29AI

20 Q. What your official title was within the mining unit; 10:44:29AI

21 do you understand? Switch off your microphone? 10:44:36AI

22 A. Yes, sir. 10:44:40AI

23 Q. Switch off your microphone though. Please tell the 10:44:41AI

24 man. Whisper. 10:44:47AI

25 JUDGE BOUTET: That's aloud whisper. 10:44:52AI

1 MR JORDASH: It's a shout I think. 10:44:57AI

2 PRESIDING JUDGE: Can you write it on a piece of paper for 10:45:02AI

3 us please. Take e from here. Take on from 10:45:06AI

4 here. 10:46:00AI

5 MR JORDASH: 10:46:01AI

6 Q. Let me just see if we can clarify this. You told us 10:46:02AI

7 on Friday -- sorry -- I'll keep the paper for a moment if I may. 10:46:10AI

8 There might be some lack of clarity. Hit your microphone. You 10:46:16AI

9 told us on Friday that Kennedy was the mining commander when you 10:46:24AI

10 arrived in Koakoyima; is that correct or not. 10:46:30AI

11 A. Yes, sir. But when I ask what was my occupation in 10:46:39AI

12 that time but when we go to Koidu the commander changed to 10:46:43AI

13 Kennedy that is what I meant. 10:46:48AI

14 Q. What I'm asking you is: When you arrived -- 10:46:49AI

15 A. Yes, sir. 10:46:53AI

16 Q. And Kennedy was the commander, and you started working 10:46:53AI

17 in the mining unit, what was your official title? Can you -- 10:46:58AI

18 can you whisper that to the man? Do you understand my question? 10:47:07AI

19 A. Yes, sir, I understand the question. 10:47:12AI

20 Q. Can we try that again. 10:47:17AI

21 A. Okay. Let the man come and I will tell him. 10:47:20AI

22 JUDGE BOUTET: Maybe it would be easier if the Court 10:47:25AI

23 officer. 10:47:29AI

24 MR JORDASH: The lady from the Court Management could come 10:47:30AI

25 and do it on a piece of paper. Do you understand what I want 10:47:34AI

1 you to do? 10:47:38AI

2 PRESIDING JUDGE: Mr Jordash, you're tendering this. 10:49:53AI

3 MR JORDASH: Yes, please. 10:49:58AI

4 PRESIDING JUDGE: Mr Hardaway, I suppose you have no 10:49:58AI

5 objection to this. 10:50:03AI

6 MR HARDAWAY: No objection. 10:50:04AI

7 PRESIDING JUDGE: This documents is containing the 10:50:05AI

8 functions that DIS-091 was performing, it is admitted and marked 10:50:09AI

9 confidentially as Exhibit 303. 10:50:15AI

10 Yes, My Lord. 10:50:19AI

11 [Exhibit No.303 was admitted] 10:50:22AI

12 PRESIDING JUDGE: Please indicate the pseudonym of the 10:50:31AI

13 witness on this exhibit, so that we can trace it to him. Yes, 10:50:34AI

14 Mr Jordash, you may -- 10:50:49AI

15 MR JORDASH: Thank you. 10:50:50AI

16 Q. You told us on Friday, Mr Witness, that civilians were 10:50:52AI

17 mining; is that right, from the mining unit? 10:50:55AI

18 A. Yes, sir, among the mining units there were civilians 10:51:00AI

19 who were mining. 10:51:07AI

20 Q. And do you know the number -- 10:51:09AI

21 JUDGE BOUTET: Mr Jordash, this is early '99, December '98 10:51:10AI

22 time frame end December, early '99 that's what we're talking 10:51:15AI

23 about here or have you moved to another time. 10:51:20AI

24 MR JORDASH: Early 1999. 10:51:23AI

25 JUDGE BOUTET: Early '99. 10:51:25AI

1 MR JORDASH: Within a month after Koidu Town was 10:51:26AI
2 recaptured. 10:51:30AI

3 JUDGE BOUTET: Yes, yes. 10:51:31AI

4 MR JORDASH: 10:51:33AI

5 Q. So civilians in the mining unit were mining, how many 10:51:33AI
6 were mining after your arrival? 10:51:37AI

7 A. According to Commander Kennedy, he said could only get 10:51:39AI
8 manpower up to 50. 10:51:52AI

9 Q. And what was the daily schedule for the mining unit 10:51:52AI
10 and the civilians working in the mining unit. Do you understand 10:52:08AI
11 my question? 10:52:21AI

12 A. You mean -- that is what I want to ask. You mean the 10:52:21AI
13 time or the work. 10:52:27AI

14 Q. What I want you to do is explain how the mining unit 10:52:29AI
15 worked. What would happen in the morning and take us through 10:52:36AI
16 how it was organised. Would you start work in the morning. 10:52:43AI

17 A. Yes, sir, we start work in the morning. 10:52:49AI

18 Q. Would everyone start in the morning? 10:52:54AI

19 A. Well, the work that starts in the morning has no time 10:52:55AI
20 limit. It depends on the group that was appointed to do the 10:53:05AI
21 work. They all start off together at nine, until nine maybe 10:53:12AI
22 they were assembled. That was when they started working. 10:53:18AI

23 Q. So where were they assembled? 10:53:21AI

24 A. Well, there was a place where we pray every morning 10:53:24AI
25 both Christian and English. After that, you go to get -- try to 10:53:37AI

1 get food. After that you try to assemble to go. 10:53:47AI

2 Q. Who would go and get food or try and get food? 10:53:51AI

3 A. Well, the commander would request for food from other 10:53:54AI

4 high commands around him saying we don't have food and they'd 10:54:06AI

5 bring it. 10:54:12AI

6 Q. And who would the food be given to? 10:54:13AI

7 A. First, Mr Kallon helped greatly to give civilian food 10:54:16AI

8 for the mining. 10:54:25AI

9 Q. And how often would food be given? 10:54:32AI

10 A. Well, food -- when food comes they share it maybe for 10:54:43AI

11 a week. If it's finished it depends how it comes weekly or 10:54:52AI

12 every two weeks. 10:54:57AI

13 Q. Mr Witness, I think they are requesting that you sit 10:55:19AI

14 further back. Sit a bit further back. Yes, that's fine. So 10:55:23AI

15 food would be given in the morning, after prayers, then what 10:55:56AI

16 would happen. 10:55:59AI

17 A. Well, anybody would find his own group, so they would 10:56:01AI

18 assemble them go to work. 10:56:07AI

19 Q. And how many people in a group? 10:56:09AI

20 A. Well, the group will be according to the scale of the 10:56:15AI

21 work. Sometime the group would be in five, it depends on the 10:56:24AI

22 nature of the job. That is how they share them into groups. 10:56:31AI

23 Q. And when you arrived and the immediate time afterward, 10:56:35AI

24 where was mining taking place under the mining unit. 10:56:41AI

25 A. At Congo Bridge, palm oil swamp. 10:56:51AI

1	PRESIDING JUDGE: What swamp, palm oil swamp.	10:57:05AI
2	THE WITNESS: Yes, sir. Yes, sir.	10:57:09AI
3	MR JORDASH:	10:57:11AI
4	Q. Where is palm oil swamp, where was that?	10:57:11AI
5	A. Just around Koakoyima.	10:57:15AI
6	Q. Anywhere else it was taking place at that time?	10:57:17AI
7	A. Train Seven.	10:57:22AI
8	Q. 20 -- 7	10:57:27AI
9	A. Train Seven	10:57:27AI
10	Q. Train seven? Where was train seven?	10:57:30AI
11	A. Just around there.	10:57:33AI
12	Q. Around where?	10:57:35AI
13	A. Koakoyima. You be in the town and see all these	10:57:37AI
14	places I'm talking about.	10:57:42AI
15	Q. Anywhere else?	10:57:44AI
16	A. Well, the ones that were deployed in that area, these	10:57:58AI
17	are the ones I could remember for now.	10:58:02AI
18	Q. Where was -- do you know a place called Benz?	10:58:08AI
19	A. Benz Garage.	10:58:14AI
20	Q. Yes, Benz Garage?	10:58:17AI
21	A. Benz Garage, that was a place for construction, Train	10:58:29AI
22	Seven and Congo Bridge surrounds Benz Garage.	10:58:36AI
23	Q. Did the number of civilian miners remain at 50 after	10:58:38AI
24	your arrival?	10:58:44AI
25	A. No.	10:58:45AI

1 Q. What happened? 10:58:50AI

2 A. Before I came, Sam Bockarie had given an order to the 10:58:52AI

3 other target commander to inform them that I am coming to Kono. 10:59:00AI

4 So all the people who knew about mining should move together 10:59:06AI

5 with their families to join me. Should come and meet at the 10:59:10AI

6 village. The village's name has escaped me a bit but it's by 10:59:30AI

7 the river to cross. 10:59:30AI

8 Q. Okay. So did they come with you? 10:59:39AI

9 A. Yes. The number of miners were among -- the number of 10:59:41AI

10 miners were among the group as I came with is about 70. 10:59:48AI

11 Q. 70 miners or the group in total was 70? 10:59:53AI

12 A. No. Apart from the 50 that I met the ones I came with 10:59:56AI

13 were 70. 11:06:53AI

14 Q. And how big was your total group that you went with? 11:06:53AI

15 A. Well, it was a large number but when I entered the 11:06:53AI

16 families, the miners family that had joined us when we took all 11:06:53AI

17 of them the man power, the 70 and 50, we had a total of 300 men 11:06:53AI

18 and women. 11:06:53AI

19 Q. So let me understand this. There were miners in that 11:06:53AI

20 300, yes? 11:06:53AI

21 A. All of them inclusive. Inclusive. 11:06:53AI

22 Q. There was miners families? 11:06:53AI

23 A. Yes. 11:06:53AI

24 Q. Was there anyone else in the -- 11:06:53AI

25 A. Yes. Some miners maybe will have two wives, three or 11:06:53AI

1 four children. Then some men were older men but they too was 11:06:55AI
2 based in Kono so they came and we took them to be people who 11:06:55AI
3 lead in prayers, Muslims. When we are praying they will lead us 11:06:55AI
4 in prayers. Then we also had Christians, they were based in 11:06:55AI
5 Kono too. We took them to the -- they led prayers in the 11:06:55AI
6 Christian way. 11:06:55AI

7 Q. Were any of the group native to Kono? 11:06:55AI

8 A. Yes, there were plenty Kono people, there were many 11:06:55AI
9 among us. 11:06:55AI

10 Q. Where had they been in Kailahun, do you know? 11:06:55AI

11 A. I didn't quite get your question. 11:06:55AI

12 Q. The natives of Kono who were in the 300, had they been 11:06:55AI
13 living in Kailahun, if so, why? 11:06:55AI

14 A. I have still not understood the question well. 11:06:55AI

15 Q. I will try and break it down. There are Kono natives 11:06:55AI
16 in the 300; am I correct? 11:06:55AI

17 A. Yes, sir, they were there. 11:06:55AI

18 Q. Had they been living in Kailahun prior to going to 11:06:55AI
19 Kono? 11:06:55AI

20 A. Yes, sir they were there. 11:06:55AI

21 Q. Why had they been living in Kailahun? 11:06:55AI

22 A. Well, some of them, it was in the first attack, so 11:06:55AI
23 they decided to join the rebels called freedom fighters. They 11:06:55AI
24 took them along. Some of them went with their entire families 11:06:55AI
25 and they were with them. 11:06:56AI

1 Q. Why did they return to Kono at this time; do you know 11:06:56AI
2 that? 11:06:56AI

3 A. Well, I can't tell because -- 11:06:56AI

4 Q. Because? 11:06:56AI

5 A. An order came from the commander that Kono is now 11:06:56AI
6 safe. So they should go back to Kono. 11:06:56AI

7 Q. Who said that Kono was safe, which commander? 11:06:56AI

8 A. Sam Bockarie. He said people should come back. 11:06:56AI

9 Q. And these civilians who came back, these natives of 11:06:56AI
10 Kono, had they been living in one place in Kailahun or different 11:06:56AI
11 places? 11:06:56AI

12 A. They were not in one place that was why Sam Bockarie 11:06:56AI
13 sent message to all the targets that people were staying, to 11:06:56AI
14 civilians saying that they must come to Kono as Kono was now 11:06:56AI
15 safe. 11:06:57AI

16 Q. And when you arrived in Koakoyima, was Koakoyima 11:06:57AI
17 safe -- was Kono safe from what you observed? 11:06:57AI

18 A. Yes, at that time when we got I think about a week 11:06:57AI
19 when we experience that the jet was coming but it did not come 11:06:57AI
20 from that time everybody relaxed. 11:06:57AI

21 Q. And before we go back to mining, were there civilians 11:06:57AI
22 in Koakoyima when you arrived besides those in the mining unit? 11:06:57AI

23 A. We saw other civilians around, the township and the 11:06:57AI
24 towns around Koakoyima. 11:06:57AI

25 Q. What were they doing? 11:06:57AI

1 A. Well, that time, I saw them brushing their -- around 11:06:57AI
2 their houses, some planting corns, some were brushing so they 11:06:58AI
3 could plough rice. 11:06:58AI
4 Q. Now, just back to mining? 11:06:58AI
5 A. Yes, sir. 11:06:58AI
6 Q. Who did you report to? 11:06:58AI
7 A. Talking about Koakoyima. 11:06:58AI
8 Q. I'm talking about when you first arrive you become 11:06:58AI
9 what you told us on the piece of paper you were and I'm asking 11:06:58AI
10 -- 11:06:58AI
11 A. Hmm. Hmm. 11:06:58AI
12 Q. When you took that job, who did you report to? 11:06:58AI
13 A. To Kennedy. 11:06:58AI
14 Q. And on a day-to-day basis, what were you doing? 11:06:58AI
15 Describe a typical day? 11:06:58AI
16 A. Okay. If I make sure if somebody was sick I should 11:06:58AI
17 know about it and then send for medical treatment for that 11:06:59AI
18 person and if the working tools are not complete among other 11:07:03AI
19 people, they could ask me then I would ask those who were 11:07:14AI
20 responsible for that to give them supplies like shovels, 11:07:18AI
21 shakers, or bucket. 11:07:25AI
22 Q. And where did the civilian miners live? 11:07:26AI
23 A. We were living in Koakoyima, in the same house. We 11:07:39AI
24 shared the same house. 11:07:43AI
25 Q. Sorry. Who shared the same house? 11:07:44AI

1 A. The civilians, all of the civilians. They will decide 11:07:46AI
2 to sleep in the room outside of the house or in the house. 11:07:54AI

3 Anywhere that was convenient for them was where they lived. 11:07:59AI

4 Q. This isn't coming across very clearly. On the one 11:08:03AI
5 hand we've heard the same house on the other hand we've heard 11:08:08AI
6 wherever was convenient. What does this mean? 11:08:14AI

7 A. We and the civilians had no barrier that they 11:08:19AI
8 shouldn't go this way or shouldn't go that way. Some houses, 11:08:25AI
9 before going there you would have met civilians there who have 11:08:29AI
10 cleaned around the house. You would then ask them. Which room 11:08:32AI
11 have you taken. Then you would say, I have taken this room for 11:08:35AI
12 me and my relations. Then you ask him which one was empty. 11:08:39AI
13 That one I am not ready to occupy so you could occupy that. 11:08:43AI

14 Q. And are we talking one house or many houses? 11:08:49AI

15 A. All the abandoned houses in Koakoyima when we came we 11:08:54AI
16 occupied all of those houses. 11:09:04AI

17 Q. Right. What were the houses like? What was the state 11:09:06AI
18 of the houses where the civilians lived? 11:09:10AI

19 A. Just like how they were, the way we left them some 11:09:13AI
20 houses had beds, there were mattresses they were very much like 11:09:27AI
21 that when we returned. 11:09:32AI

22 Q. Right. Were the houses the same or different to other 11:09:33AI
23 civilians in Koakoyima who were not in the mining unit? 11:09:41AI

24 A. Yes, because when we returned there were no civilians. 11:09:51AI
25 There were only houses. When we returned, we told people 11:09:57AI

1 whoever wanted to occupy a place should look for a place. 11:10:02AI

2 Q. Right. Okay I think that's relatively clear. What 11:10:12AI

3 did the civilians receive, if anything, for the mining? 11:10:23AI

4 MR HARDAWAY: Objection. 11:10:29AI

5 PRESIDING JUDGE: Yes. 11:10:36AI

6 MR HARDAWAY: Your Honour, the basis of this objection is 11:10:38AI

7 going to be in two parts. The first part is that the 11:10:42AI

8 Prosecution will submit that this is repetitive testimony and in 11:10:45AI

9 support the Prosecution would rely upon Chamber's decision of 5 11:10:50AI

10 March on the application for a weeks adjournment. 11:10:54AI

11 PRESIDING JUDGE: Yes. How do we determine as to whether 11:10:58AI

12 the testimony is repetitive. When we don't have the response to 11:11:02AI

13 the question. He may have another response which might be 11:11:05AI

14 different from what -- 11:11:09AI

15 MR HARDAWAY: Perhaps I was a bit premature, Your Honour, 11:11:11AI

16 I'll wait. 11:11:14AI

17 PRESIDING JUDGE: Yes. Yes, Mr Jordash, you understand the 11:11:14AI

18 thrust of his objection. 11:11:24AI

19 MR JORDASH: I barely dare moved. I know Mr Hardaway is up 11:11:26AI

20 again very shortly. 11:11:35AI

21 Q. Did the civilian miners receive anything? 11:11:40AI

22 A. Well, like -- like what? 11:11:43AI

23 Q. Well, you tell me. You were there? 11:11:56AI

24 PRESIDING JUDGE: For the work they did. 11:11:59AI

25 THE WITNESS: Okay. Let me say they were not -- they were 11:12:09AI

1 not getting money for the work they were doing, but they were 11:12:15AI
2 promised. I think Foday Sankoh told them they were fighting the 11:12:21AI
3 war that he had no money and being Sierra Leoneans they saw what 11:12:29AI
4 was happening in the country and things were difficult that they 11:12:33AI
5 should all come together and give a helping hand. Then they all 11:12:37AI
6 consented to help. 11:12:42AI

7 MR JORDASH: 11:12:45AI

8 Q. But did they -- you told us that they received food? 11:12:46AI

9 PRESIDING JUDGE: Mr Hardaway is that response, you know, 11:12:50AI
10 different from what -- 11:12:54AI

11 MR HARDAWAY: It is, Your Honour. I'm happy with that 11:12:56AI
12 response. 11:12:59AI

13 PRESIDING JUDGE: It is. Right. Thank you. 11:12:59AI

14 MR JORDASH: 11:13:02AI

15 Q. Food and you talk about medical treatment, was this -- 11:13:02AI
16 did the civilians pay for this? 11:13:06AI

17 A. After they had -- after they were told, the civilians 11:13:15AI
18 asked what about food affaires. And they were told they were 11:13:18AI
19 going to be given food and clothes. Then they would be given 11:13:22AI
20 medicine. That was happening. 11:13:28AI

21 Q. And how were the miners treated? 11:13:31AI

22 A. When you felt sick, you would go and report to any 11:13:37AI
23 other person you met in the -- at the hospital. He would check 11:13:44AI
24 you, if they found out that you were to be admitted you would be 11:13:50AI
25 admitted. If you were to be given medicine and for you to 11:13:55AI

1 return home and given medicine. After you have in a good state 11:14:00AI
2 then you go back to work. 11:14:04AI

3 Q. At what times were food -- are sorry. At what times 11:14:07AI
4 were clothes given? 11:14:11AI

5 A. That one -- except by the will of God they will send 11:14:34AI
6 for junks but it was not -- it was not from month to month. It 11:14:34AI
7 would take quite sometime. Sometimes the commander would 11:14:34AI
8 decide, this time around let us send for those people, for the 11:14:44AI
9 miners and they would send it. It was not frequent. 11:14:48AI

10 Q. If a civilian found a diamond, what would happen? 11:14:53AI
11 Would anything happen? 11:15:00AI

12 A. Yes, sir. 11:15:02AI

13 Q. What would happen? 11:15:03AI

14 A. Civilians, they too had their own commander. They 11:15:04AI
15 would give it to that person. 11:15:18AI

16 Q. Would they receive anything in return? 11:15:21AI

17 A. Sometimes, if they had a good thing they would come 11:15:24AI
18 happily and they say: "Commander we have come oh, we want you 11:15:29AI
19 to boost our morals". Sometimes we give them drinks, cigarettes 11:15:33AI
20 or any other thing he could afford. Even money. We would give 11:15:38AI
21 to them. 11:15:44AI

22 Q. And did you observe whether the civilians were willing 11:15:54AI
23 or unwilling to work? 11:15:58AI

24 A. Well, to what I saw they were willing, because no one 11:16:00AI
25 complained. Sometimes in the morning they would ask where are 11:16:04AI

1 we going today? 11:16:09AI

2 PRESIDING JUDGE: That's okay. We heard all that evidence. 11:16:10AI

3 Let's move on. 11:16:14AI

4 MR JORDASH: 11:16:28AI

5 Q. Who was the -- was there an official or commander 11:16:28AI

6 within the mining unit, who the diamonds were given to? 11:16:31AI

7 A. Yes, sir. 11:16:35AI

8 Q. Who is that? 11:16:38AI

9 A. When they got diamonds would bring it to Alpha Turay 11:16:40AI

10 who was operational commander, then who bring to Kennedy who was 11:16:48AI

11 the commander. Kennedy would call me, call the other 11:16:53AI

12 authorities, sit together they'd weigh it, after weighing it, 11:16:59AI

13 then they write the person who took the diamond to them, the 11:17:06AI

14 dates on which the colour of the diamond would be written, the 11:17:11AI

15 weight of the diamond would be written, the percentage as well. 11:17:17AI

16 Then they would give it to Kennedy, who would keep it. 11:17:22AI

17 Q. Where would Kennedy keep it? 11:17:25AI

18 A. In his house. He kept it in his house. 11:17:27AI

19 Q. What would Kennedy do with it? 11:17:30AI

20 A. Well, sometimes I'll be in my house, he will call me 11:17:37AI

21 saying: "Mosquito has sent -- saying materials have finished". 11:17:46AI

22 If there is anything we should send it. Since I don't read and 11:17:54AI

23 write he just showed me the papers. Most times I'll be near the 11:18:00AI

24 radio site and hear him talking but most times it was on paper. 11:18:06AI

25 Q. Did Kennedy have a radio set? 11:18:11AI

1	A. Yes.	11:18:14AI
2	Q. Where was it --	11:18:14AI
3	A. Yes, sir.	11:18:15AI
4	THE INTERPRETER: Learned counsel, it seems as if the	11:18:17AI
5	witness is not listening to the interpretation he's listening to	11:18:20AI
6	you. Can you please be advised.	11:18:24AI
7	MR JORDASH:	11:18:27AI
8	Q. Wait for the translation, Mr Witness?	11:18:27AI
9	A. Okay, sir.	11:18:29AI
10	Q. Don't listen --	11:18:32AI
11	A. Okay, sir.	11:18:33AI
12	Q. You said the radio set was at Kennedy's house; is that	11:18:36AI
13	correct?	11:18:48AI
14	A. Yes, sir.	11:18:48AI
15	Q. Do you know who Kennedy would report to?	11:18:48AI
16	A. Yes, he told me. Most time I would hear the voice on	11:18:54AI
17	the radio.	11:19:02AI
18	Q. Who did he report to?	11:19:02AI
19	A. Mosquito.	11:19:03AI
20	Q. What happened to the diamonds after they'd gone to	11:19:04AI
21	Kennedy's house?	11:19:12AI
22	A. If he's ready to send them, the diamonds to Mosquito,	11:19:20AI
23	he would call civilians, the commanders who were their leaders,	11:19:27AI
24	he would call the joint security and tell them that Mosquito	11:19:36AI
25	says we should send the diamond. Let's come and see and have a	11:19:41AI

1 look at these ones we have. We come and then check it and check 11:19:45AI
2 it against the registrations, to see if they are correct. Then 11:19:50AI
3 the unit will select people, the joint security would select 11:19:56AI
4 people. Kennedy who was the commander will give the bodyguards 11:20:05AI
5 and they will take the diamonds to Mosquito. 11:20:12AI

6 Q. Which named persons would take the diamonds to 11:20:15AI
7 Mosquito? 11:20:19AI

8 A. Well, okay Mr Michael Kumba could go with them, 11:20:21AI
9 Mohammed Kamara could take diamonds to Mosquito, Pa Saidu 11:20:41AI
10 Bangura could take diamonds to Mosquito or even the Operational 11:20:46AI
11 Commander, Alpha Turay. He too could take diamonds to him. 11:20:50AI

12 Q. Just so that we're clear, how do you know this? 11:20:59AI

13 A. Where we were called upon to sit down to sort out 11:21:02AI
14 these things. Where all the arrangements would be done in front 11:21:11AI
15 of us. The person who would be taking diamonds would sign in a 11:21:16AI
16 book to show that he's taking such quantities. 11:21:20AI

17 Q. As far as you're aware did Kennedy ever report to Issa 11:21:33AI
18 Sesay? 11:21:37AI

19 A. No, I did not see that happening. 11:21:37AI

20 Q. As far as you're aware did any of these men who you've 11:21:39AI
21 just named, Kumba, Turay and so on, take diamonds to Mr Sesay? 11:21:44AI

22 A. Well, I don't know. Maybe, if we gave it to them. 11:21:57AI
23 But if somebody was given a diamond he takes it direct to 11:22:00AI
24 Mosquito. 11:22:04AI

25 Q. Did you know anyone referred to as PC? 11:22:28AI

1 A. Yes, sir. 11:22:33AI

2 Q. Who was he? 11:22:36AI

3 A. When I came, I met he was appointed mining supervisor. 11:22:39AI

4 Q. Can you just describe him, briefly, for us please? 11:22:50AI

5 A. He's tall, if I can -- his complexion looks like that 11:22:57AI

6 man who is sitting over there who makes his hands like this. 11:23:11AI

7 That man who is over there who's looking at me. That is the 11:23:15AI

8 complexion of that men. That man by the black something. 11:23:18AI

9 Q. So the lighter skinned security guard there between -- 11:23:27AI

10 between the two? 11:23:34AI

11 A. After the one with the glasses, the one you meet next 11:23:37AI

12 that's his completion. 11:23:41AI

13 Q. So lighter skin, black, do you agree with that? Not 11:23:45AI

14 quite as light as him? 11:23:50AI

15 A. Yes. 11:23:54AI

16 Q. Thank you. 11:23:55AI

17 A. Yes, sir. 11:23:57AI

18 Q. Did the mining continue on this system for some time? 11:23:58AI

19 Did there come a point when it stopped or not? 11:24:22AI

20 A. Yes, they changed the mining policy. 11:24:26AI

21 Q. Are you able to say when it changed? 11:24:32AI

22 A. I can't tell the exact time but the time it was at the 11:24:39AI

23 time when Foday Sankoh went to sign the Lome Peace Accord. When 11:24:43AI

24 he went, he held a meeting with us. Three days after he changed 11:24:50AI

25 the mining policy. 11:24:54AI

1 Q. So how long after the signing of the Peace Accord 11:24:55AI
2 approximately, was it when the mining system changed? 11:24:58AI

