THE SPECIAL COURT FOR SIERRA LEONE

CASE NO.: SCSL- 04 - 15 - T

TRIAL CHAMBER I

THE PROSECUTOR OF THE SPECIAL COURT

٧.

ISSA HASSAN SESAY MORRIS KALLON AUGUSTINE GBAO

12 JULY 2004 1008H CONTINUED TRIAL

Before the Judges:

Benjamin Mutanga Itoe, Presiding

Bankole Thompson Pierre Boutet

For the Registry:

Mr. Geoff Walker

Ms. Maureen Edmonds

For the Prosecution:

Ms. Lesley Taylor Mr. Abdul Tejan-Cole Ms. Boi-Tia Stevens

For the Accused Issa Hassan Sesay:

Mr. Timothy Clayson Mr. Wayne Jordash Ms. Sareta Ashraph

For the Accused Morris Kallon:

Mr. Shekou Touray Mr. Raymond Brown Ms. Wanda Akin Mr. Melron Nicol-Wilson

For the Accused Augustine Gbao:

Mr. Andreas O'Shea Mr. John Cammegh

Court Reporters:

Mr. Momodou Jallow Ms.Gifty C. Harding Ms. Susan G. Humphries

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1	[Monday, 12 July 2004]
2	[The Accused entered Court]
3	[Accused Gbao not present]
4	[Open session]
5	[Upon commencing at 10.08]
6	MR. WALKER:
7	All persons having anything to do before this Special Court Trial Chamber draw near and give your
8	attendance.
9	MR. PRESIDENT:
10	This session is open and yes, Mr. Cammegh. Really we were going to ask for the pronunciation of
11	your name.
12	MR. CAMMEGH:
13	Cammegh, Your Honour.
14	MR. PRESIDENT:
15	The G-H is silent?
16	MR. CAMMEGH:
17	Very well, yes.
18	MR. PRESIDENT:
19	Right, okay.
20	MR. CAMMEGH:
21	Can I just raise two preliminary matters which are brief and which will not hinder the progress this
22	morning? The first one is in relation to the timetable. I'm sure there are many of us on both the
23	Prosecution and the Defence side who would appreciate some indication of how this case is projected
24	to progress to the latter part of this year, particularly those of us, of course, who have domestic
25	practices to look after. We thus far have a court order indicating that the trial was sitting full session in
26	July, and then in October. And what we would be grateful for at the earliest opportunity, if that could
27	be afforded, is an indication of whether or not we will be sitting in December or whether that sitting
28	would be postponed until January because I understand that there are many involved with this
29	Tribunal, and, of course, wish to get farther across the wall to enjoy their Christmas break. That's one
30	matter.
31	
32	The second matter is this: As Your Honour knows, it was or it is the intention of the Gbao team to
33	seek leave to appeal on the issue in relation to his representation. I know that Mr. O'Shea spent most
34	of Friday putting together that draft document which was served on time. I simply asked for two things
35	in respect of that.
36	
37	The first is addressed to the Prosecution. We would, in the interest of justice and the expediency of

this case, simply ask that they submit a reply as soon as they can. And secondly, if your Honours

- 2 could impose some expedited timetable in relation to this matter generally, it certainly would be in the
- interest of justice because, of course, it wouldn't really be appropriate if a lot of water was to flow on to
- 4 the bridge, if several witnesses' testimony was to be heard before that decision was handed down.
- 5 As you have said yourself, and quite rightly we respectfully submit expediency really has to be the
- 6 name of the game. So that's all we asked for at this stage.
- 7 MR. PRESIDENT:
- 8 Well, I don't know if the Prosecution has any -- you were mentioned, I don't know if you have any
- 9 observation to make before –
- 10 MS. TAYLOR:
- Your Honour, we haven't yet received a copy of the Defence application, and as soon as it is, the
- 12 Prosecution will consider it and respond appropriately.
- 13 MR. PRESIDENT:
- Well, we note that all counsel, particularly the Defence, have a number of commitments with various
- tribunals, and we are very conscious of this, and I think we are going to make it known before long as
- to how we intend to proceed with this case, and the case involving the CDF as well, so that you can
- be able to organise your calendars.
- 18 MR. CAMMEGH:
- We are very grateful for that and I'm sure Your Honour realises we are under pressure from courts
- 20 and chambers in various countries to know about our --
- 21 MR. PRESIDENT:
- That's right, yes. We are very conscious of this. We are going to do everything to make sure that we
- don't -- you know how our matters will proceed here, so as to be able to organise you calendars with
- 24 your other engagements.
- 25 MR. CAMMEGH:
- l'm sure I speak for everybody when I say I'm very grateful for that.
- 27 MR. PRESIDENT:
- 28 Right, good. For the -- on the second matter, you've heard the Prosecution is not yet served, and
- 29 they have promised, you know, that as soon as they are served they would act expeditiously.
- 30 MR. CAMMEGH:
- 31 Yes.
- 32 MR. PRESIDENT:
- So we hope that they receive the papers and –
- 34 MR. CAMMEGH:
- 35 I'm sure Your Honour will like us keeping --
- 36 MR. PRESIDENT:
- We hope that you've met the standards, you know, for granting this leave. That's the only thing which

SESAY ET AL 12 JULY 2004 I wanted to raise here. Anyway, I think this answers your two concerns; does it? 1 MR. CAMMEGH: 2 I'm grateful to you. 3 MR. PRESIDENT: 4 5 Good, right. 6 7 We did adjourn to today in order to take the first witness. Is the Prosecution ready to proceed? MS. TAYLOR: 8 The Prosecution is ready to proceed, Your Honour. The first witness will be led by my learned friend, 9 10 Mr. Tejan-Cole. MR. PRESIDENT: 11 Will --12 MS. TAYLOR: 13 Be led through his evidence by my learned friend, Mr. Tejan-Cole. 14 MR. PRESIDENT: 15 Okay, right. Okay can the Prosecution now call its first witness? Do you need any special measures? 16 I think the witness has to be walked in. I see the screens are opened, I don't know. 17 MR. TEJAN-COLE: 18 Yes, Your Honour. In accordance with your decision on protective measures of the 5th of July, we 19 require the curtains to be closed and the witness to be brought in, My Lord. 20 MR. PRESIDENT: 21 22 All right. MR. TEJAN-COLE: 23 The witness is TF1-074. 24 25 MR. PRESIDENT: Okay, we do not need to rise. Can the curtains be closed, please, whilst the witness is brought in? 26 JUDGE THOMPSON: 27 Did you say TF -28 MR. TEJAN-COLE: 29 TF1-074. 30 MR. PRESIDENT: 31 TF1-0? 32 MR. TEJAN-COLE: 33 74, Your Honour. 34

The interpreters are reminded always that they are still bound by their oath. Are the translation

MR. PRESIDENT:

facilities in place?

35

THE INTERPRETER: Yes, Your Honour. 2 [Witness sworn] 3 [WITNESS: WITNESS TF1-074: 4 5 [Witness answered through interpretation] THE INTERPRETER: 6 7 Your Honours, I don't think the witness hears what we are saying from the booth. Your Honours, I don't think the witness hears what we are saying from the booth. 8 JUDGE BOUTET: 9 We've heard, we've heard. That's okay. Mr. Walker, can you check if the witness can hear what's 10 going on? Check his earphones, please. His speaker may not be on the right channel too. 11 12 MR. PRESIDENT: You said this is witness no. TF1-074? 13 MR. TEJAN-COLE: 14 Yes, Your Honour. 15 MR. PRESIDENT: 16 17 Yes, please. Go ahead. 18 Examined by Mr. Tejan-Cole: MR. TEJAN-COLE: 19 Mr. Witness, can you tell this Court how old you are? 20 Q. 21 Α. I am 26 years old. 22 Q. And where were you born? 23 Α. I was born in the eastern province, Sando Chiefdom --24 MR. O'SHEA: Your Honours, I apologise for interrupting. It just seems to me that we are entering into information at 25 26 this point in time which is not sensible to be brought into public. May I make a suggestion, that the personal information on the sheet which the Prosecution has is shown to the witness, and the witness 27 is asked if the information on that sheet is correct. 28 29 MR. PRESIDENT: We want to go with it orally, Mr. O'Shea, please. We want to go -- we want to proceed orally. 30 31 MR. O'SHEA: Fair enough. I'm just concerned about the protective measures. 32 MR. PRESIDENT: 33 34 We should lead the witness, you know, orally so that we get along. MR. TEJAN-COLE: 35 Sorry, Your Honour, I did not get the answer for the last question I asked the witness. So I will pose 36 37 this question again to the witness.