3 A. Well, when he got to Freetown we heard he was in 11:25:09AI
4 Freetown. It was about three weeks before he went to us. 11:25:12AI

5 Q. So three weeks after you think you heard of the Peace 11:25:20AI
6 Accord? 11:25:28AI

7 A. No, sir. When he got to Freetown after the signing 11:25:28AI
8 when he got there in three weeks time he went to us. 11:25:32AI

9 Q. Was this in -- which year was this? 11:25:43AI

10 A. I don't know the year. 11:25:47AI

11 Q. Well, if this agreement was signed -- it was signed in 11:25:50AI
12 July 1999, okay, you could take that from me. It was signed in 11:25:56AI
13 July 1999. How long after that, do you think, when the mining 11:26:03AI
14 system changed? 11:26:08AI

15 A. I don't know the time they signed. I don't know the 11:26:13AI
16 time he got here, but three weeks when we heard that they've 11:26:17AI
17 signed. Then he went to Kono. That was the first visit. I 11:26:22AI
18 think that was the first time he went there. He had never been 11:26:26AI
19 there. 11:26:32AI

20 Q. Okay. I think that's clear. I think that's clear. 11:26:33AI
21 And how did it change and why? 11:26:38AI

22 A. Well, Foday Sankoh went, he asked the commanders and 11:26:43AI
23 the civilians, saying how are you mining it? Since you came to 11:26:51AI
24 Kono, what is the mining system you are using. Then we said we 11:27:00AI
25 are just using the system you ask us to use. It is the same 11:27:08AI

1 systems that we are still using. 11:27:12AI

2 Q. Go on. 11:27:14AI

3 A. Then he said but now he shouldn't be so any longer. 11:27:16AI

4 He said it is -- he asked how was NPRC mining in Kono when they 11:27:28AI

5 took over. Then the people said two-pile system. How was the 11:27:35AI

6 AFRC mining when they took power. They said two-pile. They 11:27:39AI

7 said now, since we've captured Kono, we should use the two-pile 11:27:43AI

8 system. Then the civilians came together and said those who 11:27:50AI

9 were in that mining unit, they should be supported. They should 11:27:53AI

10 open a diamond office so that when they have diamonds, they 11:28:06AI

11 could go and sell it there. Then Foday Sankoh said I am going 11:28:08AI

12 to open a diamond office but implement the two-pile system 11:28:10AI

13 first. So from that time the two-pile system came in to 11:28:15AI

14 existence again. 11:28:27AI

15 Q. Thank you. Just -- we're nearly there. Just I want 11:28:28AI

16 to clear up a few last remaining subjects. Before the mining 11:29:02AI

17 turned to two-pile, were there armed men with the civilians with 11:29:09AI

18 the civilian miners? 11:29:28AI

19 MR HARDAWAY: Objection. 11:29:28AI

20 PRESIDING JUDGE: Yes, Mr -- 11:29:28AI

21 MR HARDAWAY: Again, Your Honour, this is based on 11:29:29AI

22 repetitiveness. That many witnesses have been led by the 11:29:32AI

23 Defence as related to -- 11:29:39AI

24 PRESIDING JUDGE: To say that -- what have they said. 11:29:41AI

25 MR HARDAWAY: There are no armed men with the civilians in 11:29:44AI

1 terms of mining. 11:29:47AI

2 PRESIDING JUDGE: This man is saying, 'yes'. This man is 11:29:49AI

3 saying 'yes'. 11:29:54AI

4 MR JORDASH: I'm happy to leave the subject. 11:29:54AI

5 MR HARDAWAY: All right. 11:29:57AI

6 MR JORDASH: If Mr Hardaway doesn't want me to lead that 11:29:58AI

7 then. 11:30:01AI

8 MR HARDAWAY: Be my guest. 11:30:02AI

9 MR JORDASH: 11:30:04AI

10 Q. Did you say yes there was armed men. What were they 11:30:06AI

11 armed for? 11:30:09AI

12 A. We, our own group of civilians, we had armed men who 11:30:10AI

13 would help to go and find food. They would escort us. Even the 11:34:00AI

14 civilians had their own. 11:34:00AI

15 Q. Did you know Porte Fillet? 11:34:00AI

16 A. I know him. He's one of the commanders and he had arm 11:34:00AI

17 -- he had weapons too. 11:34:00AI

18 PRESIDING JUDGE: Who is this. 11:34:00AI

19 MR JORDASH: Porte Fillet. 11:34:00AI

20 PRESIDING JUDGE: Huh. 11:34:00AI

21 THE WITNESS: It was a mining commander Porte Fillet. 11:34:00AI

22 PRESIDING JUDGE: Porte Fillet. 11:34:00AI

23 THE WITNESS: Yes, sir. 11:34:00AI

24 MR JORDASH: 11:34:00AI

25 Q. Was there anywhere in Koakoyima for civilians to 11:34:00AI

1 report complaints to? 11:34:00AI

2 A. Yes, sir. 11:34:00AI

3 Q. Who was that? 11:34:00AI

4 A. We have the G5. If anything went wrong, even among 11:34:00AI

5 the mining units there were G5s. If anything happened they will 11:34:01AI

6 go there, they were with the joint security. 11:34:01AI

7 Q. You say even amongst their mining unit there were G5. 11:34:01AI

8 Are you saying G5 were in the mining unit or G5 is outside the 11:34:01AI

9 mining unit? 11:34:01AI

10 A. What I mean to say because they were not part of the 11:34:01AI

11 mining unit, but for them to see what was going on among the 11:34:01AI

12 soldiers and the civilians they would go there to see what was 11:34:01AI

13 going on. 11:34:01AI

14 Q. Did you observe if there were any dance troops in 11:34:01AI

15 Koakoyima at this time? 11:34:01AI

16 PRESIDING JUDGE: If there were any. 11:34:03AI

17 MR JORDASH: Dance troops. 11:34:03AI

18 THE WITNESS: Yes, sir. We had a dance troop there which 11:34:03AI

19 we all supported. 11:34:03AI

20 MR JORDASH: 11:34:03AI

21 Q. This have anything to do with the mining unit? 11:34:03AI

22 A. Yes. Yes. Because that was where we went to 11:34:03AI

23 socialize. People would dance, everybody had to feel good. 11:34:03AI

24 Q. When you say we, who are you referring to? 11:34:03AI

25 A. The mining commander, the civilian miners, when this 11:34:03AI

1 thing was happening, we feel good. 11:34:03AI

2 Q. After the mining turned to two-pile, did the mining 11:34:03AI
3 unit continue to exist in the same way? 11:34:03AI

4 A. That time when the two-pile came in to -- came in to 11:34:03AI
5 existence, everybody was mining for himself. Even the civilians 11:34:03AI
6 who had no machines, nobody asked them to -- they too said it 11:34:03AI
7 was their own pay. 11:34:06AI

8 Q. Was there a mining office? 11:34:10AI

9 A. From then the mining office was created. 11:34:19AI

10 Q. What did the mining office do from them? 11:34:22AI

11 A. Okay. It was said at that time the soldiers were 11:34:35AI
12 mining for themselves. When you got your diamond you would take 11:34:38AI
13 it to the office to sell. 11:34:42AI

14 Q. Did the mining office do anything else? 11:34:46AI

15 PRESIDING JUDGE: Are you saying that it is only the 11:34:50AI
16 soldiers who sold the diamonds in the mining office. Since they 11:34:54AI
17 were mining for themselves. 11:35:01AI

18 THE WITNESS: Well, it was requested that when they got 11:35:13AI
19 their diamonds they would have no opportunity to go to Kenema or 11:35:16AI
20 Bo but there is an office around when they receive diamond, get 11:35:21AI
21 diamonds, they would sell it to the office. 11:35:25AI

22 MR JORDASH: 11:35:32AI

23 Q. What about civilians? 11:35:32AI

24 A. The civilians, if they too wanted, they would sell it 11:35:33AI
25 to the office. 11:35:38AI

1 Q. If they didn't want to sell it to the office, was 11:35:39AI
2 there anywhere else they could sell it? 11:35:46AI

3 A. Traders were coming in who were buying diamonds. They 11:35:48AI
4 were coming in from all over. 11:35:56AI

5 Q. Finally, Mr Witness, did you hear about anything 11:35:58AI
6 happening to Kennedy concerning the joint security unit? 11:36:11AI

7 A. Yes, sir. I know about that one, sir. 11:36:22AI

8 Q. Could you tell us briefly what that was all about? 11:36:27AI

9 A. Yes, sir. 11:36:32AI

10 Q. Go ahead. 11:36:35AI

11 A. Sometimes, I cannot recall the date, the diamond was 11:36:35AI
12 brought to the Operational Commander, Alpha Turay. I was called 11:36:46AI

13 to go and weigh the diamond. I cannot again recall the 11:36:56AI
14 percentage. I gave it to them. After having given them, I 11:37:00AI

15 returned home, but those diamonds that were registered any time 11:37:10AI
16 they are ready to do them, they will recheck it. After that 11:37:18AI

17 checking, it was noticed that some other diamonds were missing. 11:37:23AI

18 So it was found out that that particular diamond I weighed had 11:37:31AI

19 got missing. At that time it was a small quarrel between the 11:37:37AI

20 operational manager and the-- so he said he had given to you. 11:37:47AI

21 This one said, 'no' you have not given it to me. That continued 11:37:56AI

22 -- 11:38:01AI

23 PRESIDING JUDGE: That was a quarrel between Turay and 11:38:01AI
24 Kennedy. 11:38:06AI

25 THE WITNESS: Yes, sir. So the report went onto the 11:38:08AI

1 Brigade commander Peter Vandí. Vandí was told -- 11:38:16AI

2 MR JORDASH: 11:38:20AI

3 Q. Go ahead. 11:38:20AI

4 A. Peter Vandí said, he said how can you two just with 11:38:25AI

5 your -- two of you -- how can you just be responsible for the 11:38:34AI

6 misplace of the diamond. He said go and explain yourself at the 11:38:40AI

7 office. 11:38:46AI

8 Q. Which office? 11:38:47AI

9 A. At the MP office at Koakoyima. Peter Vandí sent to 11:38:48AI

10 the MP that the people should be investigated, but still, this 11:39:11AI

11 one said no, this one said no. So they were punished. Later 11:39:21AI

12 Kennedy admitted that Alpha Turay had given him the diamond but 11:39:27AI

13 he didn't know where he had placed the diamond. So they were 11:39:36AI

14 released. Then he came to my house. He came to me and asked 11:39:40AI

15 that we should go and apologise to Alpha Turay. That was how it 11:39:44AI

16 happened. 11:39:50AI

17 Q. Just picking up on something you said, why was the 11:39:51AI

18 report made to Peter Vandí? 11:39:54AI

19 A. He was the brigade commander. There was no other 11:39:56AI

20 person other than his operation. 11:40:03AI

21 Q. Who did as concerns mining issues the joint security 11:40:06AI

22 unit report to? Who did, you told us about the MPs getting 11:40:13AI

23 involved here. Who did the joint security report to at this 11:40:31AI

24 time? 11:40:38AI

25 A. At that time it was to Mosquito. 11:40:38AI

1 Q. So did this incident, involving Kennedy, the MPs, 11:40:40AI
2 Peter Vandt, have anything to do with Issa Sesay? 11:40:45AI

3 A. No. He had no hands in it. 11:40:48AI

4 Q. Why not as far as you're concerned? 11:40:57AI

5 A. I didn't know that -- 11:41:04AI

6 PRESIDING JUDGE: Has Issa Sesay been in that area, at that 11:41:05AI
7 time. 11:41:12AI

8 THE WITNESS: I cannot remember. 11:41:12AI

9 PRESIDING JUDGE: You do not remember. You do not remember 11:41:15AI
10 whether Issa Sesay was there or not? 11:41:18AI

11 THE WITNESS: He was not there. 11:41:24AI

12 MR JORDASH: 11:41:37AI

13 Q. Did he come -- are you aware whether he came to Kono 11:41:37AI
14 at all around 1999 before the mining turned to two-pile? 11:41:42AI

15 A. When the mining office had been open it was shortly 11:41:46AI
16 after I saw him at Koakoyima. 11:41:59AI

17 Q. And this incident with Kennedy, did this happen before 11:42:06AI
18 the opening of the office or after? 11:42:10AI

19 A. It was later. 11:42:12AI

20 Q. Was it before -- 11:42:22AI

21 PRESIDING JUDGE: You mean the incident occurred before or 11:42:27AI
22 after the opening of the mining office? What's the response. 11:42:29AI

23 MR JORDASH: That's what wasn't clear. 11:42:36AI

24 THE WITNESS: This incident had taken place well before the 11:42:39AI
25 office was established. 11:42:45AI

1 MR JORDASH: I think that's what the witness said the first 11:42:47AI
2 time as well. That is what I heard, but it wasn't translated 11:42:50AI
3 like that. So -- I've got no further questions. Thank you. 11:42:54AI
4 Thank you very much, Mr Witness. 11:43:15AI
5 PRESIDING JUDGE: Thank you. 11:43:18AI
6 THE WITNESS: Yes, sir. 11:43:19AI
7 PRESIDING JUDGE: Ms Mylvaganam, do you have any questions? 11:43:36AI
8 MS MYLVAGANAM: No, thank you, My Lord. No questions. 11:43:39AI
9 PRESIDING JUDGE: No questions. Thank you. Mr Cammegh. 11:43:42AI
10 MR CAMMEGH: I'm in the process of taking instructions. I 11:43:52AI
11 might have one or two questions. I notice the time though. 11:43:59AI
12 PRESIDING JUDGE: No. We wanted to wrap it up before going 11:44:04AI
13 on break. We are begging for time now. If you say it's one or 11:44:06AI
14 two questions, that's fine. We'll take it. We'll take them. 11:44:11AI
15 MR CAMMEGH: I need to take instructions first, if you 11:44:30AI
16 don't mind. Thank you. 11:44:30AI
17 PRESIDING JUDGE: Right. 11:44:30AI
18 MR CAMMEGH: I'm in Mr Gbao's hands. Thank you. I will be 11:44:30AI
19 very brief, Mr Witness. 11:44:49AI
20 CROSS-EXAMINED BY MR CAMMEGH: 11:44:52AI
21 MR CAMMEGH: 11:44:55AI
22 Q. Did you ever become aware of Augustin Gbao? 11:44:56AI
23 A. Yes, I know him. 11:45:00AI
24 Q. You told us about your knowledge of Kennedy, did you 11:45:02AI
25 ever become aware of an incident where Augustin Gbao had 11:45:08AI

1 attempted to report Kennedy for harassment? 11:45:23AI

2 A. Well, I don't know about that. 11:45:27AI

3 Q. Let me see if I could jog your memory. Were you aware 11:45:33AI

4 of an MP office in the town of Giema in Kailahun District? 11:45:36AI

5 A. Yes, sir. 11:45:42AI

6 Q. Did you ever become aware of an incident in late 1996, 11:45:45AI

7 where Sam Bockarie abused and molested Augustin Gbao outside 11:45:55AI

8 that MP office in Giema? 11:46:07AI

9 A. Yes, they were bosses. When such things occur, we 11:46:13AI

10 don't know where it happens. 11:46:19AI

11 Q. I'm sorry. You said -- I didn't quite get the 11:46:20AI

12 translation. It sounded like there were bosses, but I'm sure it 11:46:26AI

13 wasn't that. Could the translator repeat the answer please? 11:46:30AI

14 A. Sometimes on occasions where they meet themselves, 11:46:35AI

15 somethings will happen, and we don't know what happens between 11:46:38AI

16 them. 11:46:41AI

17 PRESIDING JUDGE: So you don't know if there was an 11:46:42AI

18 incident like that? 11:46:43AI

19 THE WITNESS: Nothing at all. 11:46:48AI

20 MR CAMMEGH: 11:46:50AI

21 Q. I'll try and be specific. If you don't know the 11:46:50AI

22 answer, then I'll leave it, but specifically, I'm asking you 11:46:53AI

23 this: Did you become aware of an incident where Sam Bockarie 11:46:57AI

24 molested Augustin Gbao for trying to report Kennedy for 11:47:01AI

25 harassment. And that incident took place at the Giema MP office 11:47:06AI

1 in late 1996. Did you ever become aware of that incident? 11:47:13AI

2 A. I don't remember that. 11:47:19AI

3 MR CAMMEGH: All right. I'll accept your answer, Mr 11:47:22AI

4 Witness. Thank you very much. There's no further questions. 11:47:27AI

5 PRESIDING JUDGE: Learned counsel, the Chamber will recess 11:47:51AI

6 for a couple of minutes, and we'll resume to continue the 11:47:59AI

7 proceedings with cross-examination by Mr Hardaway for the 11:48:07AI

8 Prosecution. We will rise, please. 11:48:12AI

9 [A recess was taken at 11.40.] 11:48:32AI

10 [RUF10MAR08B_LK] 11:48:32AI

11 [Upon resuming at 12.10 p.m.] 11:48:32AI

12 11:48:32AI

13 PRESIDING JUDGE: Yes, we are resuming the session. Mr 12:19:41PI

14 Hardaway, you may proceed, please. 12:19:46PI

15 MR HARDAWAY: Thank you, your Honour. 12:19:48PI

16 Q. Good morning, Mr witness. 12:19:53PI

17 A. Good morning sir. 12:19:55PI

18 Q. I have a few questions for you, all right? 12:19:57PI

19 A. All right, sir. 12:20:00PI

20 Q. If there is anything you don't understand, please ask 12:20:01PI

21 me to repeat it again, okay? 12:20:06PI

22 A. Yes, sir. 12:20:08PI

23 Q. Now you had mentioned that when the civilians went out 12:20:09PI

24 to search for food there would be armed guards with you; is that 12:20:14PI

25 correct? 12:20:21PI

1 A. Yes, it happened. 12:20:21PI

2 Q. Okay. Now, it would be also correct to say that while 12:20:27PI
3 the civilians were mining at Koakoyima, there were also armed 12:20:33PI
4 guards at the mining sites; isn't that true? 12:20:37PI

5 A. At mining site, guns could not go there. 12:20:41PI

6 Q. I put it to you Mr Witness, that at the mining sites 12:20:53PI
7 at Koakoyima and throughout Kono, that there were armed guards 12:21:01PI
8 at the mining sites. How do you respond? 12:21:09PI

9 A. Well, the miners where we were, who were operating on 12:21:12PI
10 RUF guns, were not there. 12:21:21PI

11 Q. Now, Mr Witness you had testified that it was an 12:21:23PI
12 all-volunteer effort for mining in the beginning, is that 12:21:32PI
13 correct? And by beginning I mean, after Sam Bockarie mentioned 12:21:38PI
14 that it was a volunteer effort; is that correct? 12:21:44PI

15 PRESIDING JUDGE: It is Bockarie who mentioned that? 12:21:47PI

16 MR HARDAWAY: I'm trying to find out that, Your Honour. 12:21:52PI

17 PRESIDING JUDGE: It's not Bockarie who said so. 12:21:55PI

18 MR HARDAWAY: 12:21:59PI

19 Q. Who, Mr Witness, said that the mining should be 12:21:59PI
20 volunteer? 12:22:03PI

21 A. I don't understand the question you are asking me. 12:22:04PI

22 Q. Remember, in your evidence, sir, when you mentioned 12:22:13PI
23 that the civilians did not receive money for mining, and that 12:22:18PI
24 they were asked to volunteer to mine for the RUF. Do you 12:22:26PI
25 remember that? 12:22:30PI

1	A. I said that.	12:22:31PI
2	Q. Who was it that said that the mining should be	12:22:38PI
3	volunteer?	12:22:44PI
4	A. It started with Foday Sankoh, then to Sam Bockarie.	12:22:54PI
5	Q. Okay. Mr Witness, I put it to you that the mining in	12:23:00PI
6	Koakoyima was not to volunteer, that in fact the civilians were	12:23:09PI
7	forced to mine by the RUF. How do you respond?	12:23:14PI
8	A. It did not happen. That did not happen at all.	12:23:18PI
9	Q. Now, Mr Witness, when you arrived Kennedy was the	12:23:28PI
10	mining commander, correct?	12:23:37PI
11	A. Yes, sir, in Kono.	12:23:41PI
12	Q. And the mining under Kennedy was RUF mining; isn't	12:23:44PI
13	that also correct?	12:23:50PI
14	A. Where Kennedy was, it was for RUF.	12:23:52PI
15	Q. Forgive me, Mr Witness, I need to backtrack for a	12:24:03PI
16	little bit. I put it to you Mr Witness that civilians were	12:24:12PI
17	forced to mine for the RUF, otherwise they would be beaten or	12:24:17PI
18	killed. How do you respond?	12:24:21PI
19	A. Well, they were not forcing anybody. I don't feel	12:24:24PI
20	like that. I did not experience that.	12:24:34PI
21	Q. Now, Mr Witness, you said that when you arrived you	12:24:37PI
22	came with 70 miners and their families, is that also correct?	12:24:42PI
23	A. True.	12:24:46PI
24	Q. And this was done under the instruction of Sam	12:24:51PI
25	Bockarie, is that also correct?	12:24:55PI

1 A. Yes, sir. 12:24:57PI

2 Q. I put it to you Mr Witness that these miners and their 12:25:00PI
3 families were forced to go with you to Koakoyima. How do you 12:25:07PI
4 respond? 12:25:11PI

5 A. I don't believe they were forced at all. 12:25:12PI

6 Q. Now, when you travelled to Koakoyima with these miners 12:25:19PI
7 and their families, there were armed guards with you; isn't that 12:25:24PI
8 correct? 12:25:30PI

9 A. The civilians who had guns did not travel. They had 12:25:31PI
10 guns to protect themselves from the Kamajors. 12:25:41PI

11 Q. The RUF had armed guards with your group; is that 12:25:44PI
12 correct? 12:25:49PI

13 A. Which group? 12:25:50PI

14 Q. The group that you brought to Koakoyima. There were 12:25:56PI
15 RUF fighters with guns in your group? 12:26:02PI

16 A. We had units armed which only would go with us when we 12:26:05PI
17 were going to search for food or we were going on a trip. 12:26:16PI

18 Q. So would the answer be Yes, there were guard units 12:26:20PI
19 with you when you brought the miners and their families to 12:26:25PI
20 Koakoyima? 12:26:29PI

21 A. Yes. I had a gun. 12:26:30PI

22 MR HARDAWAY: I'm not asking you -- 12:26:37PI

23 PRESIDING JUDGE: Mr Witness, answer the question, please. 12:26:37PI

24 Answer the question. Put the question to him -- 12:26:39PI

25 THE WITNESS: Yes, sir. 12:26:41PI

1		12:26:42PI
2	THE WITNESS: Yes, sir. Yes, sir.	12:26:46PI
3	PRESIDING JUDGE: It's not whether you had a gun or not.	12:26:48PI
4	THE WITNESS: Yes, sir. Yes, sir.	12:26:48PI
5	PRESIDING JUDGE: Put the question to him, please.	12:26:51PI
6	MR HARDAWAY:	12:26:53PI
7	Q. Mr Witness, there were armed RUF fighters in your	12:26:54PI
8	group when you travelled to Koakoyima with the miners and their	12:26:58PI
9	families. That's correct, isn't it?	12:27:02PI
10	A. I was the only person who had a gun in that group.	12:27:06PI
11	MR HARDAWAY: So --	12:27:20PI
12	PRESIDING JUDGE: Excuse me, there were no armed RUF	12:27:20PI
13	personnel?	12:27:25PI
14	MR HARDAWAY:	12:27:25PI
15	Q. And would it be correct to say that when you combined	12:27:34PI
16	the miners and their families, you travelled with approximately	12:27:39PI
17	--	12:27:45PI
18	PRESIDING JUDGE: So in that group of 70 that went with	12:27:45PI
19	you, you were the only one who had a gun?	12:27:48PI
20	THE WITNESS: I had AK rifle, the civilians, the civilians	12:27:51PI
21	had single barrels.	12:27:56PI
22	MR HARDAWAY:	12:28:00PI
23	Q. How many civilians had guns?	12:28:00PI
24	A. Well, I can't tell the number now that had guns, but	12:28:04PI
25	there were civilians who had guns.	12:28:20PI

1 Q. Can you guess? Was it many? Was it a few? 12:28:22PI

2 A. If even they were small, it would be up to ten. 12:28:30PI

3 Q. Okay. Now, Mr Witness, when you and your group 12:28:37PI

4 arrived at Koakoyima, the civilians who had guns, what happened 12:28:42PI

5 to them? 12:28:47PI

6 A. The single barrel guns, they gave it to them, if they 12:28:47PI

7 were going somewhere, if they saw any animal that they would 12:29:02PI

8 kill to eat, they could do that. 12:29:08PI

9 Q. So is it your evidence that when you and the miners 12:29:12PI

10 and their families arrived in Koakoyima, those civilians who had 12:29:16PI

11 guns kept them? Sir, there's no reason to look over to the 12:29:21PI

12 other side, I'm the one asking you the questions. Shall I 12:29:25PI

13 repeat the question? 12:29:31PI

14 A. Ask it. 12:29:33PI

15 Q. It is -- is it your evidence that when you arrived 12:29:34PI

16 with the miners and their families in Koakoyima, that those 12:29:39PI

17 civilians who had guns were allowed to keep them? 12:29:44PI

18 A. It is theirs. They gave it to them. 12:29:49PI

19 PRESIDING JUDGE: Were they allowed to keep them, Mr 12:29:56PI

20 Witness? 12:29:56PI

21 THE WITNESS: Yes, sir. Yes, sir. 12:29:56PI

22 PRESIDING JUDGE: Please. 12:30:01PI

23 THE WITNESS: Yes, sir. Yes, sir. 12:30:01PI

24 MR HARDAWAY: 12:30:04PI

25 Q. I put it to you Mr Witness, that no civilians were 12:30:04PI

1 allowed to carry firearms while they were with the RUF. How do 12:30:08PI
2 you respond? 12:30:14PI

3 A. They allowed them. 12:30:15PI

4 Q. Now, at the time you were travelling, you were a 12:30:21PI
5 member of the RUF; is that correct? 12:30:25PI

6 A. Yes, sir. 12:30:28PI

7 Q. And that's why you were allowed to carry an Ak-47, 12:30:33PI
8 because you were a member of RUF, correct? 12:30:38PI