- 1 MR. PRESIDENT:
- 2 He says he is 26 years old.
- 3 MR. TEJAN-COLE:
- 4 Yes, then I asked this further question again.
- 5 MR. TEJAN-COLE:
- 6 Q. Where were you born?
- 7 MR. PRESIDENT:
- 8 Where were you born, yes.
- 9 THE WITNESS: [Answered through interpretation]
- 10 I was born in Kono.
- 11 MR. TEJAN-COLE
- 12 Q. Can you tell the Court the name of the town where you were born?
- 13 A. Yes, I will do so.
- 14 Q. What's it?
- 15 A. Sando Chiefdom, Yomadu Town.
- 16 Q. Mr. Witness, can you read in English?
- 17 A. No I can't.
- 18 Q. Can you write in English?
- 19 A. No, I'm not that educated.
- 20 MR. PRESIDENT:
- So the reply is that he cannot write in English?
- 22 MR. TEJAN-COLE:
- 23 Cannot read or write in English.
- 24 MR. PRESIDENT:
- 25 Where is the technician? They don't appear to be getting us in the gallery. Can they see what they
- can do to adjust? Where is the technician? The witness was saying that he can neither read, nor
- 27 write English. I think its all right now. Prosecution, I think you can go on.
- 28 MR. TEJAN-COLE:
- 29 Q. Mr. Witness, do you recall or do you remember February 1998?
- 30 A. Yes, I can remember.
- 31 Q. Where were you in February 1998?
- 32 A. I was in the town where I was born. Yomadu.
- 33 Q. Did you see anything happen in February 1998?
- 34 A. Yes, I did.
- 35 Q. Can you tell this Court what you saw?
- 36 A. Yes, I can.
- 37 Q. Go ahead?

1 A. I was in Yomadu 1998. We were there, by then the intervention has taken place. We were in

- 2 Yomadu and we saw people coming from Freetown, both soldiers and civilians. In fact, we were there
- 3 the population was so much that we became panic. So we moved from there and went to a town that
- 4 is called Dandabu. So from time to time we leave Dandabu and come to Yomadu. One time we left,
- 5 we saw soldiers coming in a vehicle. They came and they stopped by us.
- 6 Q. Could I ask you how many vehicles you saw?
- 7 A. Initially they came with only one van from Koindu.
- 8 Q. Can you can describe that van to the Court?
- 9 A. That vehicle was a Toyota. So they asked us whether there were any youths in town.
- 10 Q. Who asked you if there were any youths in town?
- 11 A. It was the soldiers, the junta.
- 12 MR. PRESIDENT:
- He said they asked them whether there were any youths in town.
- 14 MR. TEJAN-COLE:
- 15 Yes, Your Honour.
- 16 A. Yes, there were youths in town. Yes, so we answered that there were no youth.
- 17 Q. Did anything happen after that?
- 18 A. When they had left we went back to Dandabu. There was a certain time when I and my brothers and
- worker left Dandabu. We came to Yomadu and stayed there up to two o'clock. From two to three,
- we saw two vehicles -- three vehicles. So when these three vehicles came, we were all panicked in
- town. We were trying to run away. When we were running away, we saw one soldier. So I ran away
- 22 from the town and hid somewhere. I was there when they took Osman and went with him. I stayed
- there for sometime. After sometime I saw Osman coming back. I saw Osman coming with rice in a
- pan. He told me and said we should not sit down here. I asked him and he said it was Johnny Paul
- that was going. He said, in fact, they took me in one of those three vehicles. I asked him, I said was
- 26 that true, and he said, "Yes, it is the truth that I am telling you. They asked me to show them a road
- and I told them that I did not know a road and they said they wanted a route to Kailahun." The junta
- begged him and asked them to show them a route to Kailahun.
- 29 MR. O'SHEA:
- Yes, Your Honours. I think we are entering into an area of unnecessary hearsay here. I would
- 31 suggest that the Prosecution counsel takes things a little more slowly so that he is able to control the
- 32 witness.
- 33 MR. PRESIDENT:
- Yes, we've taken note of that. Please, control your witness.
- 35 MR. TEJAN-COLE:
- 36 Your Honour, I'm simply allowing the witness to tell his story, and tell exactly what he stated in his
- 37 statement which was disclosed to the Defence.