9 A. Yes, sir. 12:30:44PI

10 Q. Mr Witness, I put it to you that there were armed 12:30:45PI
11 guards travelling with you and the miners on trip to Koakoyima. 12:30:51PI
12 How do you respond? 12:30:55PI

13 A. It was only me and the civilian men who had arms. 12:30:57PI

14 Q. I put it to you, Mr Witness, that those armed guards 12:31:08PI
15 of the RUF were there to keep the civilians from escaping. How 12:31:12PI
16 do you respond? 12:31:16PI

17 A. That did not happen. 12:31:18PI

18 Q. Now, Mr Witness, moving on to Koakoyima, it's true 12:31:24PI
19 that the civilians who were mining for the RUF at Koakoyima 12:31:30PI
20 lived in the civilian camps at Koakoyima, isn't that the case? 12:31:35PI

21 A. Well, we had no civilian camps in Koakoyima. 12:31:41PI

22 Q. I put it to you, Mr Witness, that there were indeed 12:31:48PI
23 civilian camps at Koakoyima. How do you respond? 12:31:53PI

24 A. We did not live in camps, we lived in the town. 12:31:57PI

25 Q. I put it -- well, hold on. When the civilian went to 12:32:06PI

1 mine in Koakoyima, they were escorted by armed guards back and 12:32:20PI
2 forth, were they not? 12:32:26PI

3 A. Those civilians as I had told you, they had single 12:32:27PI
4 barrel guns, it was possible their commander would go with them, 12:32:34PI
5 but not RUF, not RUF fighters. 12:32:40PI

6 PRESIDING JUDGE: Which commander? Those armed civilians 12:32:44PI
7 who had single barrel guns, they had a commander. 12:32:47PI

8 THE WITNESS: Hmm -- the miners were ten in a group, and 12:32:54PI
9 among the ten there was a commander. And the one commander is a 12:32:59PI
10 civilian. He had a single barrel among them. 12:33:04PI

11 MR HARDAWAY: 12:33:09PI

12 Q. So the commander with the single barrel would go to 12:33:09PI
13 the civilians, go with the civilians when they went to the 12:33:13PI
14 mining site? That's correct, isn't it? 12:33:17PI

15 A. He wouldn't go with them with the gun. 12:33:20PI

16 Q. I put it to you Mr Witness, that in Koakoyima and 12:33:27PI
17 through out Kono, civilians were escorted to the mining sites by 12:33:33PI
18 armed men. How do you respond? 12:33:37PI

19 A. I did not hear or see it. 12:33:44PI

20 Q. I put it to you Mr Witness that many of the civilians 12:33:47PI
21 including the ones you brought with you and their families had 12:33:52PI
22 been captured by the RUF and forced to mine for them. How do 12:33:56PI
23 you respond? 12:34:01PI

24 A. RUF did not force any civilian to go and mine for him. 12:34:02PI

25 Q. Now, Mr Witness you would agree with me that part of 12:34:08PI

1	the job to the mining commander was to ensure that the mining	12:34:13PI
2	work got done, right?	12:34:17PI
3	A. I don't understand the question.	12:34:20PI
4	Q. Part of the job of the mining commander would be to	12:34:28PI
5	make sure that the mining work was accomplished; is that	12:34:32PI
6	correct?	12:34:45PI
7	A. Yes.	12:34:45PI
8	Q. About also that when the diamonds were found, those	12:34:46PI
9	diamonds would be reported to the mining commander. Also	12:34:50PI
10	correct, isn't it?	12:34:55PI
11	A. Yes, when they got it.	12:34:56PI
12	Q. And also part of the job of the mining commander was	12:34:59PI
13	to make sure that the civilian workers did not steal the	12:35:02PI
14	diamonds, isn't that also true?	12:35:06PI
15	A. They too did not want anybody to tell them any	12:35:08PI
16	stories, something.	12:35:22PI
17	PRESIDING JUDGE: Mr Witness, answer the question, please.	12:35:22PI
18	MR HARDAWAY:	12:35:26PI
19	Q. Shall I repeat the question?	12:35:26PI
20	A. Repeat the question.	12:35:30PI
21	Q. It was also part of the job of the mining commander to	12:35:32PI
22	make sure that the civilian workers did not steal the diamonds,	12:35:36PI
23	correct?	12:35:42PI
24	A. Yes.	12:35:43PI
25	Q. And to ensure that the civilian workers did not steal	12:35:44PI

1 the diamonds, there were guards at the mining site to oversee 12:35:53PI
2 the civilians; isn't that correct? 12:35:59PI

3 A. Yes. In mining you'll watch me, I'll watch you. It 12:36:02PI
4 happened. So soldiers will watch and the civilians would watch 12:36:12PI
5 soldiers. 12:36:18PI

6 Q. So there were guards at the mining site watching the 12:36:19PI
7 civilians to make sure they did not steal, is that correct? 12:36:27PI

8 A. Yes. 12:36:32PI

9 Q. These guards were armed, weren't they? 12:36:33PI

10 A. No. They had no guns. 12:36:44PI

11 Q. Part of the job of these guards was to ensure 12:36:47PI
12 discipline among the civilian workers; isn't that correct? 12:36:53PI

13 A. I don't understand the question. 12:37:00PI

14 Q. I'll ask a different one and move back. Part of the 12:37:07PI
15 job of the guards was to make sure that the mining work was done 12:37:12PI
16 by the civilians. That's correct, isn't it? 12:37:18PI

17 A. Yes, to their commanders. 12:37:22PI

18 Q. Part of it, part of their job was also to make sure 12:37:27PI
19 that the civilians would not run away or escape. Isn't that 12:37:34PI
20 also true? 12:37:41PI

21 A. We wouldn't think about civilians running away at all. 12:37:42PI

22 Q. Mr Witness -- 12:37:53PI

23 A. Yes, sir. 12:37:55PI

24 Q. -- part of the job was to make sure civilians would 12:37:56PI
25 not escape? 12:38:02PI

1	MR JORDASH: Objection. The witness has answered the	12:38:04PI
2	question. They did not think --	12:38:07PI
3	PRESIDING JUDGE: He did not answer the question, he did	12:38:08PI
4	not answer the question. I was going to say he should answer	12:38:11PI
5	the question. He did not answer the question. And let him	12:38:12PI
6	answer the questions, please.	12:38:13PI
7	MR HARDAWAY: Shall I repeat?	12:38:15PI
8	PRESIDING JUDGE: Please put the question to him.	12:38:17PI
9	MR HARDAWAY:	12:38:20PI
10	Q. Mr Witness?	12:38:21PI
11	A. Yes, sir.	12:38:22PI
12	Q. Part of the job of the armed guards was to make sure	12:38:23PI
13	that the civilians did not escape, is that correct?	12:38:27PI
14	A. That's not true.	12:38:31PI
15	Q. Okay. And I put it to you again, Mr Witness that	12:38:35PI
16	these guards at the mining pits were in fact armed. How do you	12:38:41PI
17	respond?	12:38:48PI
18	PRESIDING JUDGE: He has said they were not armed.	12:38:48PI
19	MR HARDAWAY: I'll move on, Your Honour.	12:38:52PI
20	PRESIDING JUDGE: Yes.	12:38:54PI
21	MR HARDAWAY:	12:38:55PI
22	Q. During the time you were in Kono did you learn that	12:38:55PI
23	senior RUF commanders had been engaged in private diamond	12:39:00PI
24	mining?	12:39:05PI
25	A. I don't understand that.	12:39:06PI

1 Q. Did you see or hear of RUF big men engaged in diamond 12:39:11PI
2 mining for themselves? 12:39:21PI

3 A. I don't understand that. 12:39:28PI

4 Q. Did you hear or see that Issa Sesay was diamond mining 12:39:30PI
5 in 12:39:30PI
6 Kono? 12:39:39PI

7 A. He was not part of our unit. 12:39:40PI

8 Q. That's not the question. 12:39:45PI

9 A. I did not see that. 12:39:47PI

10 Q. Did you see or hear of Issa Sesay diamond mining in 12:39:50PI
11 Kono for himself? 12:39:53PI

12 A. No. 12:39:56PI

13 Q. Did you see or hear of Morris Kallon engaged in 12:40:04PI
14 diamond mining in Kono for himself? 12:40:09PI

15 A. No. 12:40:11PI

16 Q. I put it to you Mr Witness, that senior RUF commanders 12:40:13PI
17 including Issa Sesay and Morris Kallon were engaged in private 12:40:19PI
18 mining in Kono. How do you respond? 12:40:23PI

19 A. Well, I do not know about the private work, I know 12:40:27PI
20 about the mining units and their work. 12:40:37PI

21 Q. So if I put it to you that senior RUF commanders such 12:40:40PI
22 as Issa Sesay and Morris Kallon forced civilians to mine for 12:40:47PI
23 them, you would have no knowledge of that; is that correct? 12:40:51PI

24 A. I did not hear or see that. 12:40:56PI

25 MR HARDAWAY: Let me have a moment, your Honour. 12:41:07PI

1	PRESIDING JUDGE: Yes, you may.	12:41:10PI
2	MR HARDAWAY: Thank you, Your Honours.	12:41:13PI
3	Q. Mr Witness, you had stated --	12:41:26PI
4	A. Yes, sir.	12:41:29PI
5	Q. -- that when a diamond was found and it went to	12:41:30PI
6	Kennedy, there would be a joint security unit who would take the	12:41:35PI
7	diamond to Sam Bockarie, is that correct?	12:41:41PI
8	A. They would provide security, they are not the ones who	12:41:45PI
9	take the diamond. The miners would take the diamond. The joint	12:41:52PI
10	security would be there to give them security until they get it	12:41:59PI
11	to him.	12:42:03PI
12	Q. Let me, backtrack, Mr Witness. I apologise.	12:42:04PI
13	A. Okay, no problem.	12:42:09PI
14	Q. Who did Kennedy report to?	12:42:10PI
15	A. Sam Bockarie, Mosquito.	12:42:14PI
16	Q. He reported to Mosquito directly; is that your	12:42:17PI
17	evidence?	12:42:23PI
18	A. Yes, sir.	12:42:23PI
19	Q. I put it to you, Mr Witness, that in fact Kennedy	12:42:24PI
20	reported to Issa Sesay. How do you respond?	12:42:29PI
21	A. By what I understand, all the diamonds went to	12:42:32PI
22	Mosquito.	12:42:53PI
23	PRESIDING JUDGE: Your response is that Issa -- or rather	12:42:53PI
24	Kennedy never reported to Issa.	12:42:53PI
25	THE WITNESS: In my presence, not at all.	12:42:53PI

1	MR HARDAWAY:	12:42:57PI
2	Q. Did you hear of Kennedy reporting to Issa Sesay?	12:42:57PI
3	A. This is what -- this is the place I heard that. I	12:43:01PI
4	have never heard it from that end.	12:43:08PI
5	Q. I put it to you, Mr Witness, that Kennedy would hand	12:43:12PI
6	the diamonds over to Issa Sesay, who would then forward the	12:43:16PI
7	diamonds on to Mosquito. How do you respond?	12:43:20PI
8	A. I don't know what transpired between them, I don't	12:43:24PI
9	know about that.	12:43:35PI
10	Q. Now, Mr Witness, you said in the beginning that armed	12:43:36PI
11	men when with civilians -- when they went on food-finding	12:43:43PI
12	missions, correct?	12:43:48PI
13	A. Yes, it happened sometimes.	12:43:50PI
14	Q. Those armed men were there to make sure that the	12:43:52PI
15	civilians didn't run away, isn't that correct?	12:43:57PI
16	A. It's not correct.	12:44:00PI
17	Q. Now, Mr Witness, you said that after you heard of the	12:44:08PI
18	Lome Peace Accord that the mining system changed into a two-pile	12:44:19PI
19	system, is that correct?	12:44:24PI
20	A. The question you are asking me I will not answer it	12:44:26PI
21	because I don't understand it.	12:44:32PI
22	Q. Okay. After you heard of the Lome Peace Accord, Foday	12:44:34PI
23	Sankoh said there would now be a two-pile system in Kono. Is	12:44:41PI
24	that your evidence?	12:44:46PI
25	A. I did not hear Foday Sankoh went to Kono, I saw him	12:44:47PI

1 facially and then he passed other than this is what we will 12:45:02PI
2 operate now. 12:45:05PI

3 Q. All right. Now, who was the mining commander at that 12:45:06PI
4 time? 12:45:09PI

5 A. At that time Kennedy had left. Michael Kumba, was the 12:45:09PI
6 commander. 12:45:21PI

7 Q. And this would still be considered RUF government 12:45:21PI
8 mining, isn't that correct? 12:45:25PI

9 A. That's it. 12:45:28PI

10 Q. I put it to you, Mr Witness, that there was no 12:45:33PI
11 two-pile system in Kono ever. That any diamond found would go 12:45:36PI
12 straight to the RUF and the civilians got nothing. How do you 12:45:42PI
13 respond? 12:45:46PI

14 A. Two-pile was there. The two-pile started when Foday 12:45:47PI
15 Sankoh came. That was what was going on. 12:45:59PI

16 Q. So you disagree with me when I put it to you that 12:46:01PI
17 there was no two-pile system? 12:46:09PI

18 A. I disagree. There was a two-pile system. 12:46:11PI

19 MR HARDAWAY: Let me have a moment, your Honour. 12:46:16PI

20 PRESIDING JUDGE: Yes, please. 12:46:19PI

21 MR HARDAWAY: Thank you, Your Honours. 12:46:22PI

22 Q. I only have a few more questions for you, Mr Witness. 12:46:57PI

23 A. Yes, sir. 12:47:01PI

24 Q. Now you had mentioned the G5 in your evidence, right? 12:47:02PI

25 A. Yes, sir. 12:47:09PI

1 Q. At any point in your dealings -- let me rephrase that. 12:47:10PI

2 At any point, did you tell anyone that you were a member of the 12:47:16PI

3 G5? 12:47:20PI

4 A. I don't understand the question. 12:47:25PI

5 Q. Did you speak to people who were representing Issa 12:47:29PI

6 Sesay before you came to testify here at the Special Court? 12:47:37PI

7 A. Well, I don't know them, the ones you are talking 12:47:43PI

8 about. 12:47:52PI

9 Q. Did you speak to people from the Special Court before 12:47:52PI

10 you came here to give your evidence? 12:47:57PI

11 A. I just saw people with who took statements from me, 12:48:00PI

12 they said they are working here. 12:48:09PI

13 Q. Okay. The people who took statements from you, did 12:48:13PI

14 you tell them that you were a member of the G5? 12:48:18PI

15 A. They remove me from the G5 and send me to the mining 12:48:21PI

16 unit. 12:48:30PI

17 Q. Did you tell -- were you a member of the G5? 12:48:30PI

18 A. I was not a member any longer. 12:48:39PI

19 PRESIDING JUDGE: Were you? Were you? Were you ever a 12:48:42PI

20 member of the G5? Before they removed you from there. Were you 12:48:46PI

21 ever? 12:48:53PI

22 THE WITNESS: I have never joined. I never joined the G5 12:48:55PI

23 unit. 12:49:05PI

24 MR HARDAWAY: 12:49:05PI

25 Q. Did you tell the people who took your statements that 12:49:05PI

1 you were in fact a member of the G5? 12:49:09PI

2 A. I can't say so. G5 you should be educated and I'm not 12:49:14PI

3 educated so. 12:49:24PI

4 Q. So this is a very simple question, Mr Witness: Did 12:49:25PI

5 you tell the people who took your statement that you were a 12:49:30PI

6 member of the G5? 12:49:34PI

7 A. I was not a G5, and I did not tell anybody that I was 12:49:37PI

8 a G5. 12:49:46PI

9 JUDGE BOUTET: I think that there seems to be some 12:49:47PI

10 confusion here. The witness inserts that he was not a G5. 12:49:51PI

11 You're asking if he was a member of the G5 unit. 12:49:55PI

12 MR HARDAWAY: Okay, I'll clarify, Your Honour. I 12:50:00PI

13 apologise. 12:50:00PI

14 JUDGE BOUTET: But that may be why we are getting into this 12:50:01PI

15 difficulty. 12:50:05PI

16 MR HARDAWAY: 12:50:06PI

17 Q. If I've confused you, Mr Witness, I apologise. I will 12:50:07PI

18 take it step-by-step. Were you a member of the G5? 12:50:13PI

19 A. I was not a G5 member from the starting to the end. 12:50:19PI

20 Q. And did you tell the people who took your statements 12:50:24PI

21 that you were ever a member of the G5? 12:50:28PI

22 A. I have answered this question, saying I was not a G5 12:50:35PI

23 until now. 12:50:40PI

24 Q. Mr Witness, did you tell the people who took your 12:50:43PI

25 statement that you were a member of the G5? 12:50:53PI

1 PRESIDING JUDGE: The witness has answered that question. 12:50:56PI

2 MR HARDAWAY: Very well, your Honour. 12:50:59PI

3 PRESIDING JUDGE: Yes, he has answered that question. He 12:51:01PI

4 had said, I did not tell anybody that I was a G5. 12:51:05PI

5 MR HARDAWAY: Very well, your Honour. If I may have one 12:51:10PI

6 last moment. 12:51:14PI

7 PRESIDING JUDGE: Yes, you may. 12:51:15PI

8 MR HARDAWAY: Thank you, Your Honours. 12:51:17PI

9 Q. Mr Witness, I have no further questions of you. 12:51:17PI

10 MR WITNESS: Yes, sir. 12:51:17PI

11 MR HARDAWAY: Thank you for your time. 12:51:17PI

12 MR HARDAWAY: Your Honours, I have completed my 12:51:42PI

13 cross-examination. 12:51:44PI

14 PRESIDING JUDGE: Thank you. Mr Jordash, any 12:51:44PI

15 re-examination please? 12:52:14PI

16 MR JORDASH: No, thank you. 12:52:16PI

17 PRESIDING JUDGE: Thank you. Well, Mr Witness, we are -- 12:52:18PI

18 THE WITNESS: Yes, sir. 12:52:33PI

19 PRESIDING JUDGE: We are through. We thank you very much 12:52:35PI

20 for coming to testify before us, and to share your knowledge of 12:52:38PI

21 these events you know with the Tribal. Again we thank you very 12:52:43PI

22 much for coming and we wish you the very best in the pursuit of 12:52:48PI

23 your daily occupations. And above all a safe journey back to 12:52:53PI

24 your place of abode. Thank you. 12:52:58PI

25 THE WITNESS: Thank you, sir. 12:53:01PI

1 PRESIDING JUDGE: Can the witness get assisted out of Court 12:53:05PI
2 please. 12:53:12PI

3 MR JORDASH: May I pop out of Court, just for one minute to 12:53:12PI
4 speak to the next witness, please. 12:53:17PI

5 PRESIDING JUDGE: Yes, you may. You may please. We will 12:53:19PI
6 wait for you here. 12:53:21PI

7 [The witness withdrew 12.45 p.m] 12:53:21PI

8 PRESIDING JUDGE: Mr Ogeto, yes. 12:54:29PI

9 MR OGETO: Good afternoon, My Lords. 12:54:30PI

10 PRESIDING JUDGE: I just want to take advantage of these 12:54:32PI
11 few minutes and address the issue of, the issue that we raised 12:54:35PI
12 this morning about common witness. 12:54:42PI

13 PRESIDING JUDGE: Yes. 12:54:44PI

14 MR OGETO: Whether the next witness is a common witness and 12:54:45PI
15 I just want to remind the Chamber that I have addressed this 12:54:51PI
16 issue previously, and indicated that there were certain 12:54:56PI
17 witnesses who were common to the Sesay and Kallon defence. And 12:55:00PI
18 I did give the pseudonyms of those witnesses, and Mr Opande's 12:55:05PI
19 pseudonym is one of those that I provided on the 28th of 12:55:13PI
20 February, 2008. The Prosecution is aware of this. 12:55:20PI

21 PRESIDING JUDGE: But, not as expressly as you did for 12:55:24PI
22 DIS-310 and DMK-147 12:55:29PI

23 MR OGETO: No. It was the same day, My Lords. 12:55:31PI

24 PRESIDING JUDGE: The same day? 12:55:34PI

25 MR OGETO: Yes, the same day for the three of them. 12:55:36PI

1 PRESIDING JUDGE: For the three of them? 12:55:38PI

2 MR OGETO: For the three of them, yes, My Lords. 12:55:41PI

3 JUDGE BOUTET: Who's the third, if I may ask again, Mr
4 Ogeto? 12:55:49PI

5 MR OGETO: Okay, My Lords. 12:55:49PI

6 JUDGE BOUTET: Opande and what's number three? 12:55:49PI

7 MR OGETO: Number three is Hassan. 12:55:51PI

8 JUDGE BOUTET: The other witness that Mr Jordash is
9 calling? 12:55:55PI

10 MR OGETO: Yes, My Lords. 12:55:55PI

11 JUDGE BOUTET: These two witnesses are common to you and Mr
12 Jordash? 12:55:58PI

13 MR OGETO: Yes, My Lords. 12:55:58PI

14 JUDGE BOUTET: Okay. 12:56:02PI

15 MR OGETO: And I indicated this in the transcripts on 28th
16 of February 2008. 12:56:02PI

17 PRESIDING JUDGE: I see, okay. 12:56:02PI

18 MR OGETO: At Page 130. 12:56:04PI

19 JUDGE BOUTET: I'm sorry you said Page 130? You are
20 quoting from the transcript. 12:56:12PI

21 PRESIDING JUDGE: It's in the same filing as 310 and
22 DMK-147. 12:56:18PI

23 MR OGETO: Yes, My Lords. 12:56:20PI

24 PRESIDING JUDGE: Yes. 12:56:20PI

25 MR OGETO: It's Pages 126 there was a fairly detailed 12:56:23PI

1 discussion of this issue from Page 126 to Page 131. So the 12:56:26PI
2 issue comes up quite clearly. 12:56:33PI

3 JUDGE BOUTET: Thank you. 12:56:36PI

4 PRESIDING JUDGE: Yes, Mr Hardaway still on this issue? 12:56:37PI

5 MR HARDAWAY: Yes, just to note, that was the understanding 12:56:38PI
6 of the Prosecution as well. And while I'm on my feet, I didn't 12:56:41PI
7 -- I never had a chance to respond to Mr Jordash's first motion 12:56:45PI
8 as it related to asking for an extension of the seating hours 12:56:50PI
9 and there would be no objection from the Prosecution as related 12:56:53PI
10 to that in terms of presenting evidence. 12:56:57PI

11 PRESIDING JUDGE: That's okay. We've noted that. 12:57:01PI

12 MR JORDASH: Hmm -- I -- 12:57:40PI

13 PRESIDING JUDGE: Yes, Mr Jordash. 12:57:51PI

14 MR JORDASH: As Your Honours are aware the next witness is 12:57:51PI
15 General Opande and I note that his screen is still there and the 12:57:51PI
16 curtains are still there, so I thought I'd better bring that to 12:57:55PI
17 Your Honour's attention, that the witness has foregone any claim 12:57:59PI
18 or application for protective measures and they have been 12:58:05PI
19 rescinded. 12:58:22PI

20 PRESIDING JUDGE: But he had been beneficiary through your 12:58:22PI
21 application of some protective measures or so -- 12:58:27PI

22 MR JORDASH: From the, I think the November 2006 12:58:31PI
23 application, yes. 12:58:32PI

24 PRESIDING JUDGE: That's right, yes. Now you want these 12:58:32PI
25 Orders, you know, to be lifted. 12:58:35PI

1 MR JORDASH: Well, I think Your Honours -- 12:58:36PI

2 PRESIDING JUDGE: At his request? 12:58:38PI

3 MR JORDASH: No, Your Honours have already lifted them. 12:58:38PI

4 PRESIDING JUDGE: From the application that we have granted 12:58:41PI

5 for the Prosecution? Right, okay, we've done that already. 12:58:43PI

6 That's okay. In fact what I was expecting was that maybe you 12:58:46PI

7 were rising to ask for a reinstatement of those measures. 12:58:50PI

8 MR JORDASH: No. No, thank you. 12:58:55PI

9 PRESIDING JUDGE: Right. Okay. And can the screen be 12:58:58PI

10 removed, please. I'm not asking Mr Hardaway to remove the 12:59:01PI

11 screens. 12:59:12PI

12 MR JORDASH: I'm wondering, Your Honour, if there might be 12:59:26PI

13 a sort of delay in removing the screens that by the time the 12:59:31PI

14 witness would be in it would be lunch. I'm wondering if it 12:59:38PI

15 would be more economical to -- 12:59:43PI

16 PRESIDING JUDGE: We want to have him in, swear him in, you 12:59:48PI

17 know, and then we will do some preliminaries, and we want to 12:59:49PI

18 gain some time as to. 12:59:54PI

19 MR JORDASH: While this is happening, I was expecting Mr 01:00:34PI

20 Sesay to be in Court, so I don't know if -- 01:00:37PI

21 PRESIDING JUDGE: No. We have to go on, please. He will 01:00:39PI

22 come. I'm sure we are just going to finish the preliminaries 01:00:42PI

23 then he can come in the afternoon. 01:00:45PI

24 MR JORDASH: Certainly. 01:00:48PI

25 PRESIDING JUDGE: The count of witnesses, Mr Jordash, this 01:00:58PI

1	would be --	01:01:03PI
2	MR JORDASH: I think the 49th.	01:01:05PI
3	JUDGE BOUTET: 50.	01:01:08PI
4	MR JORDASH: Oh, 50.	01:01:10PI
5	JUDGE BOUTET: 50 by my account.	01:01:11PI
6	MR JORDASH: Thank you. I should have said the language is	01:01:14PI
7	English.	01:01:22PI
8	PRESIDING JUDGE: Right. Can you swear the witness in,	01:01:23PI
9	please? Mr Jordash, this is DIS?	01:01:32PI
10	MR JORDASH: 249, Your Honour.	01:01:36PI
11	MR OGETO: It is also DMK-147, My Lord.	01:01:55PI
12	PRESIDING JUDGE: Okay. Just a minute. 147?	01:02:00PI
13	MR OGETO: Yes, My Lord.	01:02:05PI
14	PRESIDING JUDGE: What was DMK 13 -- what was DIS --	01:02:11PI
15	MR OGETO: I'm sorry, My Lords. I'm sorry.	01:02:16PI
16	PRESIDING JUDGE: Yes.	01:02:18PI
17	MR OGETO: This is DMK-130.	01:02:20PI
18	PRESIDING JUDGE: 130.	01:02:22PI
19	MR OGETO: Yes, My Lords. DMK-130.	01:02:24PI
20	PRESIDING JUDGE: 130.	01:02:27PI
21	MR OGETO: 130. My apologies.	01:02:29PI
22	PRESIDING JUDGE: Yes.	01:02:38PI
23	[DIS-249 sworn].	01:02:39PI
24	PRESIDING JUDGE: Yes, Mr Jordash you may proceed with	01:03:08PI
25	your examination-in-chief.	01:03:10PI

1	MR JORDASH: Thank you.	01:03:13PI
2	[EXAMINED BY MR JORDASH]	01:03:17PI
3	MR JORDASH: Good afternoon.	01:03:17PI
4	THE WITNESS: Good afternoon, Wayne.	01:03:20PI
5	MR JORDASH: As you know I represent Issa Sesay. As you	01:03:22PI
6	know I'll be asking you questions first and then followed by	01:03:25PI
7	others including lawyers for Mr Kallon, and the Prosecution to	01:03:29PI
8	your left. Could I ask you first for your full name, please.	01:03:34PI
9	A. My name is Daniel Ishmael Opande.	01:03:46PI
10	PRESIDING JUDGE: Daniel?	01:03:52PI
11	THE WITNESS: Ishmael Opande.	01:03:57PI
12	MR JORDASH:	01:03:57PI
13	Q. And just a few more details if I may. Date of birth,	01:04:09PI
14	please?	01:04:16PI
15	A. Mr Jordash, whoever is translating is interfering with	01:04:16PI
16	you, so I can't really get you. So if he can wait until you	01:04:21PI
17	have address me, so that I can get you correctly.	01:04:27PI
18	PRESIDING JUDGE: I hope the translation booth is getting	01:04:30PI
19	that comment.	01:04:33PI
20	INTERPRETER: Your Honours, we are getting his comment but the	01:04:37PI
21	Court should assist with the channel from that point. That is	01:04:40PI
22	why he is getting the interpretation from here. The channel	01:04:45PI
23	should be changed to English.	01:04:50PI
24	MR JORDASH: Thank you very much for indicating that.	01:04:54PI
25	Q. Let me ask the question again, and obviously indicate	01:05:14PI

1	if there still is a problem. Could I ask you your date of	01:05:18PI
2	birth, please?	01:05:23PI
3	A. My date of birth is 18 August 1943.	01:05:25PI
4	Q. Does that make you 64?	01:05:32PI
5	A. I think so.	01:05:35PI
6	Q. And where were you born?	01:05:36PI
7	A. I was born in Southnyanza district of Kenya. This is	01:05:37PI
8	western Kenya.	01:05:44PI
9	Q. And where do you currently reside?	01:05:46PI
10	A. The country, I currently reside in Eldoret Kenya, but	01:05:50PI
11	I sometimes stay in Nairobi.	01:05:58PI
12	Q. And your current occupation, please?	01:06:03PI
13	A. I'm retired. Very much so.	01:06:07PI
14	Q. Let me take you through your previous occupations.	01:06:11PI
15	Were you once in the armed forces of Kenya?	01:06:23PI
16	A. Yes, I was.	01:06:26PI
17	Q. How long did you serve in the armed forces of Kenya?	01:06:27PI
18	A. I served for over 42 years. Forty-two years and a	01:06:31PI
19	bit.	01:06:36PI
20	Q. And what rank did you reach in the armed forces of	01:06:37PI
21	Kenya?	01:06:45PI
22	A. I was able to complete -- oh, I was able to get to a	01:06:46PI
23	lieutenant general.	01:06:53PI
24	Q. Does that mean the appropriate address is general?	01:06:55PI
25	A. Yes.	01:07:04PI

1 Q. Thank you. And during your time with the armed forces 01:07:05PI
2 of Kenya, did you have cause to serve with the United Nations? 01:07:09PI

3 A. Yes, I did on several occasions. 01:07:22PI

4 Q. Could I start you in 1989? What was your employment 01:07:25PI
5 at that time? 01:07:29PI

6 A. I was inducted into the UN peace keeping in early 1980 01:07:30PI
7 -- hmm-- 9, in Namibia, as deputy force commander. 01:07:40PI

8 Q. And from 1989 to 1990, did you also have another 01:07:49PI
9 occupation or post? 01:08:06PI

10 A. Yes, after Namibia, I was sent to Mozambique as a 01:08:07PI
11 facilitator between Renamo and the then Frelimo government in 01:08:17PI
12 trying to come up with an agreeable solution to their problems 01:08:25PI
13 in their country. 01:08:33PI

14 Q. And Renamo, what does that stand for? 01:08:35PI

15 A. Renamo was a rebel group which was opposed to the 01:08:41PI
16 government, the then government of Mozambique. 01:08:47PI

17 Q. And you occupied that particular post until when? 01:08:51PI

18 A. I occupied it until late 1993, when finally a peace 01:08:57PI
19 accord was signed. 01:09:08PI

20 Q. After at what appears to have been a successful 01:09:10PI
21 process there, where did you then go? 01:09:21PI

22 A. After that I was picked by the then secretary-general 01:09:24PI
23 to go to Liberia and head the newly formed UN observer mission 01:09:31PI
24 in Liberia. 01:09:42PI

25 Q. Which year did you take up that position and how long 01:09:50PI

1 did it last? 01:09:54PI

2 PRESIDING JUDGE: It is to head the mission general? 01:09:55PI

3 THE WITNESS: Not really. I was heading the military 01:09:59PI

4 observer mission. There was a head of the mission who was a 01:10:02PI

5 civilian, but I was like number two. 01:10:05PI

6 MR JORDASH: 01:10:08PI

7 Q. Does it follow that you were the top military -- 01:10:08PI

8 A. Yes, I was. 01:10:14PI

9 Q. -- personnel. Thank you? And that started in which 01:10:17PI

10 year and was on-going until when? 01:10:20PI

11 A. That was late 1993 and up to 1995 when I left and went 01:10:24PI

12 back home. 01:10:29PI

13 Q. When you say you went back home, you mean back to the 01:10:30PI

14 armed forces of Kenya? 01:10:35PI

15 A. Yes, back to the armed forces of Kenya. 01:10:37PI

16 Q. When was your next mission with the United Nations? 01:10:41PI

17 A. My next mission came in-- 01:10:49PI

18 PRESIDING JUDGE: General did you say 1993 to 1995? 01:10:51PI

19 THE WITNESS: Yes, 1995. Middle of 1995. 01:10:55PI

20 PRESIDING JUDGE: Okay. Yes, your next mission? 01:10:58PI

21 THE WITNESS: My next mission was the year 2000 when I came 01:11:03PI

22 to Sierra Leone to head the military contingent of UNAMSIL. 01:11:09PI

23 MR JORDASH: 01:11:16PI

24 Q. And -- 01:11:16PI

25 PRESIDING JUDGE: You were sent here to do what, was it to 01:11:18PI

1 head -- 01:11:23PI

2 THE WITNESS: To head the military contingent, the force 01:11:23PI

3 commander of UNAMSIL, Your Honour. 01:11:29PI

4 MR JORDASH: 01:11:31PI

5 Q. And just briefly. Obviously we'll go through some of 01:11:32PI

6 what that entailed but the post was? 01:11:37PI

7 A. The first commander. 01:11:41PI

8 Q. And the remit of the post? What were you asked to do? 01:11:43PI

9 A. I was to head the military contingent. In other words 01:11:50PI

10 the force commander commanding the entire UN peacekeeping 01:11:59PI

11 military component. 01:12:06PI

12 Q. Thank you. And how long did you occupy that post? 01:12:06PI

13 A. I stayed on the job from late 2000 until when I left 01:12:11PI

14 here in late 2003. 01:12:18PI

15 Q. And where did you go from Sierra Leone? 01:12:27PI

16 A. I was appointed straightaway from this mission to head 01:12:30PI

17 to Liberia once more to head again the UN military contingent in 01:12:36PI

18 Liberia, which was known as UNMIL. 01:12:49PI

19 Q. And how long did you continue in that post? 01:12:53PI

20 A. I continued for I think exactly one year and a bit. 01:13:00PI

21 Just a year and a bit. 01:13:05PI

22 PRESIDING JUDGE: So we may stop here now, if we may. 01:13:07PI

23 General, you said you were there for slightly over a year -- 01:13:19PI

24 THE WITNESS: Yes, sir. 01:13:22PI

25 PRESIDING JUDGE: Well, learned counsel the Chamber will 01:13:28PI

1 recess for lunch and we will resume the session at 2.30. We 01:14:21PI
2 will rise, please. 01:14:26PI

3 [Luncheon recess taken at 1.02 p.m] 03:29:23PI

4 PRESIDING JUDGE: Good afternoon, learned counsel, we'll 03:29:23PI
5 resume the proceedings. Mr Witness, good afternoon. 03:29:26PI

6 THE WITNESS: Good afternoon, sir. 03:29:31PI

7 MR JORDASH: Your Honour. 03:29:53PI

8 PRESIDING JUDGE: Yes. 03:29:53PI

9 MR JORDASH: May I indicate for the record upon arrival 03:29:53PI
10 back after lunch, we were served approximately 60 pages of 03:29:53PI
11 UNAMSIL press briefings by the Prosecution with no prior notice 03:29:53PI
12 of this material. I'm not exactly sure what their intentions 03:29:57PI
13 are, but this is what the situation is. The witness hasn't as 03:30:04PI
14 yet seen this material. We have only just in the Defence seen 03:30:10PI
15 this material. I haven't had an opportunity to discuss it with 03:30:17PI
16 my client. I have quickly read it in the time that's been 03:30:22PI
17 allowed but I put that on the record at this point. 03:30:32PI

18 PRESIDING JUDGE: I think it's fair to put it on the 03:30:34PI
19 record. It's not good for you to be taken unawares. 60 page 03:30:36PI
20 document even if you were to look at it for one hour. It's not 03:30:43PI
21 enough. I don't know for what purpose the Prosecution is going 03:30:48PI
22 to use it, but I think it would have been fair, you know, if 03:30:50PI
23 there was any anticipation that the Defence would have to see it 03:30:56PI
24 for it to have been disclosed before now. 03:31:04PI

25 MR CAMMEGH: Your Honour, can I add my voice to those 03:31:08PI

1 comments. I'm about halfway through this document. All I would 03:31:12PI
2 say is this: If the Prosecution's intention is to introduce 03:31:15PI
3 this as an Exhibit as evidence of the contents or the truth of 03:31:20PI
4 the contents by way of the flexible admissibility rule that we 03:31:25PI
5 heard so much about last week, I appreciate this is not my 03:31:30PI
6 witness, but it certainly in terms of joint criminal enterprise 03:31:33PI
7 and individual -- 03:31:38PI

8 PRESIDING JUDGE: Whose press releases are these. 03:31:40PI

9 MR CAMMEGH: Well, Your Honour, it's rather sort of 03:31:42PI
10 amorphously set out, its briefings press, releases from Sierra 03:31:46PI
11 Leone UNAMSIL, a United Nations document. It entirely hearsay, 03:31:52PI
12 in terms of its commentary and Your Honour, I would say in terms 03:31:58PI
13 of, you know, if we could use that doctrine of fundamental 03:32:03PI
14 fairness for want of anything else evidentially worthless but I 03:32:09PI
15 am very concerned about the purpose to which the Prosecution 03:32:14PI
16 seek to refer to this material. 03:32:19PI

17 PRESIDING JUDGE: Let's see how far we go. Let's see how 03:32:21PI
18 far we go. 03:32:25PI

19 MR CAMMEGH: I should say and I'm sorry to spend more time. 03:32:26PI

20 PRESIDING JUDGE: 03:32:29PI

21 MR CAMMEGH: I am halfway through it and that's skim 03:32:30PI
22 reading it, there's an awful lot of material here. I think to 03:32:31PI
23 say, we feel ambushed just to put it lightly. 03:32:37PI

24 PRESIDING JUDGE: Yes, Ms Mylvaganam, I'm sure you have the 03:32:41PI
25 same comments. 03:32:44PI

1 MS MYLVAGANAM: My Lord, may I just emphasise one 03:32:46PI
2 difficulty not only do we have this material to assimilate it is 03:32:49PI
3 unclear whether this represents the entirety of the press 03:32:54PI
4 briefings for 2001, but in addition, there is no material that 03:32:58PI
5 relates to 2002, and I can tell Your Lordships that attempt that 03:33:02PI
6 we have made to obtain that material have not been fruitful 03:33:09PI
7 because they are archived in New York. So the Prosecution do 03:33:14PI
8 not have it, seems the entirety of the picture available to 03:33:19PI
9 them. The Defence have now material the Prosecution seek to 03:33:24PI
10 rely by virtue of that category of material. It's unclear 03:33:28PI
11 whether that's the entirety of the material even for that year. 03:33:33PI
12 So I'm just putting that on the record, so My Lord, you 03:33:37PI
13 understand that the Defence are really perhaps not in the best 03:33:40PI
14 position to rebuttal, deal with this material. 03:33:45PI

15 PRESIDING JUDGE: Thank you. Maybe we should hear from Mr 03:33:50PI
16 Harrison. 03:34:00PI

17 MR HARRISON: I explained to Ms Mylvaganam that they were 03:34:00PI
18 located on a website. The website is well-known to the Court 03:34:04PI
19 it's called Sierra Leone web and all of the documents were taken 03:34:09PI
20 from that public website and I explained I think to Ms 03:34:15PI
21 Mylvaganam that I saw on that website releases from 2003, 2002, 03:34:23PI
22 2001 and I think I saw from 2000 and perhaps from 1999 but at 03:34:27PI
23 any rate, it's a public website which everyone has access to. 03:34:32PI

24 PRESIDING JUDGE: It will depend on -- in any event it will 03:34:39PI
25 depend on what you want to do with that material, you know, that 03:34:42PI

1 we are not here -- we not there yet. Yes, Mr Jordash, I think 03:34:46PI
2 you may continue with the General and see how we move from 03:34:53PI
3 there. 03:35:01PI
4 MR JORDASH: Certainly. 03:35:02PI
5 PRESIDING JUDGE: All right. 03:35:03PI
6 MR JORDASH: 03:35:04PI
7 Q. Good afternoon, General. I'm sorry we've kept you 03:35:04PI
8 waiting. 03:35:13PI
9 A. It's okay. 03:35:14PI
10 Q. Let me take you to the year 2000. Can you recall when 03:35:15PI
11 it was you first came to Sierra Leone? 03:35:21PI
12 A. I actually came to Sierra Leone much earlier than the 03:35:23PI
13 year 2000 when I was in Liberia the 90 -- 03:35:29PI
14 PRESIDING JUDGE: Maybe the -- maybe counsel is wanting to 03:35:34PI
15 know when you came to Sierra Leone in 2000. You had been here 03:35:38PI
16 before I suppose. 03:35:41PI
17 THE WITNESS: Yeah. 03:35:43PI
18 MR JORDASH: That I didn't know. 03:35:44PI
19 Q. Let me ask you, when you came before 2000, was that 03:35:48PI
20 concerning the UNAMSIL mission of 2000 or was that on a separate 03:35:53PI
21 unrelated -- 03:36:06PI
22 A. Not at all. That was the time when Sierra Leone was 03:36:07PI
23 under, I think, captain Strasser and I was sent here to come and 03:36:10PI
24 make contacts with them because I was then the chief military 03:36:23PI
25 observer in Liberia. 03:36:34PI

1 Q. Right. Can I take you then to 2000. Was 2000 the 03:36:35PI
2 time you came for the second time? 03:36:38PI

3 A. Yes, 2000, I think it was in May, immediately after 03:36:40PI
4 the May eighth or fifth I can't remember, you know, when peace 03:36:49PI
5 keepers were taken hostage in the north of the county. I came 03:36:58PI
6 with delegation of the Kenyan parliamentarians to-- 03:37:03PI

7 Q. And the purpose of the visit? 03:37:07PI

8 A. It was a fact-finding mission. Back at home there was 03:37:09PI
9 a lot of unhappiness about the way in which our soldiers had 03:37:14PI
10 been taken hostages, some had been killed and the such. The 03:37:20PI
11 population had a right to, you know, find out whether we 03:37:26PI
12 deployed our troops here with proper protection and a mandate 03:37:35PI
13 that would protect them in peace keeping. 03:37:43PI

14 Q. And who was the leader of the delegation? 03:37:49PI

15 A. It was the minister for defence. 03:37:52PI

16 Q. And your position within it? 03:37:57PI

17 A. I was the most senior military officer there. They 03:37:59PI
18 assumed that I was the second in commander. That's what I was 03:38:05PI
19 told. 03:38:09PI

20 Q. And apart from the observational role you were coming 03:38:10PI
21 to play, did you have as a delegation, any other role as regards 03:38:17PI
22 to the hostages? 03:38:23PI

23 A. Yes, we had another role of talking to President 03:38:26PI
24 Taylor who, you know, we assumed and we believed had some 03:38:32PI
25 influence over the RUF. Hence, he could facilitate the release 03:38:43PI

1 of the hostages and also the bodies of our soldiers who, until 03:38:48PI
2 that time, were somewhere in the north of this country and we 03:38:58PI
3 did not know where they were and we wanted those bodies to be 03:39:02PI
4 repatriated back home. 03:39:08PI

5 Q. At that stage, had any of the hostages been released? 03:39:21PI

6 A. Yes, some had already been released and there were 03:39:26PI
7 others who were still in transit between Sierra Leone, Liberia, 03:39:29PI
8 and here, back here. 03:39:33PI

9 Q. Did you hear of one General Mulinge? 03:39:34PI

10 A. Yes, I knew him very well. 03:39:37PI

11 Q. And were you informed as to his situation? 03:39:38PI

12 A. Yes, I was. 03:39:44PI

13 Q. And what was it? 03:39:47PI

14 A. His situation was that he was taken hostage, but by 03:39:49PI
15 that time he had decided although he could have been released 03:39:57PI
16 because I remember when we talked to Charles Taylor, he made us 03:40:01PI
17 understand that Mulinge was ready to be released but Mulinge had 03:40:07PI
18 decided he would be the last one to be released. 03:40:15PI

19 Q. And were you informed as to the whereabouts of Foday 03:40:28PI
20 Sankoh? 03:40:33PI

21 A. Yes. We were told that he was in Pademba Road prison. 03:40:33PI

22 Q. Were you informed as to whose custody he was under? 03:40:39PI

23 A. Yes, we were told he was under the custody of the 03:40:43PI
24 Sierra Leonean government. 03:40:47PI

25 Q. Did you have any contact with him? 03:40:51PI

1 A. Yes, we did. We requested President Kabbah that we 03:40:57PI
2 wanted to go and meet with him in the prison in his cell which 03:41:02PI
3 was allowed. 03:41:06PI

4 Q. Did you meet with President Kabbah personally on that 03:41:11PI
5 issue? 03:41:14PI

6 A. Yes, we did. 03:41:14PI

7 Q. Can you recall President Kabbah's response to it. 03:41:15PI

8 A. He said yes, arrangements would be made for you 03:41:18PI
9 and it was made, if I remember well, the same day? 03:41:21PI

10 Q. And did you attend at Pademba Road prison? 03:41:29PI

11 A. Yes, I did. 03:41:38PI

12 Q. Can you explain what happened there? 03:41:38PI

13 A. We got into the cell, which was very dark, and Foday 03:41:40PI
14 Sankoh was lying on a mat on the floor, but as the door was 03:41:45PI
15 opened he got up. Actually he got up and sat and then as it 03:41:52PI
16 became a little clearer, lighter because even us as we went in 03:42:00PI
17 this room was very dark. We couldn't really see very well but 03:42:08PI
18 us, we did, and we introduced ourselves. Who we were, what our 03:42:12PI
19 mission was and we had a conversation with him. 03:42:18PI

20 Q. And can you recall the substance or detail of the 03:42:20PI
21 conversation? 03:42:29PI

22 A. Yes, the leader of our delegation which was the 03:42:29PI
23 minister for our Defence put it very clear to him the reason why 03:42:33PI
24 we wanted to see him or meet with him. The first one was of 03:42:38PI
25 course we expressed our disgust or he expressed our governments 03:42:42PI

1 disgust at the way in which our troops were treated by the RUF, 03:42:46PI
2 taken hostage, peace keepers, some had been killed. We don't 03:42:54PI
3 even know where the bodies are and the second one was asking him 03:42:59PI
4 whether he was still in control of the RUF and if he was, we 03:43:10PI
5 wanted him to order the release of the peace keepers. We did 03:43:14PI
6 not only ask for the release of Kenyan peace keepers if I 03:43:20PI
7 remember very well the minister stated that all peace keepers 03:43:24PI
8 should be released. 03:43:28PI

9 Q. Can you recall Foday Sankoh's response? 03:43:29PI

10 A. He indicated that he was still the leader of RUF but 03:43:34PI
11 as we could see he was no longer in control because he's 03:43:40PI
12 incarcerated in his cell, and his freedom is in the hand of 03:43:44PI
13 President Kabbah and if we could talk to President Kabbah to 03:43:55PI
14 release him he would get in touch with his commanders on the 03:43:59PI
15 ground to make sure that all peace keepers are released. 03:44:04PI

16 Q. Did you form an impression as to his sincerity? 03:44:10PI

17 A. I was a little amazed at his reactions and I don't 03:44:16PI
18 know whether because he had been in this dark cell for so long 03:44:26PI
19 but he didn't look to me as if he would probably go through with 03:44:35PI
20 what he was indicating that he would do. I may be wrong, but 03:44:42PI
21 that was my impression of him. 03:44:48PI

22 Q. Thank you. 03:44:51PI

23 PRESIDING JUDGE: That he would not -- you mean that he 03:44:54PI
24 would not fulfill his engagement to have the hostages released. 03:45:03PI

25 THE WITNESS: That was my fear. 03:45:09PI

1 PRESIDING JUDGE: You had that impression. 03:45:13PI

2 THE WITNESS: That was my fear. That was my fear, Your 03:45:16PI

3 Lordship. Maybe he would, maybe he wouldn't. I don't know. 03:45:19PI

4 That was my fear. I wasn't sure. It could only be tested if he 03:45:22PI

5 was released and he made it possible for them to be released or 03:45:26PI

6 not. 03:45:33PI

7 PRESIDING JUDGE: Thank you. 03:45:35PI

8 MR JORDASH: 03:45:37PI

9 Q. On this same trip was there any further contact or 03:45:37PI

10 communication with President Kabbah by the delegation? 03:45:41PI

11 A. Yes, after that we went back and saw President Kabbah 03:45:44PI

12 and thanked him for facilitating our mission because we were 03:45:49PI

13 here for I think about ten days we were, you know, here for 03:46:07PI

14 about ten days. So now our final day we went back and thanked 03:46:07PI

15 him and we wished him well. 03:46:08PI

16 Q. Was there any -- if you recall -- further conversation 03:46:11PI

17 with President Kabbah as to the continued incarceration of Foday 03:46:23PI

18 Sankoh? 03:46:30PI

19 A. No. Because we were not going to plead for Foday 03:46:30PI

20 Sankoh to be released. Ours was if we wanted our hostages to be 03:46:39PI

21 released. That's it. 03:46:46PI

22 Q. Thank you. During this same trip to Sierra Leone, did 03:46:47PI

23 you come across General Jetly? 03:46:54PI

24 A. Yes, in fact General Jetly was the first one we met if 03:47:01PI

25 I remember and he briefed us at the Mammy Yoko headquarters, of 03:47:07PI

1 UNAMSIL on the happenings during the hostage taking and there 03:47:15PI
2 after. 03:47:24PI

3 Q. Did you receive any information on this trip 03:47:24PI
4 concerning General Jetly's relationship with Foday Sankoh or the 03:47:29PI
5 RUF? 03:47:33PI

6 A. Yes, I did. First of all, during General Jetly's 03:47:33PI
7 briefing to us, it was clear to us that he had a rather strain 03:47:46PI
8 relationship with Foday Sankoh because he stated that Foday 03:47:52PI
9 Sankoh was a liar and had caused all the problems which brought 03:47:56PI
10 the debunk and subsequent hostage taking, he believed. That's 03:48:06PI
11 what he told us and then we also had another meeting with the 03:48:17PI
12 SRSG because our briefing by Jetly was Jetly alone and the 03:48:23PI
13 briefing by the SRSG Adeniji was also with and Adeniji alone and 03:48:33PI
14 I think there may have been one or two of his own political 03:48:44PI
15 staff there but I remember. So again, during our discussions 03:48:49PI
16 with the SRSG, the SRSG more or less confirmed a strange 03:48:53PI
17 relationship between the force commander and the leadership of 03:49:07PI
18 the RUF. 03:49:11PI

19 Q. Thank you. Now following the completion of this 03:49:11PI
20 mission, when was it that you next came to Sierra Leone -- 03:49:22PI

21 A. I came back and I hope I'm not mixing the two 03:49:31PI
22 Liberia and here but I came back late 2000 when I had now been 03:49:37PI
23 named the next force commander of UNAMSIL. 03:49:42PI

24 Q. And can you recall the purpose of that particular 03:49:47PI
25 trip? 03:49:53PI

1 A. I think the first time was the like a reki [sic] a 03:49:53PI
2 very quick reki. After I had reported to New York to be briefed 03:49:57PI
3 in New York about my next assignment which was to be the force 03:50:04PI
4 commander. 03:50:09PI
5 03:50:12PI
6 Q. After this trip did you return again? 03:50:20PI
7 A. Yes. I returned to come over, to take over my duties 03:50:24PI
8 of the force commander. 03:50:28PI
9 Q. Would this be late 2000? 03:50:29PI
10 A. Yes. Yes. November, I think, November. 03:50:31PI
11 Q. Upon arrival did you receive or undertake any 03:50:35PI
12 briefings? 03:50:39PI
13 A. Yes, when I arrived, of course, I wanted a full 03:50:39PI
14 briefing. I requested for a full briefing by the acting force 03:50:43PI
15 commander, my Chief of staff and my chief military observer and 03:50:48PI
16 of course the SRSG. Those were the key people I wanted to have 03:50:55PI
17 a briefing from so that I would be in the picture of -- as the 03:51:01PI
18 status of peace process and what had happened since I was last 03:51:05PI
19 here. 03:51:14PI
20 Q. The briefing took place in which location? 03:51:19PI
21 A. The briefing took place in Mammy Yoko UNAMSIL 03:51:22PI
22 headquarters. Most of them were done in the briefing room and I 03:51:27PI
23 think all of them were done in the briefing room in Mammy Yoko. 03:51:31PI
24 Q. In that first week did you travel outside to Freetown? 03:51:36PI
25 A. Yes. I arrived here, if I remember well on a Saturday 03:51:39PI

1 and the following day I went out, you know, to begin what 03:51:44PI
2 transpired as a two-week familiarisation visit of my own, to 03:51:57PI
3 visit to all my troops wherever they were deployed throughout 03:52:01PI
4 Sierra Leone. 03:52:06PI