1 Q. Now, you said you saw three vehicles. Can you describe these three vehicles to the Court?

- 2 A. Yes. Those three vehicles the time when they held my sister, they had one Nissan and two Toyotas.
- 3 Q. Was anything written on any of these vehicle?
- 4 A. The first motorcar in which the juntas were, that particular vehicle they wrote AFRC on it. That is the
- 5 vehicle in which the men asked us for a route to Kailahun.
- 6 Q. Can you describe the men in these three vehicles?
- 7 Can you tell us how they were dressed?
- 8 A. Yes, they had full combat.
- 9 Q. Were they carrying any weapons?
- 10 A. Yes, they had weapons.
- 11 Q. Now, after this incident that Osman narrated to you, did you do anything as a result of what Osman
- said to you?
- 13 A. Yes, we moved and we went to a village called Dandabu but we did not meet the Pa there.
- 14 Q. What Pa are you referring to?
- 15 A. Yes, I'm talking about my father. We went to the second village and we met them there.
- 16 Q. Do you know the name of the second village?
- 17 A. The second village was Dumbadu. We were all together with my father, and they started attacking us
- there again.
- 19 Q. Who attacked you?
- 20 A. The rebels who attacked the village and one of them was called Kanaboy.
- 21 Q. So what happened when the rebels attacked?
- 22 A. When they attacked, they took some of our property, and they left the town. And when they left the
- town, we decided to go to Guinea. We moved and went. We were on our way, and we decided to
- stay in one village and we had firing before us. So we took another branch and went into the bush
- and met a farmhouse where we stayed. We stayed there on to the evening time, and, there again,
- the junta went and met us there. They captured me and my younger brother and they took us along.
- 27 Q. What village were you captured?
- 28 A. The village was called Baiwandu. That is the name of the village.
- 29 Q. Do you know --
- 30 MR. PRESIDENT:
- We want to get the name of the village on record.
- 32 MR. TEJAN COLE:
- 33 Baiwandu, Your Honour.
- 34 THE INTERPRETER:
- 35 Baiwandu.
- 36 MR. PRESIDENT:
- Yes, you can proceed.

- 1 MR. TEJAN-COLE:
- 2 Q. Were you captured alone?
- 3 A. No, I was captured with my younger brother.
- 4 Q. Do you know who were these people who captured you?
- 5 A. Both troops went but those people who appeared to us in the farmhouse were the junta.
- 6 Q. What do you mean when you say the two troops?
- 7 A. I mean the RUF and the AFRC.
- 8 Q. Could you recall the names of any of the commanders who captured you?
- 9 A. Those that captured us, one of them was Francis and his rebel name is Kill Man No Blood.
- 10 Q. Do you recall any other name?
- 11 MR. PRESIDENT:
- 12 Francis.
- 13 MR. TEJAN-COLE:
- 14 Francis, also known as --
- 15 THE INTERPRETER:
- 16 Kill Man No Blood. That is his rebel name.
- 17 MR. TEJAN-COLE:
- 18 Q. Any other person?
- 19 A. The other was Gbessay.
- 20 MR. PRESIDENT:
- 21 What?
- 22 MR. TEJAN-COLE:
- 23 Gbessay. G-B-E-S-S-A-Y.
- 24 MR. PRESIDENT:
- Yes.
- 26 MR. TEJAN-COLE:
- 27 Q. Now what happened after you were captured in Baiwandu?
- 28 A. When they captured us, they took us to another farmhouse where they had captured the first people
- 29 Q. Do you know where the farmhouse was? Do you know what town?
- 30 A. The farmhouse was near Wordu and they took us to Wordu.
- 31 Q. You said you were taken to meet some of the other people whom they captured first. How many
- 32 other people did you meet in captivity? Can you tell this Court roughly the number of people?
- 33 A. We all were 18 that were captured that same day.
- 34 Q. Did anything happen after this?
- 35 A. They moved with us and took us to Wordu.
- 36 MR. PRESIDENT:
- We want to have the names of these towns.

- 1 MR. TEJAN-COLE:
- 2 Wordu.
- 3 MR. PRESIDENT:
- 4 They took them to Wordu.
- 5 MR. TEJAN-COLE:
- 6 Wordu. Yes, Your Honour. The spelling is W-O-R-D-U.
- 7 Q. So they took you to Wordu?
- 8 A. Yes. When they took us to Wordu, we slept there two days. The other night, they told us that, in fact,
- all the junta should report by 10.00.
- 10 Q. You said -
- 11 MR. TEJAN-COLE:
- Sorry, Your Honour, can I get again exactly what the interpreter said. I'm not too sure whether the --
- can he repeat what he said in answer to that question?
- 14 MR. PRESIDENT:
- 15 Can you take you question again so that you can get the reply.
- 16 MR. TEJAN-COLE:
- 17 Q. What happened after you were captured in Wordu -- after you were taken to Wordu?
- 18 A. When they took us to Kaima --
- 19 MR. PRESIDENT:
- Not Kaima, we are in Wordu.
- 21 MR. TEJAN-COLE:
- 22 Q. What happened after Wordu? When you were captured in Wordu, you said you spent two nights in
- Wordu.
- 24 MR. PRESIDENT:
- 25 He said they were taken to a farmhouse in Gbessay and that, you know, thereafter -- they were about
- 26 18 of them, and they took them to Wordu and there they slept for two days.
- 27 MR. TEJAN-COLE:
- 28 Q. Yes, you slept for two days in Wordu, what happened after the two days in Wordu?
- 29 A. They came with a paper to one of the big people and they told all of them to report to Kayima which is
- 30 the chiefdom headquarter.
- 31 Q. When you say they, who came with this paper? Who came with this document?
- 32 A. The man who came with the document was called Orfungbey, and his rebel name is Colonel Terry --
- 33 Colonel Open Terry.
- 34 MR. PRESIDENT:
- Colonel Open Terry -- his real name was what, that was his military name.
- 36 THE WITNESS: [Answered through interpretation]
- 37 His real name is Orfungbey.

- MR. TEJAN-COLE:
- 2 Q. And what did this document say?
- A. All of them should report at Kayima before ten o'clock.
- 4 MR. O'SHEA:
- 5 Your Honour, I apologise for being on my feet again. We smell quite a strong burning smell from this
- side of the room. Perhaps, we could investigate what it is.
- 7 MR. PRESIDENT:
- 8 Can we rise? Can we break and reassure ourselves as to what is happening. We will resume as
- 9 soon as things come true. We will rise, please.
- 10 [Recess taken at 10.50 a.m.]
- 11 [On resuming at 11.05 a.m.]
- 12 MR. PRESIDENT:
- The session resumes. The Prosecution, go on, please.
- 14 MR. TEJAN-COLE:
- Yes, Your Honour. Your Honour, my recollection is that we stopped at the point where the witness
- said that they received a letter for them to be moved to Kayima, the chiefdom headquarters.
- 17 MR. PRESIDENT:
- 18 Can we have that for the record?
- 19 MR. TEJAN-COLE:
- 20 K-A-I-M-A, (sic) Your Honour.
- 21 MR. BROWN:
- Your Honour, is it possible for us to know what he said. I don't recall him saying a letter -- in the
- content of a letter. Perhaps we can go back and ask him what the letter said.
- 24 MR. PRESIDENT:
- Can you stand, please.
- 26 MR. BROWN:
- 27 I'm sorry, forgive me. I wanted to point out that it wasn't -- I'm not sure we got a clear answer
- 28 previously about the content of the letter, and asked if he could ask him about the letter again.
- 29 TEJAN-COLE.
- 30 Q. Now, Mr. Witness, you said that you received -- whilst you were in Wordu, you received a letter. What
- 31 did that letter say?
- 32 A. The letter -- the boss man who was Komba Gbundema said that all of them should report to Kayima.
- In fact, they gathered everything that they had and put them in the motorcar. The rest of the things
- were carried by us. We were at Kayima two days. At night when we were sleeping, one fellow came
- who was called Alhaji.
- 36 Q. Who is this Alhaji?
- 37 A. Alhaji was a fellow that was captured and was with them. So he called me, and told me that,

1 "Tomorrow you will be called, and they would ask each and every one of you as to who wants to go to