5 Q. Were you in contact with the RUF leadership when you 03:52:11PI
6 first arrived? 03:52:16PI

7 A. No. 03:52:16PI

8 Q. Was there a reason for that? 03:52:17PI

9 A. Because UNAMSIL after that time, I learned they had 03:52:18PI
10 cut any direct communication with RUF after the May 2000 03:52:23PI
11 activities. 03:52:35PI

12 Q. Do you know if that had been advertent or inadvertent? 03:52:35PI

13 A. I think it was a decision which was taken at the 03:52:44PI
14 UNAMSIL's leadership. 03:52:47PI

15 Q. Were you able to ascertain the reasons for that. 03:52:49PI

16 A. No, I didn't. But I think nobody wanted to get in 03:52:59PI
17 touch with the RUF. Because I asked reasons why but nobody 03:53:01PI
18 really gave me any good reasons. 03:53:05PI

19 Q. Was this something that concerned you? 03:53:14PI

20 A. Yes, it did concern me as a peace keeper especially as 03:53:18PI
21 coming here to be the force commander, I felt it was my duty to 03:53:22PI
22 make contact with all the parties to the conflict which included 03:53:33PI
23 CDF, RUF and SLA and also the government, so that I would know 03:53:38PI
24 where we are and where we are going as far as this peace keeping 03:53:43PI
25 is concerned. 03:53:49PI

1 Q. Concerning your objectives did you identify any 03:53:49PI
2 immediate priorities? 03:54:01PI

3 A. Yes, I did. My immediate priorities which I then 03:54:07PI
4 discussed with my boss The SRSG, was that the first thing we 03:54:11PI
5 need to do is re-establish contact with the RUF and the CDF. It 03:54:15PI
6 was felt that with the CDF we had no problem because they were 03:54:19PI
7 under the government controlled area, supposed to be government 03:54:23PI
8 controlled areas, so we had no problem, but the RUF, we did not 03:54:28PI
9 have contact and they were in the north part of the country. So 03:54:33PI
10 I said this is the first priority for us to do, so that we know 03:54:37PI
11 what the RUF is doing out there. If we are going to eventually 03:54:41PI
12 reunify the country because that was our major priority to 03:54:47PI
13 reunify the country under the government leadership. Then we 03:54:53PI
14 have to get the RUF on board. That was my first priority. The 03:54:58PI
15 second priority was of course to deploy -- deploy my troops you 03:55:05PI
16 know throughout Sierra Leone but prior to that I had to 03:55:09PI
17 restructure my force because my force at that time when I came 03:55:15PI
18 on board it was a force which was disjointed. A large number of 03:55:19PI
19 the troops were going back, two contingents -- very large 03:55:29PI
20 contingents were going back to their country. 03:55:33PI

21 Q. Did you receive any information about Issa Sesay at 03:55:41PI
22 this time? 03:55:46PI

23 A. Yes, I was told that the RUF -- when I told the SRSG 03:55:46PI
24 that I believe that the first priority for is to get -- for me 03:55:53PI
25 is to open the channel of communication between the RUF. There 03:55:57PI

1 is a leader an interim leader actually the SRSG said the leader, 03:56:04PI
2 leader of the RUF was Issa Sesay. 03:56:11PI

3 Q. Did the SRSG provide any information as to how it was 03:56:17PI
4 Issa Sesay became the leader? 03:56:24PI

5 A. Yes. He told me that Issa Sesay was actually hand 03:56:27PI
6 picked by the ECOWAS leaders, after special meeting had taken 03:56:36PI
7 place in Abuja. Since the ECOWAS had decided that Foday Sankoh 03:56:44PI
8 was no longer reliable and could not be entrusted again with the 03:56:49PI
9 leadership of RUF. 03:56:55PI

10 Q. Was anything said about why Issa Sesay had been hand 03:56:56PI
11 picked? 03:57:05PI

12 A. Yes. They said that looking through the leaders after 03:57:05PI
13 Foday Sankoh of the RUF senior leaders of the RUF they felt that 03:57:14PI
14 Issa Sesay met their criteria of being a moderate and somebody 03:57:19PI
15 who they could count on to cooperate in the peace process and 03:57:25PI
16 also I think that was also their key, that since he had been, I 03:57:31PI
17 think, the field commander, he would be able to ensure 03:57:38PI
18 disarmament and bring the combatants to disarmament. 03:57:47PI

19 Q. Was anything said at that time or information provided 03:57:56PI
20 concerning Issa Sesay and civilians? 03:57:59PI

21 A. His what? 03:58:07PI

22 Q. Issa Sesay and civilians? Issa Sesay's attitude? 03:58:08PI

23 A. I think what they said was that he was a moderate. I 03:58:13PI
24 didn't get that specific you know him and civilians. 03:58:20PI

25 Q. Were you briefed about any other commanders? 03:58:32PI

1 A. No, not really. Not really. Because the SRSG didn't 03:58:37PI
2 have much information about the command structure. I think he 03:58:40PI
3 wanted me to go and find out for myself. 03:58:44PI

4 JUDGE BOUTET: Mr Jordash, would you mind repeating your 03:58:47PI
5 last question. I didn't get the -- neither the question or the 03:58:49PI
6 answer. I apologise for that. Sorry. 03:58:52PI

7 MR JORDASH: Certainly the question was did the general 03:58:55PI
8 receive any briefings about other commanders. 03:59:01PI

9 THE WITNESS: The RUF commanders, no. 03:59:05PI

10 MR JORDASH: 03:59:16PI

11 Q. Was any contact made with Issa Sesay? 03:59:17PI

12 A. Yes. 03:59:19PI

13 Q. Do you know how that came about? 03:59:19PI

14 A. I -- after my briefings, getting all my briefings and 03:59:24PI
15 getting the nod or the go ahead by the SRSG that I should, we 03:59:30PI
16 should re-establish communication between us and the RUF, I 03:59:36PI
17 directed my chief military observer, General Chizuzi, to get on 03:59:43PI
18 with it and to make sure that he arranges for a meeting between 03:59:52PI
19 me and Issa Sesay as soon as possible. 03:59:57PI

20 Q. Did a meeting take place. 04:00:00PI

21 A. Yes, a meeting took place. In fact two. One after 04:00:03PI
22 the other. 04:00:06PI

23 Q. Could I ask the witness please to be given copies of 04:00:11PI
24 Defence Exhibits 167, Your Honours, pages 2,4,6,17 and 04:00:17PI
25 DIS-Exhibit 195. These have been served into the Court 04:00:26PI

1	Management several days ago.	04:00:33PI
2	JUDGE BOUTET: Pardon, what were the last ones?	04:00:34PI
3	MR JORDASH: DIS-Exhibit 167, Your Honours, page 2,4,6,17.	04:00:35PI
4	And DIS-Exhibit 195, Exhibit page 2,4,6,23.	04:00:43PI
5	PRESIDING JUDGE: Yes, please. Can we be given --	04:01:03PI
6	MR JORDASH: If there's a problem I'll hand my exhibits to	04:01:11PI
7	the General and the General can look at them and talk us through	04:01:14PI
8	them I think.	04:01:19PI
9	MS KAMUZORA: My Lord, I'm trying to find them on the	04:01:26PI
10	record.	04:01:29PI
11	MR HARRISON: Just so that there's no duplication of	04:01:31PI
12	effort, 195 is already an Exhibit in the trial and it's Exhibit	04:01:34PI
13	in the Trial Number 210.	04:01:39PI
14	MR JORDASH: I'm grateful, that's right. I'll just stay	04:01:43PI
15	with that exhibit for the moment and ask the General to have a	04:01:46PI
16	look at that.	04:01:49PI
17	PRESIDING JUDGE: What does the witness have before him is	04:02:49PI
18	it Exhibit 210?	04:02:53PI
19	MR JORDASH: Your Honour, yes.	04:02:56PI
20	PRESIDING JUDGE: Yes.	04:02:58PI
21	MR JORDASH:	04:03:00PI
22	Q. Do you recognise -- does that bring back --	04:03:00PI
23	A. Yes, it brings back.	04:03:03PI
24	Q. Did you receive that?	04:03:05PI
25	A. Yes, I did.	04:03:06PI

1	Q. And did that precede the meeting?	04:03:07PI
2	A. Yes.	04:03:15PI
3	PRESIDING JUDGE: Did that do what, Mr Jordash?	04:03:22PI
4	MR JORDASH: Precede, precede the meeting.	04:03:23PI
5	PRESIDING JUDGE: You mean Exhibit 210.	04:03:25PI
6	MR JORDASH: Yes.	04:03:28PI
7	PRESIDING JUDGE: Preceded the meeting.	04:03:29PI
8	MR JORDASH: Yes.	04:03:32PI
9	JUDGE BOUTET: Would it be possible to have a copy of it	04:03:32PI
10	because my binders, I just check it just to see if I've got it	04:03:36PI
11	there as well. It's not -- we don't have it. 210 is not there.	04:03:38PI
12	MR JORDASH: Certainly. Could I ask that the copy that the	04:03:40PI
13	witness has be handed to Your Honours. Does Your Honour have a	04:03:43PI
14	copy?	04:04:19PI
15	JUDGE BOUTET: Yes, we do.	04:04:19PI
16	MR JORDASH: May I also ask that the witness be given copy	04:04:21PI
17	of DIS-Exhibit 196 and looking at it, it may well have been	04:04:27PI
18	exhibited as well. If anyone could assist me on that.	04:04:36PI
19	PRESIDING JUDGE: You are referring to three documents now.	04:04:38PI
20	MR JORDASH: No.	04:04:41PI
21	PRESIDING JUDGE: There is 167, DIS-Exhibit 167;	04:04:41PI
22	DIS-Exhibit 195 which is a Court Exhibit 210.	04:04:46PI
23	MR JORDASH: Court Exhibit 210.	04:04:50PI
24	PRESIDING JUDGE: Is 195.	04:04:53PI
25	MR JORDASH: Yes. And then --	04:04:54PI

1	PRESIDING JUDGE: You are now adding 196.	04:04:55PI
2	MR JORDASH: 196.	04:04:58PI
3	PRESIDING JUDGE: As Defence Exhibit 196.	04:04:59PI
4	MR JORDASH: Yes.	04:05:02PI
5	Q. Before we get to Defendant's Exhibit 196, could you	04:05:06PI
6	just explain briefly what happened at the meeting?	04:05:13PI
7	A. I arrived at the place of meeting, which was not built	04:05:16PI
8	up area. And Issa Sesay and his colleagues accompanied by what	04:05:25PI
9	I thought was protection party, his own protection party came,	04:05:34PI
10	and we met for the first time. I introduced myself, who I was	04:05:42PI
11	and what my purpose was in Sierra Leone, I explained to him my	04:05:48PI
12	job as a force commander. I also explained to him that my	04:05:56PI
13	responsibility as the force commander would be to ensure that	04:06:03PI
14	our troops, once I have sufficient number of troops, to deploy	04:06:11PI
15	throughout the country which included the so-called RUF area of	04:06:16PI
16	control and the CDF area of control or government area of	04:06:23PI
17	control throughout the ground. In other words, to reunify in	04:06:28PI
18	the country, and I gave him a quick brief on how I intended to	04:06:32PI
19	do this. I remember explaining to him that it may not be	04:06:39PI
20	tomorrow, the deployment will not be tomorrow. It will take a	04:06:45PI
21	little bit of time until I have a sufficient number of troops,	04:06:52PI
22	and once I deploy, it was going to be his responsibility to	04:07:00PI
23	ensure that he withdraws all his troops because I knew that	04:07:03PI
24	through my own information that they had their own combatants	04:07:09PI
25	manning key areas and key roads. So I explained to him that	04:07:15PI

1 once we deploy, we take over all those areas and we will be in 04:07:24PI
2 charge, in control, of all those areas and his combatants will 04:07:31PI
3 no longer man roads, or roadblocks or protect facilities. We 04:07:36PI
4 will do that. And then after that, I asked him whether he 04:07:44PI
5 understood what I was saying and he said he did. I asked him 04:07:51PI
6 whether he was the RUF leader, he said he was interim leader, 04:07:56PI
7 yes. I asked him whether the RUF was committed to the peace 04:08:10PI
8 process, the implementation of the accord which was signed in 04:08:14PI
9 Lome and he said, yes, the RUF was committed they were all 04:08:19PI
10 committed for, you know, peace. And he stated that before I 04:08:24PI
11 deploy, he asked me that, before you deploy your troops, I would 04:08:33PI
12 request you to give me time, so that I can go around all the RUF 04:08:36PI
13 controlled areas and sensitize the -- his commanders and his 04:08:40PI
14 combatants on the necessity for them to cooperate with us in 04:08:48PI
15 carrying out our mandates. And I said, yes, you could go ahead, 04:09:00PI
16 and I said when you are ready let me know. 04:09:07PI

17 Q. Was it clear then or did it become clear later why it 04:09:09PI
18 was he requested such as period of time to sensitize? 04:09:12PI

19 A. Yes, it became clear to me that perhaps there was 04:09:19PI
20 dissenting views amongst his own leadership or command, 04:09:28PI
21 commanders, that was one thing and secondly, I think that as a 04:09:36PI
22 result of what happened in May, Issa was concerned that he 04:09:40PI
23 didn't want to -- a situation to arise again with an UNAMSIL or 04:09:43PI
24 the UN, and he wanted this time around for us to start on an 04:09:50PI
25 even footing because I also explained to him that this time 04:09:58PI

1 around and I remember telling him this time around when I deploy 04:10:04PI
2 my troops, I will deploy troops who will not be taken hostages. 04:10:08PI
3 And you better tell your men and women that we mean business. 04:10:12PI
4 If you are interested in peace as you say you are interested in 04:10:21PI
5 peace, make sure that this message goes loud and clear and he 04:10:26PI
6 was quite happy with that. 04:10:31PI

7 Q. At this time or soon there after, was anything 04:10:32PI
8 mentioned about Foday Sankoh's incarceration? 04:10:37PI

9 A. Yes. I remember not only soon after but it went on 04:10:40PI
10 and on and on every now and then we would meet with various 04:10:48PI
11 leadership of the RUF. They would ask for a -- for us to 04:10:53PI
12 facilitate or the government to facilitate the release of their 04:10:59PI
13 leader, and this eventually appeared to me as if it was coming 04:11:04PI
14 from not each and everyone of them, but some factions within the 04:11:10PI
15 RUF because I later learn that really RUF was not one entity. 04:11:21PI

16 Q. Perhaps you could just give a brief explanation as to 04:11:32PI
17 what you mean by that? 04:11:38PI

18 A. There were faction -- it was an organisation which was 04:11:40PI
19 a very loose organisation. Although, it was RUF and people 04:11:47PI
20 thought RUF was one whole organisation, but I think after the 04:11:51PI
21 going away of Foday Sankoh, in other words, incarceration of 04:11:59PI
22 Foday Sankoh, it splintered into various groups. There were 04:12:03PI
23 those who supported Foday Sankoh, they are those who did not 04:12:10PI
24 want to hear of anything other than Foday Sankoh. They would 04:12:13PI
25 only go with what Foday Sankoh stated or said or wanted, but 04:12:17PI

1 there was another group, and I believe this was the group that 04:12:22PI
2 Issa Sesay aligned himself with, which was for peace. Although, 04:12:27PI
3 even Issa Sesay himself did not literally said Foday Sankoh is 04:12:35PI
4 no more, and I remember him asking me, you know, me on one or 04:12:44PI
5 two other occasions, you know, that they would want to see Foday 04:12:48PI
6 Sankoh eventually released, but he was on one side, the side 04:12:55PI
7 that wanted the peace process to move on. 04:13:00PI

8 Q. Could I ask for you to have a look at a document. 04:13:02PI
9 It's Defence Exhibit 196. Your Honours, page 2,4,6, 26. Again, 04:13:09PI
10 the General could have my copy. 04:13:22PI

11 PRESIDING JUDGE: That's Defence Exhibit 196. 04:13:28PI

12 MR JORDASH: Yes, I'm grateful to one -- 04:13:32PI

13 PRESIDING JUDGE: Is it -- is it already a court Exhibit? 04:13:34PI

14 MR JORDASH: It is Court Exhibit 211. 04:13:37PI

15 PRESIDING JUDGE: Court Exhibit 291? 04:13:54PI

16 MR JORDASH: 211. 04:13:58PI

17 PRESIDING JUDGE: 211. Sorry. 04:13:59PI

18 MR JORDASH: Yes. 04:14:01PI

19 Q. I'm not sure if you've seen that recently or not, 04:14:07PI
20 General? 04:14:11PI

21 A. Yes, I saw it. 04:14:11PI

22 Q. Yes. 04:14:13PI

23 A. Yeah. 04:14:13PI

24 Q. Are you able to offer any explanation concerning what 04:14:14PI
25 Issa Sesay was informing you about concerning the website? 04:14:28PI

1 A. Yeah, if I remember well, there was information which 04:14:34PI
2 came out through the website or press or something like that 04:14:44PI
3 which stated that -- which implied that the RUF, despite what 04:14:51PI
4 they had stated earlier on, was not going to move on in and tell 04:15:00PI
5 them with what they had agreed between us until when -- until 04:15:08PI
6 Foday Sankoh is released. And I think this is what this was 04:15:16PI
7 trying to clarify that, that was not the case. 04:15:25PI

8 Q. Thank you. After that first meeting, when was your 04:15:27PI
9 next contact with Mr Sesay; do you recall? 04:15:44PI

10 A. After that meeting, I made it clear to my chief 04:15:53PI
11 military observer and also Issa Sesay, that I would like us to 04:16:10PI
12 continue to be in constant touch through telephonic 04:16:10PI
13 communication as and when necessary me and him or my chief 04:16:10PI
14 military observer General Chizuzi and him through his 04:16:21PI
15 headquarters, his staff. So there were several such contacts 04:16:26PI
16 and also meetings arranged thereafter to plan and agree on 04:16:34PI
17 deployment so we had several meetings thereafter or contacts. 04:16:45PI

18 Q. I should have probably asked you this: Did you come 04:16:54PI
19 across someone called Muckson Sesay? 04:16:58PI

20 A. The name rings a bell but I can't very well remember, 04:17:02PI
21 you know. 04:17:05PI

22 Q. Okay. Did you have personal contact? 04:17:06PI

23 PRESIDING JUDGE: What Sesay? 04:17:08PI

24 MR JORDASH: Muckson. M U C K S O N. 04:17:10PI

25 PRESIDING JUDGE: And the General says he doesn't remember. 04:17:23PI

1 MR JORDASH: Yes. 04:17:27PI

2 Q. Did you have -- were you after this first meeting, in 04:17:27PI
3 direct contact with Mr Sesay? 04:17:34PI

4 A. Yes. He gave me his cell -- it was not cell phone I 04:17:34PI
5 think it was satellite phone number and I also gave him my 04:17:43PI
6 contact, you know, number. So as and when I wanted to talk to 04:17:50PI
7 him I would call him or he would call me, yes. 04:17:55PI

8 Q. Could I just -- you may have answered this but I want 04:17:58PI
9 to be clear on the record, as far as you're aware, this the 04:18:01PI
10 first time anyone had direct communication with Sesay from 04:18:12PI
11 UNAMSIL since UNAMSIL abduction? 04:18:16PI

12 A. I believe so because during my briefings just before I 04:18:20PI
13 took over command it was made quite clear to me that we were not 04:18:29PI
14 in contact with that headquarters. 04:18:34PI

15 Q. Thank you. In these early meetings and communications 04:18:37PI
16 did you form an impression about Mr Sesay? 04:18:42PI

17 A. Yes, I did. 04:18:44PI

18 Q. Could you share with us? 04:18:45PI

19 A. Yes, I formed an opinion that here was a young man who 04:18:55PI
20 was propelled into leadership both political and military 04:19:00PI
21 leadership with perhaps very little experience in political 04:19:06PI
22 leadership. He may have been excellent, I don't know, or a good 04:19:12PI
23 field commander, but in my view, he didn't have very much 04:19:17PI
24 political acumen. He was -- he looked to me as a very honest, 04:19:32PI
25 he knew what he wanted to do and when I talked to him he showed 04:19:37PI

1 respect to me as an elder. And I told him that I would also 04:19:43PI
2 reciprocate if he did what I expected him to do, which was to 04:19:53PI
3 cooperate with us in the peace process right up to the end of 04:19:59PI
4 it. 04:20:08PI

5 Q. And in these -- this early meeting and the -- 04:20:09PI
6 thereafter communications was the issue of civilians discussed? 04:20:15PI

7 A. Yes. In fact, even in the first meeting when I asked 04:20:21PI
8 Issa Sesay whether he had any questions, you know, to ask me 04:20:29PI
9 pose to me, one of them was his concern for the plight of the 04:20:33PI
10 civilian population in the RUF controlled area. He complained 04:20:40PI
11 that the civilians in the CDF controlled areas or government 04:20:46PI
12 controlled areas had access to humanitarian assistance yet the 04:20:52PI
13 civilians in RUF controlled areas were denied such access and he 04:20:59PI
14 was concerned that the UN should do something about it. 04:21:05PI

15 Q. Do you know if that came to pass, that the UN did 04:21:09PI
16 something? 04:21:19PI

17 A. Exactly. I promised him that as and when I get back 04:21:20PI
18 to Freetown, I will pass this information to my boss the SRSG 04:21:24PI
19 and humanitarian, you know, agencies, but I cautioned him that 04:21:33PI
20 unless they cooperate and open the roads leading into those 04:21:40PI
21 areas then of course, it might be difficult for the civilians, 04:21:45PI
22 you know, to be given access to humanitarian or relief goods 04:21:49PI
23 which he said as soon as we are ready to deploy he will be 04:22:00PI
24 willing to let the relief agencies come back. 04:22:11PI

25 Q. And after you made it clear that cooperation was 04:22:18PI

1 necessary in order to achieve those aims, did you obtain 04:22:20PI
2 cooperation from Mr Sesay? 04:22:25PI
3 A. Yes, we did. 04:22:26PI
4 Q. You mentioned the RUF not being -- I'm paraphrasing 04:22:28PI
5 but not being a unified whole? 04:22:39PI
6 A. Yeah. 04:22:42PI
7 Q. Did you come across Gibril Massaquoi? 04:22:45PI
8 A. Yes, I did. 04:22:49PI
9 Q. Were you in these early days into 2001, able to meet 04:22:51PI
10 or receive information about him? 04:22:55PI
11 A. Yes, we met -- I met with him several occasions. 04:22:58PI
12 Q. What was your impression about him? 04:23:03PI
13 A. Gibril Massaquoi in my own opinion was claiming and 04:23:09PI
14 that not only Gibril but several of the RUF leadership that he 04:23:15PI
15 was a military man, but he played more of a politician role in 04:23:22PI
16 the RUF. 04:23:30PI
17 Q. And did you meet him? 04:23:32PI
18 A. I did. 04:23:33PI
19 Q. And did he express any views concerning Issa Sesay and 04:23:35PI
20 what he was trying to do? 04:23:42PI
21 A. He expressed two distinct views, one about Foday 04:23:43PI
22 Sankoh and it looked to me or it appeared to me and I was 04:23:53PI
23 convinced that it was his view that he was one of those who are 04:24:00PI
24 very, very strong on the RUF will not cooperate with us until 04:24:04PI
25 the leader is released Foday Sankoh because he stated that to 04:24:13PI

1 me. And the second one, he also showed sometimes even direct 04:24:17PI
2 defiance of any instructions that Issa Sesay gave to his to 04:24:30PI
3 organisation which would facilitate to our own deployment for 04:24:46PI
4 example, our military observers, redeploying our military 04:24:52PI
5 observers and our own troops and even when the time for 04:24:54PI
6 disarmament, you know, kicked off, he was not very happy with 04:25:00PI
7 the disarmament because it was going to be undertaken without 04:25:05PI
8 the release of Foday Sankoh. 04:25:13PI

9 Q. Excuse me a moment. Did you come across Mike Lamin? 04:25:14PI

10 A. Yes, I did. 04:25:22PI

11 Q. What kind of attitude were you able to discern from 04:25:24PI
12 him? 04:25:30PI

13 A. Mike Lamin was the same, like Massaquoi. Very hard 04:25:30PI
14 liner, I would say. 04:25:38PI

15 Q. Were you able to discern Mike Lamin's view of Mr 04:25:40PI
16 Sesay? 04:25:53PI

17 A. I don't think he got on very well with Issa Sesay, and 04:25:53PI
18 that I, myself, noted for example, when we had a meeting when he 04:25:59PI
19 was there and Issa Sesay was there and I could see, you know, 04:26:07PI
20 the way he treated Issa Sesay. He did not respect his 04:26:11PI
21 leadership. 04:26:16PI

22 Q. Thank you. Can I take you now to 2001 and April 2001. 04:26:22PI
23 Did you receive a call from a -- or any information from 04:26:34PI
24 Brigadier General Allie Hassan? 04:26:45PI

25 A. Yes, I did. 04:26:47PI

1 Q. Can you recall what that was about at that time? 04:26:48PI

2 A. Yes, he called me. I don't want to use the word 04:26:50PI

3 excited but he was concerned that he had received instructions 04:26:57PI

4 or information from Issa Sesay who was -- 04:27:01PI

5 PRESIDING JUDGE: Who called you. Who was General Allie 04:27:04PI

6 Hassan. 04:27:07PI

7 A. General Allie Hassan was my sector commander in 04:27:07PI

8 Magburaka, and he was the one who had more troops under his 04:27:12PI

9 command deployed in RUF controlled areas, at that time. 04:27:23PI

10 PRESIDING JUDGE: Thank you. General I just wanted to know 04:27:25PI

11 who he was. 04:27:27PI

12 THE WITNESS: Yes, and he stated that Issa Sesay told him 04:27:28PI

13 that CDF contingent, large contingent of CDF had crossed the 04:27:37PI

14 border from Guinea and they were heading to Kono with a view of 04:27:45PI

15 course, you know, throwing out the RUF from Kono and as they 04:27:50PI

16 were doing this they were displacing or there was a large 04:27:57PI

17 displacement of civilians in there way coming home into Kono 04:28:07PI

18 from all directions. 04:28:12PI

19 Q. And was Issa Sesay involved in this in any sense? 04:28:15PI

20 A. He was already there in Kono himself, trying to read 04:28:28PI

21 or decide on what to do. 04:28:32PI

22 Q. And did Issa Sesay make any requests from -- 04:28:35PI

23 A. He did and he asked me to deploy the UN or UNAMSIL 04:28:38PI

24 troops now. He was ready to hand over Kono to the UN to avoid a 04:28:47PI

25 blood bath between CDF and the RUF. 04:28:54PI

1 Q. Did Mr Sesay at that time state any fears concerning 04:29:03PI
2 civilians? 04:29:09PI

3 A. Yes, he said that already as the CDF were converging 04:29:09PI
4 on to Kono there was a large number of civilians who had been 04:29:16PI
5 killed, some had been, you know, displaced and they were heading 04:29:20PI
6 -- they were heading to the town which is Kono and they were not 04:29:29PI
7 able to, you know, be able to protect all of those people or 04:29:34PI
8 give them accommodation and food and whatever. 04:29:38PI

9 Q. At any time in this period was there any contact 04:29:41PI
10 between you and Foday Sankoh? 04:29:58PI

11 A. I did have one or two contacts with Foday Sankoh 04:29:59PI
12 thereafter. Especially, you know, as -- before disarmament, 04:30:03PI
13 before disarmament began I think when he was transferred into 04:30:13PI
14 our hospital Choithram Hospital which was under our you know 04:30:20PI
15 control. It was a military hospital mand by our medical -- 04:30:28PI
16 military medical team. 04:30:35PI

17 Q. Were you able to speak to him? 04:30:43PI

18 A. I did speak to him. 04:30:45PI

19 Q. Was he able to respond in any way? 04:30:46PI

20 A. Yeah. 04:30:48PI

21 Q. In most cases whenever I went to see, you know, not 04:30:48PI
22 only him, I used to go and visit the hospital to see our own 04:30:52PI
23 military personnel, who were sick in the hospital. I would go 04:31:10PI
24 and see Foday Sankoh, also. He would respond to me. He knew 04:31:10PI
25 who I was. 04:31:10PI

1 Q. Did he comment on disarmament at any time? 04:31:17PI

2 A. He wasn't happy about disarmament. He wasn't happy 04:31:20PI
3 about disarmament. 04:31:24PI

4 Q. Are you able, just briefly, to describe what the Abuja 04:31:25PI
5 Agreement or meetings were about? 04:31:31PI

6 A. I think the Abuja Agreement, the basic tenet of the 04:31:33PI
7 Abuja Agreement was to re-- as I think Ambassador Adeniji had 04:31:48PI
8 stated to re-- bring the RUF back on to the fold, the RUF 04:31:49PI
9 leadership back on to the fold as a partner to implement the 04:31:49PI
10 Peace Accord, the original peace accord and also to set out the 04:32:10PI
11 time frame for disarmament and demobilization. 04:32:16PI

12 Q. Do you recall when that direct Abuja process began? 04:32:20PI

13 A. I think Abuja was in December, if I remember, I think 04:32:24PI
14 it was in December 2000. 04:32:27PI

15 PRESIDING JUDGE: General, if I may know, when was some 04:32:31PI
16 evidence that Sankoh was detained in Abuja was that at -- 04:32:37PI

17 THE WITNESS: I was not here. 04:32:44PI

18 PRESIDING JUDGE: You were not here yet. 04:32:45PI

19 THE WITNESS: I was not here yet, Your Lordship. 04:32:47PI

20 PRESIDING JUDGE: Thank you. 04:32:50PI

21 THE WITNESS: Yeah. 04:32:51PI

22 PRESIDING JUDGE: Nothing in your records, you know, gave 04:32:52PI
23 you a clue as to why he was detained. 04:32:54PI

24 THE WITNESS: I saw some of those records then because some 04:32:58PI
25 of my readings was to look back what had happened I saw some of 04:33:01PI

1 those. I think his incarceration there was to send a signal to 04:33:05PI
2 him, that he better cooperate with ECOWAS. 04:33:12PI

3 Q. And following the Abuja Agreements, were there 04:33:18PI
4 meetings arranged? Tri-parti meetings? 04:33:23PI

5 A. Yes, in fact, immediately after the Abuja Tri-parti 04:33:27PI
6 meetings were arranged between UNAMSIL, RUF and the government 04:33:36PI
7 of Sierra Leone. 04:33:43PI

8 Q. And during this whole process of the Abuja and the 04:33:45PI
9 consequential meetings, were you in contact with Mr Sesay? 04:33:53PI

10 A. Oh, yes, I was. 04:33:57PI

11 Q. How was he conducting himself in relation to the 04:33:58PI
12 commitments made? 04:34:02PI

13 A. He was amnuable to the agreement in Abuja because I 04:34:04PI
14 believe he attended the Abuja meeting. I did not, but I 04:34:09PI
15 arranged for them to go there but he was amunable to the Abuja 04:34:13PI
16 Agreement and he stated that he was committed to the peace 04:34:26PI
17 process and the organisation which he was leading which was RUF 04:34:28PI
18 would deliver on the agreement. 04:34:32PI

19 Q. And let me take you forward to September 2001, was 04:34:34PI
20 anything happening around this time in Kono concerning 04:34:45PI
21 disarmament? 04:34:49PI

22 A. Yes, that is as a result of the movement which the CDF 04:34:59PI
23 made from Guinea towards Kono and in order to avert a potential 04:35:04PI
24 danger for the entire peace process and disarmament, we decided 04:35:18PI
25 three, you know, groups decided we would then disarm Kono 04:35:27PI

1 immediately after that, or do a symbolic disarmament of those 04:35:38PI
2 CDF troops who had come into Kono while we were waiting for, the 04:35:43PI
3 major disarmament to take place. So I attended that meeting and 04:35:48PI
4 of course it was agreed, Issa was there and I think even the 04:35:53PI
5 late chief Hinga Norman was there. 04:35:56PI

6 PRESIDING JUDGE: Where was the meeting, General. 04:36:02PI

7 THE WITNESS: In Kono. 04:36:05PI

8 PRESIDING JUDGE: In Kono. 04:36:06PI

9 THE WITNESS: In Kono. Then it was followed by another 04:36:08PI
10 meeting which I think the heads of state, ECOWAS heads of state, 04:36:11PI
11 you know, attended in Kono. 04:36:16PI

12 MR JORDASH: 04:36:27PI

13 Q. Were you present when Kono was finally disarmed? 04:36:28PI

14 A. The disarmament of Kono. No, I don't think so. I 04:36:32PI
15 don't think so. I think I was there when the initial 04:36:38PI
16 disarmament took place I was there. 04:36:45PI

17 Q. Sorry. That's my confusion. That's what I was 04:36:47PI
18 referring to? 04:36:50PI

19 A. Yeah, I was there. I was there. 04:36:51PI

20 Q. Who else was there? 04:36:52PI

21 A. My deputy Mattin Naguay was there, Issa Sesay was 04:36:54PI
22 there, I think even the late chief Norman Hinga was there, there 04:37:00PI
23 were several other dignitaries, and the paramount chiefs were 04:37:04PI
24 there. 04:37:14PI

25 Q. Was Mr Sesay there? 04:37:14PI

1 A. Yes, Sesay was there. I think -- I can't remember 04:37:15PI
2 whether Morris Kallon was also there but there was several 04:37:20PI
3 dignitaries or people from there -- the RUF side because it was 04:37:24PI
4 a big thing. 04:37:29PI

5 Q. Do you recall approximately when this was? 04:37:41PI

6 A. That could have been in September. 04:37:43PI

7 Q. Of 2001? 04:37:45PI

8 A. Yeah, yeah. 04:37:50PI

9 Q. Did Mr Sesay speak at the? 04:37:50PI

10 A. Oh, yes, he did. 04:37:52PI

11 Q. What kind of speech did he give? 04:37:53PI

12 A. Sesay made a very strong impassioned speech stating 04:37:55PI
13 their commitment to the entire peace process and that's why they 04:38:05PI
14 were going to ensure that Kono is disarmed because until that 04:38:09PI
15 time very few people believed that Kono will ever be disarmed. 04:38:17PI
16 In other words, the RUF would let go Kono. It was in the press. 04:38:23PI
17 I myself was challenged, by people that I was not going to be 04:38:32PI
18 able to make the RUF or, you know, disarm in Kono. So Issa 04:38:43PI
19 reiterated their commitment to this and showed, you know, told, 04:38:50PI
20 you know, his combatants to ensure that they all disarm in Kono 04:38:56PI
21 and throughout the country. 04:39:03PI

22 Q. And if you were asked as I'm asking to assess the 04:39:09PI
23 importance of Issa Sesay to this process what would you say? 04:39:19PI

24 A. It was Sesay is what? Could you repeat it. 04:39:24PI

25 Q. Yes. Could you assess Mr Sesay's role in the 04:39:28PI

1 importance or otherwise of that role to this process? 04:39:31PI

2 A. I think he was key to the process right through. I 04:39:35PI

3 think he was. 04:39:47PI

4 Q. Now, after this stage of disarmament, were there any 04:39:47PI

5 visits by leaders to Kono? 04:39:58PI

6 A. Yes, I think that's the one I alluded to earlier on. 04:40:04PI

7 Q. The ECOWAS leaders? 04:40:08PI

8 A. The ECOWAS leadership in December, I think, because I 04:40:11PI

9 was away on leave. I remember that. 04:40:15PI

10 Q. And were you briefed on the meeting? 04:40:17PI

11 A. Yes, I was briefed when I came back by my deputy 04:40:20PI

12 General -- 04:40:23PI

13 PRESIDING JUDGE: December 2001. 04:40:24PI

14 THE WITNESS: Yes, sir. General Martin Naquay. He briefed 04:40:25PI

15 me on what transpired. 04:40:34PI

16 MR JORDASH: 04:40:36PI

17 Q. And briefly what did he brief you, can you recollect? 04:40:36PI

18 A. He briefed me that the ECOWAS leaders, reiterated, you 04:40:41PI

19 know, their commitment to ensuring that the peace process was, 04:40:48PI

20 you know, which was in their view up to that time was moving in 04:40:55PI

21 the right direction would be completed in, you know, as was 04:41:02PI

22 envisaged. They reiterated their commitment and satisfaction 04:41:08PI

23 in the leadership, then leadership of RUF. They, I think -- not 04:41:17PI

24 I think. They congratulated Issa for doing what he had done up 04:41:24PI

25 to that time to ensure that Kono was disarmed and being handed 04:41:34PI

1 back to the government would be handed back to the government. 04:41:43PI

2 Q. Thank you. Your Honours, I noticed the time. I'm 04:41:45PI

3 happy to continue. I'm about to deal with a different subject, 04:41:51PI

4 but I'm happy to continue. 04:42:01PI

5 PRESIDING JUDGE: The Chamber will recess for a few minutes 04:43:05PI

6 and we'll resume to continue with the examination-in-chief of 04:43:20PI

7 the General. We will rise, please. 04:43:24PI

8 [Break taken at 4.36 p.m.] 04:43:51PI

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[RUF10FEB08D_LK] 05:51:31PI

15 PRESIDING JUDGE: Yes, Mr Harrison. 05:51:31PI

16 MR HARRISON: I'm sorry to interrupt. The Prosecution has 05:51:31PI

17 noticed that before the questioning began the General was 05:51:31PI

18 looking at some documents, and again during the break, just 05:51:31PI

19 before the Trial Chamber came in, he was again looking at some 05:51:31PI

20 documents. And I realize they maybe personal documents or 05:51:31PI

21 completely unrelated but, if they are related to the trial and 05:51:31PI

22 particularly his statements the Prosecution is very concerned 05:51:31PI

23 that during the testimony notes are being looked at. 05:51:31PI

24 PRESIDING JUDGE: Yes, Mr Jordash. 05:51:31PI

25 MR JORDASH: I don't know what the General is looking at, 05:51:31PI

1 I'm presuming his own personal notes but I don't know. 05:51:31PI

2 PRESIDING JUDGE: Yes, general? 05:51:32PI

3 THE WITNESS: My Lord, this is my personal notes to remind 05:51:32PI

4 me of a particular date or something like that. 05:51:32PI

5 JUDGE BOUTET: Yeah, but, are they notes that you're using 05:51:32PI

6 to give evidence today? 05:51:32PI

7 THE WITNESS: No. 05:51:32PI

8 JUDGE BOUTET: Have you looked at them this morning or 05:51:32PI

9 today? 05:51:32PI

10 THE WITNESS: This one? 05:51:32PI

11 JUDGE BOUTET: I don't know, the notes that you have. You 05:51:32PI

12 say these are my personal notes. 05:51:32PI

13 THE WITNESS: Yes. 05:51:32PI

14 JUDGE BOUTET: I use them to look at some dates and so on, 05:51:32PI

15 these are the documents you have in front of you. 05:51:32PI

16 THE WITNESS: Yeah, these notes. 05:51:32PI

17 JUDGE BOUTET: So my question to you was have you been 05:51:32PI

18 using them today to give evidence. 05:51:32PI

19 THE WITNESS: No. Those are the notes that I produce or 05:51:32PI

20 with the -- 05:51:32PI

21 JUDGE BOUTET: With the Defence. 05:51:32PI

22 THE WITNESS: Answers of what I have actually given. 05:51:32PI

23 JUDGE BOUTET: Those are the notes of interviews that you 05:51:32PI

24 have had with Defence counsel over time. 05:51:32PI

25 MR HARRISON: The Prosecution says we are entitled to them 05:51:32PI

1 now. During the course of testimony the witness has been 05:51:32PI
2 refreshing his mind by looking at his interview notes, as a 05:51:32PI
3 consequence of that, they ought to be disclosed and a copy 05:51:32PI
4 provided to the Prosecution. 05:51:32PI

5 MR JORDASH: Sorry, I'm not aware of that authority that my 05:51:32PI
6 learned friend is relying upon but, if there is an authority 05:51:32PI
7 then I obviously then want to consider that authority but, I'm 05:51:34PI
8 not aware of an authority which says that. 05:51:34PI

9 PRESIDING JUDGE: Yes, general. What, what do you have to 05:51:34PI
10 say about this? 05:51:34PI

11 THE WITNESS: They are not anything different from what I 05:51:34PI
12 have stated, nothing different from what I have stated. Nothing 05:51:34PI
13 at all. 05:51:34PI

14 MR JORDASH: Well, -- 05:51:34PI

15 THE WITNESS: I can give them if you want. 05:51:34PI

16 MR JORDASH: I think, to avoid any suggestions of foulplay, 05:51:34PI
17 I'm content with the Prosecution having the statement, if it 05:51:34PI
18 satisfies their desires. There is no -- there is nothing hidden 05:51:34PI
19 here. 05:51:34PI

20 JUDGE BOUTET: I don't think there was any allegation of 05:51:34PI
21 foul play. The question was if the witness is using notes to 05:51:35PI
22 assist him when he gives evidence. It's normal that this be 05:51:35PI
23 available to parties. This is known to me as a fairly 05:51:35PI
24 fundamental notion as such, and I don't think there was any 05:51:35PI
25 allegation here of foul play. If it is a statement well, that 05:51:35PI

1 is the case.

05:51:35PI

2 MR JORDASH: I simply said to avoid any, I wasn't
3 suggesting there had been but, to avoid any suggestion. I'm not
4 aware of the authority but, I'm happy to alleviate any concerns
5 and have the statement disclosed.

05:51:35PI

05:51:35PI

05:51:35PI

05:51:35PI

6 PRESIDING JUDGE: In any event I don't think we need to
7 have a debate on this. If the General in his disposition wants
8 to -- thinks he can surrender the statements without any
9 difficulties to the Prosecution and Mr Jordash is also of that
10 opinion, why not? If there is a copy we can give it to the
11 Prosecution and that's it.

05:51:35PI

05:51:35PI

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05:51:35PI

05:51:35PI

12 MR JORDASH: Your Honour, there is one sentence in it which
13 is internal memorandum which is Ms Ashraph's comment to me and I
14 would like to remove that because that's privileged. But apart
15 from that, the whole of the statement is --

05:51:35PI

05:51:35PI

05:51:35PI

05:51:35PI

16 JUDGE BOUTET: Yeah, but you have to make sure that what
17 the witness has in his hands is the very same thing that you are
18 talking about, I don't know.

05:51:35PI

05:51:35PI

05:51:35PI

19 PRESIDING JUDGE: Can we have a look at what --

05:51:35PI

20 MR JORDASH: Yeah. Yes, it's the same with a few of the
21 General's own notes on it. What I could do, if it satisfies
22 Your Honour, is to like I say remove that one statement,
23 sentence which is an internal memorandum.

05:51:36PI

05:51:36PI

05:51:36PI

05:51:36PI

24 JUDGE BOUTET: No. I think they should be entitled to the
25 very notes the General has been using to testify with. The hand

05:51:36PI

05:51:36PI

1 written notes that the General has put on them, if any. 05:51:36PI

2 MR JORDASH: Well, there is internal memorandum on it. 05:51:36PI

3 JUDGE BOUTET: On the one that the General has been using 05:51:36PI
4 as well. 05:51:36PI

5 MR JORDASH: Yes, it's a typed comment which I'm happy to 05:51:36PI
6 show. 05:51:36PI

7 JUDGE BOUTET: If that is what it is I don't have any 05:51:36PI
8 problem with that but, if the General has added a few notes of 05:51:36PI
9 his own notes as such, well this, Mr Jordash, the issue is 05:51:38PI
10 simply what the witness has been using, what he has in front of 05:51:38PI
11 him, that is what it is. But the internal memorandum between 05:51:38PI
12 you and Ms Ashraph, I don't have any problem with that. I'm not 05:51:38PI
13 sure if that's what the Prosecution is after either. 05:51:38PI

14 MR JORDASH: Well, if I may, I know this isn't a perfect 05:51:38PI
15 solution but, fortunately that comment is at the bottom of the 05:51:38PI
16 page. I can rip it off now, and simply, I think the remainder 05:51:38PI
17 of that is with the General and so that it's transparent I can 05:51:38PI
18 hand it over. 05:51:38PI

19 MR CAMMEGH: While that's happening Your Honour, I don't 05:51:38PI
20 know if it's just me but it's insufferably hot in this part of 05:51:38PI
21 the room and it doesn't feel like the air-conditioning is coming 05:51:39PI
22 through at all. And if I'm right about that, I wonder if 05:51:39PI
23 something could be done, because it's extremely uncomfortable. 05:51:39PI

24 JUDGE BOUTET: We don't have that feeling here, but you may 05:51:39PI
25 be right, I don't know. At times we freeze over here but not 05:51:39PI

1 down there.

05:51:39PI

2 PRESIDING JUDGE: We hope that something can be done, the
3 technicians must be listening to us.

05:51:39PI

05:51:39PI

4 MS KAMUZORA: My Lord, I'll send them an email instantly.

05:51:39PI

5 PRESIDING JUDGE: Okay, no worry. Yes, Mr Harrison. Just
6 a minute. Mr Harrison, yes?

05:51:39PI

05:51:39PI

7 MR HARRISON: The follow-on point or comment is that I
8 think some direction perhaps should be offered to the General by
9 the Trial Chamber that during the course of his testimony it is
10 not normally acceptable to be reading their notes.

05:51:39PI

05:51:39PI

05:51:39PI

05:51:39PI

11 PRESIDING JUDGE: The General was not reading, I don't
12 think he was reading.

05:51:40PI

05:51:40PI

13 MR HARRISON: Well, Mr Wagona and I were observing --

05:51:40PI

14 PRESIDING JUDGE: He has admitted that he was refreshing
15 his memory. Let's not take this too far. Have the documents
16 and let's leave that matter at that, you know.

05:51:40PI

05:51:40PI

05:51:40PI

17 MR HARRISON: No. The Prosecution's point is that if the
18 General has been reading it before testimony, some guidance
19 ought to be given to the witness with respect to his practice
20 and conduct in future. That is it is not appropriate for the
21 General to be reviewing his interview notes while he's
22 testifying.

05:51:40PI

05:51:40PI

05:51:40PI

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05:51:40PI

23 PRESIDING JUDGE: He has no papers in front of him anymore
24 so that is it. I don't think he referred to any. If he wants
25 to refer to any he should seek the leave of the Courts maybe.

05:51:40PI

05:51:40PI

05:51:42PI

1 MS MYLVAGANAM: My Lord I wonder if I could just add some 05:51:42PI
2 observations if they may be of assistance. 05:51:42PI

3 PRESIDING JUDGE: Yes please you may. 05:51:42PI

4 MS MYLVAGANAM: And this is a professional in his own 05:51:42PI
5 right. Not a professional witness, but a witness of some 05:51:42PI
6 standing. He has made it very clear he wasn't reading from 05:51:42PI
7 notes, he had a statement provided by Mr Jordash's legal team. 05:51:42PI
8 Mr Jordash is willing to have that statement given to the 05:51:42PI
9 Prosecution. Whatever personal comments he may have written on 05:51:42PI
10 the statement, I really wonder in fact the Prosecution should be 05:51:43PI
11 entitled to such material? In my respectful submission really 05:51:43PI
12 not very much damage has been done, maybe there was a bit of 05:51:43PI
13 inadvertence that the witness statement was there, he refreshed 05:51:43PI
14 his memory from some dates. He has a fairly clear recollection 05:51:43PI
15 of most of these matters, and really with sufficient respect 05:51:43PI
16 with -- to respect to my learned friend ought to be afforded to 05:51:43PI
17 this witness. And to snatch from him documents that are in 05:51:43PI
18 front of him with his personal writings on them is just not 05:51:43PI
19 necessary in my submission, my respectful submission, My Lord. 05:51:43PI

20 JUDGE BOUTET: Well, I disagree with your perception. A 05:51:43PI
21 witness is a witness. I mean if he is assisting himself with 05:51:45PI
22 notes in front of him that's not acceptable unless permitted to 05:51:45PI
23 do so by the Court. So with all due respect for the witness and 05:51:45PI
24 his professional activities he is no more entitled then any 05:51:45PI
25 other witness to this, so this is quite a fundamental rule in 05:51:45PI

1 trials as such and it is not to put blame on the witness as 05:51:45PI
2 such. He had not been told, he did not know, I accept that. 05:51:45PI
3 This is -- it should have been observed before but it was not, 05:51:45PI
4 so that's fine. 05:51:45PI

5 MS MYLVAGANAM: I think My Lord mistakes the fact that the 05:51:45PI
6 document he used which was his own personal note, has his own 05:51:45PI
7 personal -- 05:51:45PI

8 JUDGE BOUTET: You have heard my comments, I don't want to 05:51:45PI
9 discuss with you, you heard my comments, you heard what I said. 05:51:46PI
10 I don't think he was entitled to it. 05:51:46PI

11 MS MYLVAGANAM: My Lord my point with respect is he is 05:51:46PI
12 entitled to his own degree of privacy as he attends n this 05:51:46PI
13 court, and to snatch from him documents and his own personal 05:51:46PI
14 scribblings in which he has committed no wrong is just not 05:51:46PI
15 appropriate in my respectful submission. 05:51:46PI

16 JUDGE THOMPSON: Ms Mylvaganam, we -- suppose the situation 05:51:46PI
17 were put this way, that if the witness is assisting himself in 05:51:46PI
18 his testimony from the witness stand there, by [Indiscernible] 05:51:46PI
19 to some material which would have been material prepared out of 05:51:46PI
20 court, summarising what he may have told the, his, the 05:51:46PI
21 investigators or his counsel, would it be proper under the rules 05:51:47PI
22 of examination in chief for a witness to refer to some document 05:51:47PI
23 which reproduces whether in note form or in an expanded form 05:51:47PI
24 material that are consistent with the testimony that he's given 05:51:47PI
25 here. Would that be permissible as a matter of law? 05:51:47PI

1 MS MYLVAGANAM: My Lord -- 05:51:47PI

2 JUDGE THOMPSON: Generally, as a general rule. 05:51:47PI

3 MS MYLVAGANAM: Can I answer it in this way? 05:51:47PI

4 JUDGE THOMPSON: Very well, try -- try -- 05:51:47PI

5 MS MYLVAGANAM: It would depend upon the degree to which 05:51:47PI

6 reliance was placed on any document, because of course all 05:51:47PI

7 testimony, and going back eight years, the witness is going back 05:51:47PI

8 eight years in terms of these matters and in normal 05:51:48PI

9 circumstances between the Prosecution and the Defence there 05:51:48PI

10 would be an agreed set of facts on relevant dates, we don't have 05:51:48PI

11 the benefits of that here, and therefore leading witness over 05:51:48PI

12 specific dates and so on unnecessarily may take up time. Of 05:51:48PI

13 course I'm not suggesting that a witness should ever have a 05:51:48PI

14 script and read from the script in the witness box, but there's 05:51:48PI

15 -- 05:51:48PI

16 JUDGE THOMPSON: Otherwise perhaps it would not even be 05:51:48PI

17 necessary to have the witness testify but merely to submit his 05:51:48PI

18 script. 05:51:48PI

19 MS MYLVAGANAM: My Lord I totally agree with Your Lordship, 05:51:48PI

20 but of course there's no suggestion that that has happened here. 05:51:48PI

21 JUDGE THOMPSON: Well, I'm not prepared to the matter 05:51:48PI

22 further. I'm satisfied. 05:51:48PI

23 PRESIDING JUDGE: Yes, Mr Jordash? Yes please. 05:51:48PI

24 MR JORDASH: If Your Honours agree, I ought to hand over 05:51:48PI

25 the statement. There is -- um, I don't see the General having a 05:51:48PI

1 problem with it, and -- 05:51:48PI

2 PRESIDING JUDGE: He has no problem. You can hand it over 05:51:48PI
3 to the -- 05:51:48PI

4 MR JORDASH: I'm -- I accept what my learned friend has 05:51:48PI
5 said to a degree and but I think the way out of the impasse from 05:51:48PI
6 my respect -- 05:51:48PI

7 05:51:48PI
8 PRESIDING JUDGE: But one thing is very certain. I have 05:51:48PI
9 been observing the General here and I do not have a perception 05:51:48PI
10 that he has been reading any memorandum in testifying before us 05:51:48PI
11 here. 05:51:49PI

12 MR JORDASH: And I agree completely -- 05:51:49PI

13 PRESIDING JUDGE: I mean, if he has been refreshing his 05:51:49PI
14 memory on those facts, that is another matter, so since we have 05:51:49PI
15 resolved the issue this way, let us, let the notes which he has 05:51:49PI
16 be handed over to, to the Prosecution who have asked for it and 05:51:49PI
17 you have extracted that portion, that portion which was an 05:51:49PI
18 internal memorandum to your Defence team. 05:51:49PI

19 MR JORDASH: Yes. And I think -- 05:51:49PI

20 PRESIDING JUDGE: Yes. Can the Court Management please 05:51:49PI
21 retrieve that document from Mr Jordash and hand it over to Mr 05:51:49PI
22 Harrison please. 05:51:49PI

23 MS KAMUZORA: Yes My Lord, 05:51:49PI

24 MR JORDASH: I think the notes may have more to do with the 05:51:49PI
25 team's lack of grammar than they do any substantive comments. 05:51:49PI