- 2 his people; that it is not by force, and that you would be left to go. So please, don't say that you are
- going and when they ask you to go and escort them, you should know that they are going to execute
- 4 you." And they said, "Well, no problem, I will be with them." So in the morning, around 11.00 they
- 5 gathered all of us.
- 6 Q. Who gathered all of you?
- 7 A. They had already combined, the rebels and the AFRC at Kayima. They gathered us.
- 8 Q. Could you specifically tell this Court who asked you to stand up in a line?
- 9 A. Yes, the man who told us to be in a line was an AFRC junta.
- 10 Q. Do you recall his name?
- 11 A. His name is Bangalie.
- 12 Q. Could you tell this Court how this Bangalie was dressed, how he was attired?
- 13 A. Yes, I can.
- 14 Q. How was he dressed?
- 15 A. He was in full combat and had an MP badge on his left arm.
- 16 Q. You've also mentioned the name of Major Komba Gbundema. Who was this Major Komba
- 17 Gbundema?
- 18 MR. BROWN:
- 19 Your Honour, I object. I don't recall him testifying to Major --
- 20 MR. PRESIDENT:
- 21 I don't recall either.
- 22 MR. TEJAN-COLE:
- Your Honour, the evidence is that they received a letter from Major Komba Gbundema. I stand to be
- 24 guided by the records.
- 25 MR. PRESIDENT:
- Maybe you have it in your own record, but it hasn't come out in evidence.
- 27 JUDGE THOMPSON:
- Yes, he said they received the letter.
- 29 MR. TEJAN-COLE:
- 30 As Your Honour pleases.
- 31 MR. TEJAN-COLE:
- 32 Q. So, when you were in Kayima you said in the morning you were asked to lined up. Could you tell the
- Court did anything happen after this?
- 34 A. Yes, when we had queued, the man came and greeted us.
- 35 Q. Who was this man?
- 36 A. The man, Bangali himself who was AFRC.
- 37 Q. Yes?

1 A. After queuing, when he had greeted, he told us that he was the one that summoned us. He said

- whosoever wanted to go to his people there is no problem because God has not made anybody to
- become a warrior. "So if you want to go, you can tell us and we will release you, and whosoever want
- 4 to stay with us can do so. And whosoever want to go, let him go this way, and whosoever did not
- 5 want to go, let him go this way." In fact, he gave us that over-confidence, and some other people
- 6 choose to go to their people
- 7 Q. Can you tell how many people went to that direction?
- 8 A. So we that remained --
- 9 Q. Can you tell -- you said some people went in the direction saying that they wanted to return back to
- their families. Can you tell how many people went in that direction indicating that they wanted to go
- back to their families?
- 12 A. Yes.
- 13 Q. How many?
- 14 A. We were 18, 15 were the ones that decided to go to their parents.
- 15 Q. And you said there were three of you on the other side?
- 16 A. Yes.
- 17 Q. Who were those three?
- 18 A. I, with my younger brother, with one old man that was called Pa Sesay.
- 19 Q. What is name of your younger brother?
- 20 A. He was called Muhammed.
- 21 Q. Yes, did anything happen after this?
- 22 A. When they have seen that some have decided to go to their parents, and those who wanted to stay
- with them, he stood there and wanted to join the group. I raised up my head and I saw Alhaji, and he
- winked to me. He showed me signs so that I could not join those people. He did that for three times,
- and Bangalie then said, "So you people that remained have decided to stay with us," and we said,
- 26 "Yes we've decided to stay with you." And they said, "Okay, you have decided to go to your people,
- 27 not so." He said, "Okay, now you people that have decided to go to your parents. If we release you,
- 28 you will go and tell the government that we are here, and that we have people here, and that they
- would commission a jet to come and bomb us; isn't that so?" And he said, "Now they are going to kill
- all of you." In fact, they were there when one woman shouted and her name was Water. She said,
- "Umm!" She said, "You, the rebels are you here? Now the junta have decided to go and kill these
- 32 people. At the latter part they would not say that it was the junta that killed these people or that cut
- their hands, they would say it was the rebels." And the man then said, "Well, we are not going to do
- 34 anything."
- 35 Q. What man?
- 36 A. The same Bangalie that I have been talking about. He said, "We were not going to kill them, we were
- going to cut their hands, but we are coming to carve AFRC on their bodies. They are going to stay in

this way, they are going to stay with us and they are going to work for us." And they told these 15