1 PRESIDING JUDGE: May we proceed please. 05:51:50PI

2 MR JORDASH: Yes, thank you. 05:51:50PI

3 Q. Mr Witness, I'll go as quickly as I can with the 05:51:50PI
4 remaining subjects. I want to ask you about a tripartite 05:51:50PI
5 meeting in Makeni. Did something happen in relation to that? 05:51:50PI

6 A. Yes. We had a tripartite meeting which was scheduled 05:51:50PI
7 to take place in Makeni, and when we all assembled for the 05:51:50PI
8 meeting, the RUF delegation was not there. 05:51:50PI

9 Q. And did you later learn why? 05:51:50PI

10 A. Yes. I later learned that Issa Sesay had ordered his 05:51:50PI
11 delegation to attend but the delegation did not attend, having 05:51:50PI
12 been directed or misled by Gibril Massaquoi that they should 05:51:50PI
13 not attend. 05:51:50PI

14 Q. And was Mr Sesay there on time? 05:51:50PI

15 A. Issa Sesay was not there on time. He was heading from 05:51:50PI
16 Kono, coming for the meeting but, he had had -- that's what he 05:51:50PI
17 told me, he had had an accident and as such he was late for the 05:51:50PI
18 meeting. But he eventually you know, came. 05:51:50PI

19 Q. Just to be clear what kind of accident? 05:51:50PI

20 A. He had a vehicle accident. 05:51:50PI

21 Q. And what was Mr Sesay's response to this? 05:51:50PI

22 A. He was very upset that his delegation did not attend 05:51:50PI
23 and especially not attending because one of his own sabotaged 05:51:51PI
24 his instructions. 05:51:51PI

25 PRESIDING JUDGE: Did you mention the name of Gibril 05:51:51PI

1 Massaquoi? 05:51:51PI

2 THE WITNESS: Yeah, Gibril Massaquoi. 05:51:51PI

3 PRESIDING JUDGE: He did not attend? 05:51:51PI

4 THE WITNESS: He's the one who -- 05:51:51PI

5 PRESIDING JUDGE: Who was supposed to have been delegated
6 to attend. 05:51:51PI

7 THE WITNESS: He was one who was supposed to attend. 05:51:51PI

8 PRESIDING JUDGE: Yes. 05:51:51PI

9 THE WITNESS: And he sabotaged the whole group from
10 attending, in other words. The delegation did not attend until
11 Issa Sesay came. 05:51:51PI

12 MR JORDASH: 05:51:51PI

13 Q. Just so we are clear, we understand sabotage, what
14 does it mean in this context? 05:51:51PI

15 A. He disagreed with the instruction that was given to
16 them by Issa Sesay to attend as a delegation, as a result of
17 which he ensured the delegation including himself did not come
18 for the meeting. 05:51:52PI

19 Q. Thank you. Can I ask you about disarmament in Tongo.
20 Did anything happen in relation to that? 05:51:52PI

21 A. In Tongo, when the time came for us to plan and effect
22 disarmament there was a -- 05:51:52PI

23 PRESIDING JUDGE: Excuse me, let's get this clear. When
24 Issa came did this tripartite meeting take place? 05:51:52PI

25 THE WITNESS: It was rescheduled because Issa Sesay was 05:51:52PI

1 very upset and we are were also upset that the meeting did not 05:51:52PI
2 take place. But it was rescheduled and eventually took place on 05:51:52PI
3 another date. 05:51:52PI

4 MR JORDASH: 05:51:52PI

5 Q. Was there any problem with disarmament in Tongo? 05:51:52PI

6 A. Yes, there was a problem whereby the combatants and 05:51:52PI
7 the commanders were not willing to disarm in Tongo, despite the 05:51:52PI
8 fact that Issa Sesay had issued instructions for them to disarm 05:51:52PI
9 on a particular day. And he through his own -- that is Issa 05:51:52PI
10 Sesay he through his own means found out that this again was 05:51:52PI
11 being sabotaged by Gibril Massaquoi and one or two other of his 05:51:52PI
12 you know commanders and he told me this. He then ordered I 05:51:52PI
13 think it was his number two Morris Kallon, to go himself and 05:51:52PI
14 then ensure that the instruction, his instruction, that is 05:51:54PI
15 Issa's instruction is carried forward, but at the same time 05:51:54PI
16 arrest the two ring leaders there and bring them back to Makeni. 05:51:54PI
17 And they asked me to provide transport. 05:51:54PI

18 Q. And who were the two ring leaders; do you recall? 05:51:54PI

19 A. I can't remember their names but you know that's a 05:51:54PI
20 long time ago, if you can jog my memory but there were two. 05:51:54PI
21 Peppy something, Peppy something like that. I can't remember. 05:51:54PI

22 Q. Did Gibril Massaquoi have anything to do with this? 05:51:54PI

23 A. Yeah, Gibril Massaquoi was the one who was in 05:51:54PI
24 collusion with these two commanders on the ground. 05:51:55PI

25 Q. Do you remember a man called OG? 05:51:55PI

1 A. OG, yeah, you know the problem with RUF during that 05:51:55PI
2 time they had all sorts of names. But these names were Digwua. 05:51:55PI
3 In French you call them Digwua. Not real names, not real names. 05:51:55PI
4 People would come up with not real names. 05:51:55PI

5 Q. And let me try to jog your memory. OG was a tall man, 05:51:55PI
6 a large man? 05:51:55PI

7 A. Very tall. 05:51:55PI

8 Q. With teeth which jutted out. Do you remember? 05:51:55PI

9 A. Yes, he's the man, the man you are talking about. 05:51:55PI

10 Q. And so what kind of transport did you provide? 05:51:55PI

11 A. I provided, if I remember, I provided the helicopter 05:51:56PI
12 to take Issa Sesay's man to Tongo. But, I think when we came 05:51:56PI
13 back he brought these people through their own means or 05:51:56PI
14 something like that. 05:51:56PI

15 Q. And do you know where they were taken, these -- 05:51:56PI

16 A. My interest was to ensure that Tongo is disarmed. 05:51:56PI
17 Once they were brought back to Makeni, I was not interested in 05:51:56PI
18 knowing where Issa Sesay took them to but once they were 05:51:56PI
19 arrested and gotten out of the way it resolved the issue of 05:51:56PI
20 disarmament and disarmament took place. 05:51:56PI

21 Q. Thank you. And Kailahun: Any problems with Kailahun 05:51:56PI
22 disarmament? 05:51:56PI

23 A. We had a similar problem, more or less a similar 05:51:56PI
24 problem whereby the instructions of Issa Sesay, written 05:51:56PI
25 instruction which were shared by our military observers, were 05:51:56PI

1 not being followed by the commanders on the ground. 05:51:56PI

2 Q. Do you remember a commander called Martin George? 05:51:56PI

3 A. Yes, Martin George, I remember him very well. 05:51:56PI

4 Q. About what was his attitude? 05:51:56PI

5 A. He's the one who, one of those who were not willing to 05:51:56PI

6 accept the instructions of Issa Sesay coming from Makeni to 05:51:56PI

7 disarm. He was not cooperating with our military observers, 05:51:56PI

8 even our own commanders on ground for disarmament. He was not 05:51:57PI

9 for disarmament. 05:51:57PI

10 Q. Thank you. Let me take you to the final disarmament 05:51:57PI

11 ceremony. Did that take place at Lungi? 05:51:57PI

12 A. Yes. There was a symbolic disarmament in Lungi. 05:51:57PI

13 Actually it was a burning of weapons that had been collected 05:51:57PI

14 throughout to the disarmament period to symbol the end of the 05:51:57PI

15 war and that took place at Lungi. 05:51:57PI

16 Q. And was Mr Sesay present? 05:51:57PI

17 A. Mr Sesay was present. 05:51:57PI

18 Q. Did he speak? 05:51:57PI

19 A. Yes, he spoke. The SRSV spoke and President Kabbah 05:51:57PI

20 spoke. 05:51:57PI

21 Q. And after the disarmament ceremony, did Mr Sesay go 05:51:57PI

22 anywhere? 05:51:58PI

23 A. Yes. There was an agreement that there will really be 05:51:58PI

24 one final disarmament in Makeni and also I think after that is 05:51:58PI

25 when we organised for Issa Sesay to go to Abuja or I can't 05:51:58PI

1 remember but, out of the country I think. 05:51:58PI

2 Q. And let me ask you this: Did Mr Sesay as far as you 05:51:58PI
3 were aware meet Foday Sankoh after the -- 05:51:58PI

4 A. Yes, you just got it. Yeah, on the same day 05:51:58PI
5 immediately after disarmament, Mr Sesay asked, and with his 05:51:58PI
6 other colleagues who were with him, the senior colleagues, that 05:51:58PI
7 they want to go and see Foday Sankoh who was in the hospital. 05:51:59PI

8 PRESIDING JUDGE: After the burning of the arms or so? 05:51:59PI

9 THE WITNESS: Yes. 05:51:59PI

10 PRESIDING JUDGE: Was this after the disarmament, the 05:51:59PI
11 symbolic burning of arms at Lungi. 05:51:59PI

12 THE WITNESS: Exactly, exactly Your Honour, yes. To go to 05:51:59PI
13 the hospital to see Foday Sankoh. 05:51:59PI

14 MR JORDASH: 05:51:59PI

15 Q. Had there been requests before from commanders to see 05:51:59PI
16 Foday Sankoh? 05:51:59PI

17 A. Yes, there had been several requests which was passed 05:51:59PI
18 either directly to me or somehow passed through the SSRG, they 05:51:59PI
19 wanted to go and allay the fears and rumours that was abound 05:51:59PI
20 that Foday Sankoh was either already dead or was dying and they 05:51:59PI
21 wanted to go see him in the hospital. All these were not 05:51:59PI
22 approved until on that final day. 05:51:59PI

23 Q. Who were the requests made to when they were made? 05:52:00PI

24 A. The requests would either be made to me and I would go 05:52:00PI
25 and discuss with the SRSG and tell the SRSG this is what you 05:52:00PI

1 leadership, RUF leadership would want us to facilitate and the 05:52:00PI
2 SRSG would go to the government, Sierra Leone government, and 05:52:00PI
3 request for those authorities. He would come back to me and 05:52:00PI
4 tell me this is not been approved. 05:52:00PI

5 Q. Do you know who in the government he saw? 05:52:00PI

6 A. I'm quite sure he went right up to the top, the top 05:52:00PI
7 leadership. 05:52:01PI

8 Q. I'm sorry, who was that? 05:52:01PI

9 A. I'm sure he went to the president, President Kabbah. 05:52:01PI

10 PRESIDING JUDGE: Who went to the president? 05:52:01PI

11 THE WITNESS: The SRSG . 05:52:01PI

12 MR JORDASH: 05:52:01PI

13 Q. And so on this occasion was it different? 05:52:01PI

14 A. It was different. It was agreed that they could go 05:52:01PI
15 and see Foday Sankoh. 05:52:01PI

16 Q. And do you know what happened? 05:52:01PI

17 A. I personally flew with Issa Sesay and I think three or 05:52:01PI
18 four of his colleagues from Lungi in a helicopter to Jui and 05:52:01PI
19 conducted them into the room where Foday Sankoh was, and they 05:52:01PI
20 had a meeting with Foday Sankoh. I was there myself. But then 05:52:01PI
21 I excused myself after a few words were exchanged and let, left 05:52:02PI
22 the RUF to talk to Foday Sankoh on their own. 05:52:02PI

23 Q. And did you find out what Foday Sankoh's attitude to 05:52:02PI
24 Issa Sesay had been? 05:52:02PI

25 A. He sneered at him, and when Issa Sesay went to say 05:52:02PI

1 Popay, you know Poppay, tried to talk to him, he told him he's a 05:52:02PI
2 sell out, that he didn't want to see him. 05:52:02PI

3 Q. Do you know if Mike Lamin was there? 05:52:02PI

4 A. Mike Lamin was there. 05:52:02PI

5 Q. Do you know if Gibril Massaquoi was there? 05:52:02PI

6 A. Gibril Massaquoi was there. 05:52:02PI

7 Q. Do you know what Foday Sankoh's attitude to them was? 05:52:02PI

8 A. He was a little, he was a little amenable to them, 05:52:03PI
9 those two. But he didn't, he didn't like to see Issa Sesay. He 05:52:03PI
10 was not very happy with Issa Sesay. 05:52:03PI

11 Q. And finally, did you have anything to do with -- I say 05:52:03PI
12 finally on this subject there is some more. Do you know who 05:52:03PI
13 disarmed Issa Sesay? 05:52:03PI

14 A. I did. In Makeni. He handed over his weapon to me. 05:52:03PI

15 Q. And were others present? 05:52:03PI

16 A. Yes. SRSU was there, President Kabbah was there. 05:52:03PI

17 Q. And were any civilians there? 05:52:03PI

18 A. Yes, there were lots of civilians. It was a big, big 05:52:03PI
19 day in Makeni when Issa Sesay and his top commanders finally 05:52:04PI
20 disarmed to us. 05:52:04PI

21 Q. And did the civilian population react to Mr Sesay? 05:52:04PI

22 A. They were very happy. 05:52:04PI

23 Q. And did they express their happiness in any way? 05:52:04PI

24 A. Yes, they did. They expressed that finally they, we 05:52:04PI
25 thought the war was over. 05:52:04PI

1 Q. Now I just want to pick up on a few miscellaneous 05:52:04PI
2 topics, but I'm almost through. Did you encounter the West Side 05:52:04PI
3 Boys in your -- 05:52:04PI

4 A. Yes. When I first came here early in May, I met 05:52:04PI
5 Johnny Paul Koroma who was I believe then the leading member of 05:52:05PI
6 the West Side Boys and with a lot of his combatants around. But 05:52:05PI
7 that was the time when it was very -- Freetown was really very 05:52:05PI
8 insure and he had this large group of men around him. When I 05:52:05PI
9 came back again now to take over the command, I met him. This 05:52:05PI
10 time around I think he was already a member of some 05:52:05PI
11 organisation, support, he was supporting the government. And he 05:52:05PI
12 still had a few of his West Side Boys, you know around his 05:52:05PI
13 building, his house, and whenever he moved he had this security 05:52:05PI
14 you know around him. 05:52:06PI

15 Q. The first time you saw him with the West Side Boys, do 05:52:06PI
16 you recall roughly when that was? 05:52:06PI

17 A. It was in May when we came here during the, during the 05:52:06PI
18 parliamentary meeting, in fact we also had a meeting with him. 05:52:06PI
19 He was one of those personages that we met with when I came with 05:52:06PI
20 a parliamentary group meeting from Kenya. 05:52:06PI

21 Q. And do you know that stage or thereafter what the 05:52:06PI
22 relationship was between the West Side Boys and the RUF? 05:52:06PI

23 A. It didn't look to me, especially witness I came back 05:52:06PI
24 to take over the command, that they really had any relationship, 05:52:06PI
25 direct relationship. There was no love lost between the two. 05:52:07PI

1 Johnny Paul Koroma was not enthusiastic about the group, the RUF 05:52:07PI
2 group. Neither was RUF enthusiastic about West Side Boys. 05:52:07PI

3 Q. Final subjects. Did you see Issa Sesay interacting 05:52:07PI
4 with civilians during this whole process? 05:52:07PI

5 A. In many occasions because when I went to the so-called 05:52:07PI
6 RUF controlled areas even before completion of disarmament, even 05:52:07PI
7 before completion of our total deployment in those areas I would 05:52:07PI
8 go with Issa Sesay or we would meet with Issa Sesay and we will 05:52:07PI
9 address the local population together. 05:52:08PI

10 Q. And can you explain what you observed in terms of his 05:52:08PI
11 relationship with them? 05:52:08PI

12 A. I thought his relationship with the local population 05:52:08PI
13 was good. He cared about his people or what he called his 05:52:08PI
14 people. And I remember when I was very, you know, upset with 05:52:08PI
15 him because once in a while I would get information that the RUF 05:52:08PI
16 were not treating civilians well, and I would go and you know be 05:52:08PI
17 very firm with Issa Sesay that this is what I've heard that you 05:52:08PI
18 are doing to the civilians. And he would be very you know upset 05:52:08PI
19 and hurt and he would say these are our people. If we were, you 05:52:08PI
20 know, if I was mistreating them they would not be here now. 05:52:09PI

21 PRESIDING JUDGE: So what, is it that you received reports 05:52:09PI
22 of mistreatment. 05:52:09PI

23 THE WITNESS: Yes, I would receive from the NGO's -- 05:52:09PI

24 PRESIDING JUDGE: Of civilians? 05:52:09PI

25 THE WITNESS: Yeah NGO's, especially back here in Freetown 05:52:09PI

1 it was in the press, the NGO's would say Oh the people in 05:52:09PI
2 RUF-controlled areas are being employed by force to mine, dig 05:52:09PI
3 mine for the RUF. This kind of the thing. 05:52:09PI

4 PRESIDING JUDGE: Yes. 05:52:09PI

5 THE WITNESS: And I would go and you know, very firmly put 05:52:09PI
6 the same message to Issa Sesay, this is what we have this is the 05:52:09PI
7 information we have. You must not do this if you are doing it. 05:52:09PI
8 And he would defend himself. 05:52:10PI

9 MR JORDASH: 05:52:10PI

10 Q. Do you know if he took action? 05:52:10PI

11 A. In occasions whereby we had direct information that 05:52:10PI
12 any of his commanders or combatants had violated civilians human 05:52:10PI
13 rights and we reported to Issa Sesay he would take action. 05:52:10PI

14 Q. Thank you. 05:52:10PI

15 A. And there are occasions whereby he actually removed 05:52:10PI
16 commanders from certain areas who were known to be prying on 05:52:10PI
17 civilians in those areas. 05:52:10PI

18 Q. How would you characterize his efforts in that regard? 05:52:10PI

19 A. I think he showed concerns for you know the people, 05:52:10PI
20 and was forceful in dealing with those who were under his 05:52:10PI
21 command, who may have violated human rights of people, of his 05:52:11PI
22 people. 05:52:11PI

23 Q. And how would you categorise the hierarchy of the RUF 05:52:11PI
24 as you found it? 05:52:11PI

25 A. It was believed that after the Abuja or the ECOWAS 05:52:11PI

1 leaders removed, I want to say removed Foday Sankoh from the 05:52:11PI
2 scene that Issa Sesay and his other colleagues were actually in 05:52:11PI
3 control of the RUF. But I found that it was a disjointed you 05:52:11PI
4 know sort of the leadership whereby even those who pretended 05:52:11PI
5 that they were part and parcel of the leadership had a different 05:52:11PI
6 agenda. 05:52:13PI

7 Q. Did any of the RUF -- 05:52:13PI

8 PRESIDING JUDGE: Mr Jordash this witness was from your own 05:52:13PI
9 words to take one hour. You are getting to more than two hours 05:52:13PI
10 but you may proceed. I just wanted to remind you because most 05:52:13PI
11 of what he is talking about is getting repetitive. 05:52:13PI

12 JUDGE BOUTET: Yes. 05:52:13PI

13 MR JORDASH: 05:52:13PI

14 Q. Sorry to be repetitive Mr Witness but one last issue, 05:52:13PI
15 if I may. Did you receive any information -- let me ask this 05:52:13PI
16 question first. Did you have anything to do with diamonds, you 05:52:13PI
17 personally? 05:52:13PI

18 MR HARRISON: Objection. Prosecution wishes to make this 05:52:13PI
19 objection in the absence of witness. 05:52:13PI

20 PRESIDING JUDGE: Yes, may the witness be assisted out of 05:52:13PI
21 Court please. 05:52:13PI

22 [The witness stood down] 05:52:13PI

23 PRESIDING JUDGE: Yes, Mr Harrison. 05:52:45PI

24 MR HARRISON: The objection is that this is a clear example 05:52:46PI
25 where the application of the collateral evidence rule must be 05:52:50PI

1 applied. The Prosecution has not lead any evidence to suggest 05:52:54PI
2 that this witness or those close to him were involved in dealing 05:53:00PI
3 in diamonds. The Defence did put questions to a Prosecution 05:53:07PI
4 witness regarding an exchange of diamonds for arms. Having put 05:53:16PI
5 the question on a collateral issue, the questioner is bound to 05:53:25PI
6 accept the response. And there can be no further inquiry 05:53:35PI
7 because the purpose of the collateral evidence rule is to 05:53:36PI
8 prevent a list of issues going off into infinity on where a 05:53:43PI
9 matter is denied, a witness is called to give contradicting 05:53:50PI
10 evidence. The issue could then go on further to another 05:53:57PI
11 witness, to another issue, all of which is collateral to the 05:54:00PI
12 trial matters. The Prosecution is not and has not lead any 05:54:05PI
13 evidence and is not part of the Prosecution case of anyone in UN 05:54:10PI
14 dealing in diamonds. And that's the basis of the objection. 05:54:17PI

15 MR JORDASH: I -- 05:54:24PI

16 JUDGE THOMPSON: Let me ask one question. Is this the 05:54:27PI
17 finality rule? 05:54:30PI

18 MR HARRISON: I know it as the collateral evidence but -- 05:54:32PI

19 JUDGE THOMPSON: Yes it's also called the finality rule. 05:54:35PI

20 MR HARRISON: Or the collateral fact rule. And the rule as 05:54:41PI
21 stated by Barron I think and the attorney general in Hitchcock 05:54:43PI
22 is, if it's a collateral issue, you ask a question on the 05:54:44PI
23 collateral issue -- 05:54:48PI

24 JUDGE THOMPSON: Correct. 05:54:49PI

25 MR HARRISON: -- and the answer may well be that I did not 05:54:50PI

1 go to the store. You cannot then call subsequent witnesses to 05:54:54PI
2 say that person did go to the store, if the issues before the 05:54:58PI
3 Trial Chamber are to do with the sale of some shares to some 05:55:02PI
4 company. It's a completely collateral issue and you simply 05:55:08PI
5 cannot go off in *ad finitum* on various issues. 05:55:13PI

6 JUDGE THOMPSON: But they are recognized exceptions to the 05:55:17PI
7 collateral rule. 05:55:21PI

8 MR HARRISON: There are exceptions but here -- 05:55:21PI

9 JUDGE THOMPSON: It doesn't apply. 05:55:25PI

10 MR HARRISON: They do not apply. 05:55:25PI

11 JUDGE THOMPSON: All right. 05:55:25PI

12 MR JORDASH: I'm not sure I follow the objection, but if I 05:55:26PI
13 can indicate what we were -- what I was dealing with. 05:55:31PI

14 TR-1366 -- -I don't have the exact reference here -- claimed 05:55:36PI

15 that general Opande was sellings arms and ammunition to Mr Sesay 05:55:43PI

16 in exchange for diamonds. I'm not sure how that's an issue of 05:55:48PI

17 credit. That's a specific allegation made against Mr Sesay 05:55:54PI

18 concerning his role with diamonds, his role with arms and 05:55:59PI

19 ammunition, his role with the subverting the disarmament 05:56:07PI

20 process. It's only fair in my respectful submission that 05:56:11PI

21 General Opande, having his name tarnished in that way, in the 05:56:13PI

22 courtroom and TF-1366 having put his credibility at issue -- 05:56:17PI

23 PRESIDING JUDGE: TF-1 -- 05:56:23PI

24 MR JORDASH: 366 -- Your Honours deserve in my submission 05:56:24PI

25 to know what General Opande has to say about that. If he says I 05:56:29PI

1 was I'll leave it. If he says I wasn't, I'll leave it there. 05:56:34PI

2 JUDGE THOMPSON: In other words you are saying that you are 05:56:39PI
3 entitled to bring evidence to contradict that. 05:56:43PI

4 MR JORDASH: Well,, this is supposed to be -- TF-1366 05:56:48PI
5 supposed to be a witness of truth. He made a very serious 05:56:51PI
6 allegation against Mr Sesay and against General Opande. It's 05:56:54PI
7 only correct in my submission that -- 05:56:57PI

8 JUDGE THOMPSON: You should bring that against a 05:56:59PI
9 contradict. 05:57:02PI

10 MR JORDASH: Your Honour, yes. I really do not understand 05:57:02PI
11 how this goes to credit and who's credit it goes to except 05:57:05PI
12 insofar as it deals with the Prosecution allegations. 05:57:10PI

13 JUDGE BOUTET: Were these Prosecution's allegation through 05:57:10PI
14 that particular witness in-chief or in cross-examination? That 05:57:15PI
15 I understand to be the objection that this is a question that 05:57:17PI
16 was -- this is evidence that was elicited from that witness in 05:57:22PI
17 cross-examination and therefore you have to live with that 05:57:27PI
18 answer because you solicited that answer. You cannot now bring 05:57:30PI
19 evidence to contradict this. This is in essence what I 05:57:33PI
20 understand the Prosecution to be. In other words they're saying 05:57:36PI
21 this evidence about what you are saying was, that was said in 05:57:38PI
22 Court never came out through examination-in-chief and it is not 05:57:42PI
23 evidence from the Prosecution but rather questions that you -- 05:57:47PI
24 pardon me -- information or evidence that came out through your 05:57:51PI
25 cross-examination of that witness. I do not have the transcript 05:57:54PI

1 in front of me, I cannot say yes or no about that but I'm just 05:57:57PI
2 telling you this is what I understand to be the Prosecution 05:58:01PI
3 position. That is, that was not their case, they never lead 05:58:04PI
4 that evidence. But that evidence came out through you in 05:58:06PI
5 cross-examining that witness. 05:58:11PI

6 MR JORDASH: Well,, from my best recollection, I didn't, 05:58:14PI
7 and I couldn't possibly conceive that I would put to Prosecution 05:58:14PI
8 witness: Was Mr Sesay dealing in diamond with General Opande? 05:58:19PI

9 JUDGE BOUTET: No. But this is the answer not necessarily 05:58:24PI
10 that that question was put by you in that way to that witness. 05:58:25PI
11 But as a result of it, one of your question, that witness, 05:58:28PI
12 eventually gave that answer to you in cross -- examination not 05:58:32PI
13 in-chief. 05:58:36PI

14 MR JORDASH: But, well, again -- - 05:58:37PI

15 JUDGE BOUTET: But this is not their evidence. What they 05:58:39PI
16 are saying essentially this is their evidence. This is evidence 05:58:42PI
17 that you cross-examined, that you allowed in cross-examination. 05:58:44PI
18 And therefore in cross-examination you have limited ability to 05:58:49PI
19 try to contradict evidence that you have elicited in 05:58:54PI
20 cross-examination. That's basically the position of the 05:58:56PI
21 Prosecution on the collateral matter. 05:58:57PI

22 MR JORDASH: Well,,, I know of no rule which says that if 05:58:59PI
23 the witness, a Prosecution witness during cross-examination, 05:59:04PI
24 suddenly alleges that for example, Mr Sesay killed a hundred 05:59:08PI
25 people in Kailahun that the Defence have to live with that 05:59:13PI

1 simply because it came out in cross-examination. I've never 05:59:17PI
2 heard of such a rule. 05:59:21PI

3 JUDGE BOUTET: Mr Jordash the rule is about collateral 05:59:22PI
4 matters as such and answers that you have obtained in 05:59:25PI
5 cross-examination. How far and how much we can accept of you 05:59:26PI
6 calling of evidence to rebut information or evidence that you 05:59:30PI
7 obtain in cross-examination. This is only collateral matter. 05:59:34PI
8 This is the matter that has been raised here. 05:59:38PI

9 MR JORDASH: But it's not -- it's not a collateral matter. 05:59:41PI
10 It's a matter -- 05:59:45PI

11 JUDGE THOMPSON: At far as I understand when the finality 05:59:45PI
12 rule applies, the preliminary determination as a matter of law 05:59:50PI
13 is to determine whether the issue is collateral or not. 05:59:50PI

14 MR JORDASH: It's not -- 05:59:53PI

15 PRESIDING JUDGE: And it is in this regard you know that I 05:59:53PI
16 think I would like us to have a printout of the transcript 05:59:56PI
17 because the allegation, if it was made at all, I would like us 06:00:00PI
18 to verify when it was made, and whether it was indeed said and 06:00:05PI
19 what context you know that the witness said it. 06:00:12PI

20 MR HARRISON: I could tell you the page in the -- I could 06:00:16PI
21 read it out but I will tell you the page first if I could, and 06:00:19PI
22 the date. It's the 10th of November, 2005. Mr Jordash is 06:00:25PI
23 right. It is to do with TF-1366. 06:00:29PI

24 PRESIDING JUDGE: Tenth of what? 06:00:33PI

25 MR HARRISON: November. 06:00:35PI

1	PRESIDING JUDGE: Yes.	06:00:38PI
2	MR HARRISON: 2005.	06:00:38PI
3	PRESIDING JUDGE: Yes.	06:00:39PI
4	MR HARRISON: And it's from page 69 to --	06:00:39PI
5	JUDGE BOUTET: What's the name? What's the psyudenoym of	06:00:45PI
6	the witness again?	06:00:47PI
7	MR HARRISON: It was TF-1366.	06:00:49PI
8	JUDGE BOUTET: TF-1366.	06:00:52PI
9	PRESIDING JUDGE: Page 69 to?	06:00:52PI
10	MR HARRISON: Through to, and including 71. And I think	06:00:54PI
11	the Trial Chamber will see its clearly part of the	06:01:01PI
12	cross-examination.	06:01:06PI
13	PRESIDING JUDGE: That was, that evidence came out in	06:01:06PI
14	cross-examination?	06:01:09PI
15	MR HARRISON: Yes.	06:01:10PI
16	PRESIDING JUDGE: What you are saying is in	06:01:11PI
17	examination-in-chief you never associated, you never elicited	06:01:14PI
18	evidence from this witness --	06:01:19PI
19	MR HARRISON: Correct.	06:01:19PI
20	PRESIDING JUDGE: -- that General Opande was involved in	06:01:20PI
21	any, in any diamond deals with Mr Sesay.	06:01:23PI
22	MR HARRISON: Let me just make it clearer.	06:01:26PI
23	PRESIDING JUDGE: Yes.	06:01:29PI
24	MR HARRISON: Not from that witness, TF1366, and not from	06:01:29PI
25	any witness.	06:01:34PI

1 PRESIDING JUDGE: Not from that witness and not from any 06:01:35PI
2 witness. But it surfaced in this witness's testimony under 06:01:39PI
3 cross-examination. 06:01:43PI

4 MR HARRISON: Yes, at the pages I've indicated. 06:01:43PI

5 PRESIDING JUDGE: Yes. May we have a reading of that, 06:01:46PI
6 please. 06:01:50PI

7 MR HARRISON: Of the -- if I could start at Page 69 and 06:01:51PI
8 I'll start at Line 3. 06:01:55PI

9 MR JORDASH: It's the proofing notes of August of 2005 and
10 it's paragraph 36, 13710.

11 Q. I suggest to you, Mr witness, that you are so
12 determined to lie and get Mr Sesay in trouble that you don't
13 mind who else you lie about; am I right? Could I be right?

14 A. That will not happen. He introduced me in this war.
15 He gave me life. I will not lie on him. And what is the truth
16 is what I will say here.

17 Q. Okay, we'll see. I'm going to read you part of
18 your -- the notes which were taken by Mr Alain in August of 2005
19 and ask you some questions. "After the capturing of the UN
20 soldiers I saw Issa Sesay giving diamonds to General Opande" --

21 THE INTERPRETER: Can the learned counsel please take
22 it slowly for the interpreter to interpret?

23 MR JORDASH: Sorry.

24 Q. I'll start again, Mr Witness. I'm reading from the
25 notes taken by Mr Alain.

1 "After the capturing of the UN soldiers I saw Issa
2 Sesay giving diamonds to General Opande of ECOMOG one time at
3 Mile 91 and one time at Magburaka in return for ammunition,
4 including RPG bombs."

5 You told Mr Alain that you saw Mr Sesay giving
6 diamonds to General Opande in exchange for weapons, did you not?

7 A. He gave diamonds to General Opande and then he, in
8 turn, gave arms and ammunition to Issa.

9 Q. So you are alleging --

10 THE INTERPRETER: It was not Opande himself who gave
11 the guns to him but Chikumbi.

12 MR JORDASH:

13 Q. Who's Chikumbi?

14 A. The UN Commander that was at Tongo.

15 Q. So let me understand this, if I can. You were
16 suggesting that Issa Sesay was trading diamonds with the force
17 commander of the peacekeeping mission in exchange for weapons
18 for the RUF. Is that what you're suggesting?

19 A. Yes, it did happen in my presence. It didn't
20 happen in my absence. It happened in my presence.

21 Q. So you were there at the side of Mr Sesay as he
22 handed diamonds over to General Opande. Is that what you're
23 saying?

24 A. Yes, in fact, the diamonds, we brought them from
25 Number 11.

1 Q. I'm going to ask you this -- well, let me say
2 this: I suggest that's a lie and it indicates your willingness
3 to lie and blacken the character of anybody in order to get Mr
4 Sesay into trouble. Am I right?

5 A. I am not lying on that man. I am not lying on
6 Issa Sesay. I brought the diamond to Issa Sesay. I gave him
7 that diamond. It happened in my presence.

8 Q. Well, if I told you, Mr Witness, that General
9 Opande will come and give evidence for Mr Sesay would that
10 affect your answer? Would you still say General Opande received
11 diamonds in exchange for weapons knowing he will come here to
12 give evidence to the judges?

13 A. I would not change it. Whatever thing I say in
14 this Court, even if we leave this place and go anywhere else, I
15 will not change it.

16 Q. Okay. When was it that you saw diamonds handed
17 over to General Opande?

18 A. The first peace meeting we went for in '91.

19 THE INTERPRETER: Your Honours, can the witness repeat
20 the last bit of his answer?

21 MR JORDASH:

22 Q. Repeat the last bit of your answer, please, Mr
23 Witness.

24 A. Where we started the peace meeting for us to be
25 united with the UN.

1 Q. Was that after the arrest of Foday Sankoh in
2 Freetown in 2000?

3 A. Yes.

4 Q. So disarmament had begun at this time?

5 A. By then the disarmament had not started yet. They
6 only said we should come together. They were organising the
7 disarmament and the deployment of UN.

8 Q. So it was just beginning when this happened?

9 A. Yes.

10 Q. I want to ask you about something else.

06:06:34PI

11 PRESIDING JUDGE: Thank you, Mr Harrison.

06:06:34PI

12 MR JORDASH: If I can shorten matters. If it's an issue of
13 credit and it's an issue of credit relating to TF1-366 then I
14 leave it in Your Honours' hands, as to the truth or otherwise of
15 that allegation. Your Honours, have this witness, Your Honours
16 have TF1-366. I'm happy to leave it to Your Honours'
17 deliberations as to whether TF1-366 --

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18 PRESIDING JUDGE: Yes. We will have to deliberate on this,
19 you know -- We will have to deliberate on this in order to know
20 where we move with admissibility of that question, you know, to
21 this question. This a witness in examination-in-chief at this
22 stage, given the background, you know --

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06:07:12PI

23 MR JORDASH: What I'm saying is Your Honour, is I'm happy
24 to abandon the question, I'm happy to leave it in Your Honours'
25 hands as to whether you accept or not TF1-366's allegation that

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06:07:16PI

06:07:22PI

1 General Opande was dealing in diamonds with Mr Sesay. I'll 06:07:24PI
2 leave it at that. 06:07:31PI

3 JUDGE BOUTET: I think it's probably the best way, and 06:07:32PI
4 safest. 06:07:35PI

5 MR JORDASH: Yes. 06:07:36PI

6 PRESIDING JUDGE: Well, my colleagues say, yes. I don't 06:07:37PI
7 share that view. But we'll move ahead you know with that, 06:07:44PI
8 because the allegation is so I mean I thought that, you know, we 06:07:48PI
9 would look at it, you know, and see how it goes. The allegation 06:08:23PI
10 has been made, collaterals and tangentials and so on and so 06:08:23PI
11 forth. It's a grave allegation and I thought that we could look 06:08:23PI
12 at it but, if my colleagues say no. Well, we will leave it at 06:08:23PI
13 that. And since you are withdrawing it, that is fine. If you 06:08:23PI
14 want us to leave with the credibility of the witness who 06:08:26PI
15 testified in your cross-examination, that's fine. 06:08:30PI

16 JUDGE THOMPSON: And if he was withdrawing it, that's okay 06:08:32PI
17 because I wanted to ask whether in fact the entire exercise is 06:08:36PI
18 to impeach the credibility of witness 31 -- 366. And that's 06:08:40PI
19 precisely the context in which the collateral rule of finality 06:08:47PI
20 applies. 06:08:51PI

21 MR JORDASH: Yes, but -- 06:08:51PI

22 JUDGE THOMPSON: In other words what Mr Harrison was saying 06:08:52PI
23 that the answers that he's given are conclusive and therefore 06:08:55PI
24 you shouldn't go further. That's what he's saying. And that's 06:09:00PI
25 what I understand the finality rule to be about. 06:09:03PI

1 MR JORDASH: Well, I'm content to -- I've received 06:09:07PI
2 instructions to ask the question, so I renew the application. 06:09:15PI
3 JUDGE BOUTET: [Indiscernible] 06:09:36PI
4 PRESIDING JUDGE: Yes, yes, Mr Harrison. 06:09:36PI
5 MR HARRISON: I wasn't sure if the Trial Chamber wished to 06:09:38PI
6 give me an opportunity to reply. 06:09:43PI
7 PRESIDING JUDGE: Yes, let's listen to him. Yes. 06:09:45PI
8 MR HARRISON: The logic of the rule is that if the matter 06:09:54PI
9 is collateral, it's not necessary for determination. And it is 06:10:01PI
10 a rule that is, has its origins in a policy of trying to create 06:10:09PI
11 fairness as well as efficiency within the Courts. And this is 06:10:17PI
12 an example of where the Prosecution never advanced any evidence 06:10:25PI
13 in support of a certain proposition. 06:10:30PI
14 PRESIDING JUDGE: If I may ask, is it -- or it is not part 06:10:32PI
15 of the Prosecution's case that Sesay was involved in diamond 06:10:37PI
16 mining and that the Kennedy was you know one of his lieutenants? 06:10:44PI
17 MR HARRISON: Oh, yes. 06:10:53PI
18 PRESIDING JUDGE: It is. 06:10:55PI
19 MR HARRISON: Oh yes. But it's certainly not part of the 06:10:56PI
20 Prosecution case that there is anything going on between the RUF 06:10:59PI
21 and UNAMSIL. 06:11:03PI
22 PRESIDING JUDGE: It is also part of the Prosecution's case 06:11:05PI
23 that these diamonds were marketed, you know, to persons for 06:11:09PI
24 purposes of obtaining arms. Charles Taylor for instance, that 06:11:17PI
25 is part of Prosecution's case. 06:11:24PI

1 MR HARRISON: Certainly it is. 06:11:25PI

2 PRESIDING JUDGE: Yes. And then there was this allegation, 06:11:28PI

3 there was -- I mean there is this evidence -- I mean that's my 06:11:32PI

4 worry about this. It has a diamond connection. There is the 06:11:35PI

5 allegation that believe Bockarie, you know, got the diamonds, 06:11:40PI

6 and sent them to Liberia. Sesay went to Liberia in order to 06:11:44PI

7 obtain arms. And he, he's alleged to have lost diamonds in 06:11:51PI

8 Liberia for which there is an allegation that he was punished. 06:11:57PI

9 And then in cross-examination, of TF1-366 he says, you 06:12:01PI

10 know, that Oh this man also gave diamonds to receive arms from 06:12:07PI

11 Opande. Where do we stand? That's my worry about this. 06:12:15PI

12 MR HARRISON: Where we stand is there's no Prosecution 06:12:20PI

13 allegation or case whatsoever, no evidence whatsoever of an 06:12:24PI

14 attempt to suggest a trade of diamonds for arms between the RUF 06:12:29PI

15 and UNAMSIL. If the Trial Chamber takes the view that this 06:12:35PI

16 evidence can be put, or those questions can be put to the 06:12:39PI

17 witness, then the Prosecution all of a sudden has a rebuttal 06:12:43PI

18 case it must call in which it must go out and investigate and 06:12:49PI

19 obtain statements. 06:12:53PI

20 PRESIDING JUDGE: This case must -- this case must come to 06:12:55PI

21 an end. We have to bring it to an end. There has to be some 06:12:57PI

22 finality somewhere. We won't keep investigating and 06:13:03PI

23 investigating. As I said I've asked the relevant questions 06:13:08PI

24 which I thought I should ask and to establish the diamond 06:13:13PI

25 connection of Sesay's activities, not only with the diamond 06:13:15PI

1 market as we know it in this case with Charles Taylor and
2 others, but also with this witness.

3 MR HARRISON: Yes. But the Prosecution's position is if
4 the Trial Chamber takes that view and various --

5 PRESIDING JUDGE: It is my view. It is my view.

6 MR HARRISON: There is then going to be a request by the
7 Prosecution to call a very large rebuttal case. Because such
8 issues that the Prosecution deem to be wholly collateral and
9 irrelevant to all of the issues put forward in the indictment
10 and through the evidence called by the Prosecution, are now
11 being expanded through cross-examination. And Prosecution has
12 no opportunity except for a rebuttal.

13 PRESIDING JUDGE: Are you suggesting that's all the
14 evidence the Prosecution called to prove its case, that all the
15 evidence which we admitted here was relevant?

16 MR HARRISON: Am I suggesting it?

17 PRESIDING JUDGE: I mean are you suggesting that all the
18 evidence which was called through the Prosecution witness that
19 all of it was relevant and that you know there was no
20 irrelevance in some of the testimony of the witnesses who
21 testified even though you know it is on the record.

22 MR HARRISON: The Prosecution's position is that it would
23 be relevant, yes.

24 PRESIDING JUDGE: I'll end there.

25 MR JORDASH: Well,,, if --

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1 PRESIDING JUDGE: Mr Harrison hadn't finished. I was just 06:14:51PI
2 putting some questions to Mr Harrison. I stopped him midstream 06:14:55PI
3 you know, his submissions. And I thought that he should 06:14:59PI
4 continue. I wanted to make certain inquiries and he has given 06:15:03PI
5 them to me. 06:15:09PI

6 MR JORDASH: Apologies. 06:15:09PI

7 PRESIDING JUDGE: And I think he can continue. 06:15:10PI

8 MR HARRISON: And if I can just remind you that the origins 06:15:12PI
9 from Attorney General and Hitchcock are very clear and it's been 06:15:17PI
10 held throughout to the common law and throughout a number of 06:15:20PI
11 countries and this tribunal itself has on numerous occasions said: 06:15:25PI
12 That's a collateral issue, we don't want to hear any further 06:15:28PI
13 evidence on it. And this is exactly the same scenario. We have 06:15:34PI
14 an attempt to use evidence adduced through cross-examination 06:15:39PI
15 being put to another witness so that he can rebut it on what is 06:15:43PI
16 clearly a collateral issue. Thank you. 06:15:48PI

17 PRESIDING JUDGE: Thank you, Mr Harrison. Yes, Mr Jordash? 06:15:52PI

18 MR JORDASH: I'd simply say that, this that TF1-366 from 06:15:57PI
19 memory alleged that he had travelled to Liberia during the 06:16:04PI
20 process of disarmament with Mr Sesay to exchange diamonds, I 06:16:09PI
21 think the implication was to exchange diamonds with -- for arms, 06:16:16PI
22 and so a suggestion by TF-1366 that this was occurring at around 06:16:22PI
23 the same time with General Opande would appear to be actually in 06:16:29PI
24 light of the joint criminal enterprise alledged which 06:16:32PI
25 effectively accuses Mr Sesay of exchanging diamonds with people 06:16:35PI

1 outside of Sierra Leone. This would appear to be a little more
2 then a collateral issue according to the General thrust of the
3 Prosecution case.

4 JUDGE BOUTET: Yeah, but Mr Jordash you have heard the
5 Prosecution. This is not their case, this is not part of their
6 case. You are the first one to complain about the Prosecution
7 trying to change the allegations of the time that they and they
8 are trying to adjust their case. They are telling you very
9 clearly this is not their case. They have never put that case
10 forward that there was any diamond transaction and diamond
11 transaction between Mr Sesay and the General that's not their
12 case. They have never lead any evidence of that nature. This
13 is not their case. You should be satisfied with that. This is
14 not something that you had to defend against. It's not their
15 case.

16 JUDGE THOMPSON: And really that's what makes it
17 collateral. They're virtually saying that your attempt to seek
18 to impeach the credit of witness TF1-366 cannot be allowed on a
19 rule that says that where the impeachment relates to a
20 collateral issue, the answers given already should be conclusive
21 and the Counsel must not be allowed to seek to take the issue
22 beyond the conclusiveness and definitiveness of the answers
23 already given. In other words 366 answered the questions in a
24 conclusive manner.

25 MR JORDASH: Well,, I made my submissions, I won't belabour

1 them.

06:18:20PI

2 JUDGE BOUTET: Yeah, but this is a question, I'm sorry,
3 this is a question by Mr Jordash, the witness. This is not a
4 question by you, we'll dispose of the question by Mr Jordash in
5 objection. It is not for the second accused, I regret. This is
6 not your issue.

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7 MS MYLVAGANAM: Well, My Lord, 366 affects the defendant
8 that we represent and whilst one accepts that there are rules
9 about how significant and probative -- My Lord, may I address
10 the bench with your leave, please--

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06:18:51PI

11 PRESIDING JUDGE: We are allowed to consult as well on
12 certain issues which may affect you, we consult, you know, from
13 time to time in the bench, and when you see us consulting maybe
14 you may just have to stop and then you resume, you know, from
15 where you stopped. You're addressing us does not preempt or
16 prevent us from consulting, Madam. Yes, please.

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17 MS MYLVAGANAM: My Lord, just very briefly.

06:19:35PI

18 PRESIDING JUDGE: Yes, please.

06:19:39PI

19 MS MYLVAGANAM: 366 is a witness who affects the accused,
20 we represent. One accepts there are collateral issues which
21 maybe of periferal relevance, but credibility is indivisible and
22 in the determination, ultimately, as to whether or not 366 is a
23 witness of truth, how the bench to approach their function.
24 Those matters which the Prosecution say, well, we won't worry
25 about those because they are already collateral but the things

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1 that the Defence seek to rely on are fundamental. My Lords, 06:20:17PI
2 that would not be affair approach. Credibility is indivisible 06:20:24PI
3 and that is a fundamental evidential principle, and so if we 06:20:30PI
4 seek to rely on credible evidence of contradiction in order to 06:20:36PI
5 undermine and impeach the overall credibility and believability 06:20:42PI
6 of 366, that must be relevant in my submission. 06:20:47PI

7 JUDGE BOUTET: The question would be how far should you be 06:20:54PI
8 allowed to do that? How far it is permissible in law to seek to 06:20:59PI
9 impeach the credibility of this witness in the light of 06:21:05PI
10 conclusive and definitive answers on the issue because I 06:21:10PI
11 indicated earlier on that the question, of course, for 06:21:11PI
12 preliminary determination is whether the issue is a collateral 06:21:16PI
13 one or not a collateral one. Once we settled that issue, then 06:21:20PI
14 we can determine whether, indeed, the finality of collateral 06:21:24PI
15 applies. 06:21:29PI

16 MS MYLVAGANAM: My Lord, is absolutely right. The issue 06:21:37PI
17 is: Can it properly be ring-fenced into a collateral issue. In 06:21:37PI
18 my submission, credibility cannot be ring-fenced, because if 06:21:41PI
19 there are issues that go to the heart of believability issue, 06:21:46PI
20 and this may be such a matter, then the Court is entitled to 06:21:49PI
21 look at the widest picture in order to determine can we rely on 06:21:53PI
22 this person as a witness of the truth, because if they were 06:21:59PI
23 prepared to lie, exaggerate or confabulate on this issue, how 06:22:03PI
24 can we rely on their testimony as to the central matter? 06:22:10PI

25 JUDGE THOMPSON: But the Prosecution is saying that this is 06:22:13PI

1 not an issue in controversy between the parties because they 06:22:16PI
2 have not come here with any allegation as to the possible 06:22:22PI
3 collusion between the first accused and General Opande in terms 06:22:26PI
4 of diamond exchange for arms. Does that not put the issue in a 06:22:31PI
5 circumscribe context and take it outside the question of whether 06:22:44PI
6 it's an issue in controversy in between the parties. Isn't that 06:22:50PI
7 one perspective of it? 06:22:52PI

8 MS MYLVAGANAM: Well, My Lord, the Prosecution rightly say 06:22:52PI
9 we don't rely on X, that which our witness said, but regrettably 06:22:55PI
10 for the Prosecution, the witness went out of remit and showed 06:23:04PI
11 its true colours as to its reliability and credibility and it 06:23:08PI
12 may well effect the overall integrity of that witness's account 06:23:14PI

13 JUDGE THOMPSON: I restrain myself. 06:23:20PI

14 JUDGE BOUTET: Yeah, this is something that you will be 06:23:23PI
15 welcome to argue forcefully at the end of the trial as to 06:23:23PI
16 credibility of the witnesses, that's fine. That's what we are 06:23:27PI
17 saying, this is a question of credibility. I do not deny 06:23:28PI
18 anything that you have said about credibility, yes, but 06:23:29PI
19 credibility has to be seen in the context of where it is. I'm, 06:23:32PI
20 in other words, saying when it goes certainly to credibility 06:23:39PI
21 that there's got to be an end to it. Otherwise, you could call 06:23:39PI
22 25 witnesses to show this one said this. This is for the Court 06:23:43PI
23 to appreciate, as we have said, we've seen the General Opande 06:23:44PI
24 here on the witness box. We can assess him and see how it is 06:23:48PI
25 compared to this other witness, and that's the Court -- that's 06:23:51PI

1 the proper determination we are going to make and we say to you 06:23:55PI
2 this is probably the best one. 06:23:59PI
3 MS MYLVAGANAM: Thank you. 06:24:01PI
4 PRESIDING JUDGE: We will rise. The Chamber will rise for 06:24:06PI
5 today and we are -- yes, Mr -- 06:24:34PI
6 MR HARRISON: I'm very sorry to interrupt. 06:24:36PI
7 PRESIDING JUDGE: Yes, Mr Harrison, please. 06:24:39PI
8 MR HARRISON: Just so the Prosecution doesn't create any 06:24:41PI
9 delay. I understand there is some misunderstanding as to who 06:24:46PI
10 the next witness might be. Is Mr Jordash able to give us some 06:24:50PI
11 advice? 06:24:56PI
12 MR JORDASH: Yes, General Hassan. 06:24:57PI
13 PRESIDING JUDGE: General Hassan? 06:25:03PI
14 MR JORDASH: General -- Major Hassan. 06:25:04PI
15 PRESIDING JUDGE: Major Hassan? 06:25:07PI
16 MR JORDASH: Yes. 06:25:07PI
17 JUDGE BOUTET: Major General Hassan. 06:25:11PI
18 MR JORDASH: Sorry. Major General Hassan. 06:25:11PI
19 JUDGE BOUTET: Yeah, it's not quite the same. 06:25:11PI
20 MR JORDASH: No, and don't tell him I said so. 06:25:11PI
21 JUDGE BOUTET: I would advise you not to call him Major, if 06:25:11PI
22 he is a Major General. So it may help your case. 06:25:16PI
23 MR JORDASH: I was wondering if for the -- sorry to jump 06:25:32PI
24 up. I was wondering for the sake of the witness's ease of mind 06:25:38PI
25 whether the parties could indicate approximate length of 06:25:44PI

1 examination. So that --

06:25:51PI

2 PRESIDING JUDGE: No, you did not indicate your own length
3 of examination or cross-examination. You went beyond and beyond
4 so we are not going to call that question. I won't ask the
5 Kallon Defence team to limit its cross-examination. If the
6 General would have to miss his flight tomorrow, fine. Oh, yes,
7 that is the stand, you know, we will take on this because I'm
8 not prepared to rush anybody. You had the full bite, you know,
9 of the cake. And we should allow other parties, you know, too.
10 The Chamber will rise. Yes, Mr Jordash.

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11 MR JORDASH: Only to say I wasn't seeking to rush anyone.
12 I was seeking to alleviate or assist the witness if he had any
13 concerns.

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06:26:33PI

06:26:39PI

14 PRESIDING JUDGE: No. No. No. No. The witness is not
15 our concern now. When he has to leave is not my concern, is not
16 the concern of this chamber anymore, given the length of his
17 examination-in-chief. We would have to do justice to the other
18 parties as well. So if he cannot finish tomorrow, well, that's
19 it. We hope that it will not get to that. We will advise
20 ourselves, you know, on the issue that has been raised, the
21 objection that has been raised by Mr Harrison as to whether the
22 question put by Mr Jordash on the General's involvement in
23 diamond exchanges with Sesay, you know, we would advise
24 ourselves on that, and we will come out with a ruling tomorrow
25 morning at 9.30 before we proceed. The Chamber will rise,

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1 please.

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2 [The proceedings concluded at 6.20 p.m.]

06:27:38PI

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EXHIBITS:

WITNESSES FOR THE DEFENCE:

WITNESS: DIS-091

DIRECT EXAMINATION MR JORDASH

DIS-249 sworn

EXAMINED BY MR JORDASH

Exhibit No.303 was admitted

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