- people to come and join us. And they told all of us to take off our clothes, and we took all of our
- 3 clothes and put them under the orange tree. And he sent one of his fellows to go and take a surgical
- 4 blade, and they started carving AFRC on our bodies. I, in particular, was carved -- was marked by
- 5 Bangalie. By then, my younger brother was so much afraid. In fact, he came by me and I held his
- 6 hand, and they marked AFRC on our bodies.
- 7 Q. What was marked on your body?
- 8 A. On my own body, they marked AFRC and RUF, and on some other peoples' bodies, they just marked
- 9 AFRC.
- 10 Q. Who marked you?
- 11 A. It was Bangalie.
- 12 Q. Could you just repeat? You said you were marked specifically AFRC/RUF. What was marked on the
- others who were present, some of the others captives?
- 14 A. Some were marked RUF, some AFRC. Some had both AFRC/RUF, and me in particular I had AFRC
- and RUF.
- 16 Q. Who marked you?
- 17 A. It was Bangalie, the AFRC man
- 18 Q. What did he use to mark you?
- 19 A. It was called a surgical blade.
- 20 Q. And where did he put this mark on you?
- 21 A. On my chest.
- 22 Q. Were all the 18 captives marked?
- 23 A. All of us were marked on that same day.
- 24 Q. Now whilst you were at Kayima, could you tell roughly how many people held --
- 25 MR. PRESIDENT:
- Look, let me get this right. There were 15 of them who said they wanted to join their parents?
- 27 MR. TEJAN-COLE:
- Yes, Your Honour.
- 29 MR. PRESIDENT:
- Three of them decided to remain?
- 31 MR. TEJAN-COLE:
- 32 Yes, Your Honour.
- 33 MR. PRESIDENT:
- Are you now saying they decided to mark all of them, all the 18 of them?
- 35 MR. TEJAN-COLE:
- The evidence is that they were later joined together. All 18 of them were joined together and then
- they decided that instead of allowing them to go, that they were going to mark all of them. That is the

evidence that the witness has said, Your Honour. So they marked all 18 of them, and he said further that some of them were marked RUF/AFRC, others were marked -- as Your Honour pleases.

- 3 Q. What happened after you were marked?
- 4 A. After marking me, I was there for two days. The third day, one of their big men who was called
- 5 Bangalie, asked us to pick up his load and take it to Yomadu. And I and that old man and other
- 6 people, they asked us to pick their load and go to Yomadu.
- 7 Q. Before you left for Yomadu can you tell us roughly, how many soldiers or how many people were
- there in this group that held you in Kayima? Not you the captives but those who captured you. You
- 9 said they were mixed, can you tell us how many of them?
- 10 MR. BROWN:
- Your Honour, when there is a partial answer, I think counsel has to wait for the interpreter to give us
- the partial answer before he interrupts the witness, because the normal thing I would think, he would
- like the witness to finish and then he ask for relief from the Court if he feels that the answer is
- unresponsive. I missed what the witness said at this latter part.
- 15 MR. PRESIDENT:
- Please, you would try to go a bit slowly.
- 17 MR. TEJAN-COLE:
- As Your Lordship pleases. I apologise to my learned friend, My Lord.
- 19 MR. PRESIDENT:
- 20 You have to time your questions with the cabin, you know, so that –
- 21 MR. TEJAN-COLE:
- 22 I apologise, My Lord. My learned friend may understand that I understand Krio, I listened to him in
- 23 Krio and I assumed that the Court -- I forgot about the translator, Your Honour.
- 24 MR. PRESIDENT:
- That's okay.
- 26 MR. TEJAN-COLE:
- 27 I apologise, Your Honour.
- 28 MR. TEJAN-COLE:
- 29 Q. Could you tell this Court how many people held you in captivity in Kayima?
- 30 A. Is it by Yomadu?
- 31 Q. I'm referring to Kayima. Whilst you were in Kayima, how many people were there that held you in
- captivity; do you know how many? If you don't know, you don't know.
- 33 A. We were held by both the junta and the rebels.
- 34 Q. Do you know of anybody who was in charge of that group in Kayima.
- 35 MR BROWN:
- 36 I object.

- 1 MR. PRESIDENT:
- 2 Go ahead.
- 3 MR.BROWN:
- 4 I begin by saying that I object, but I was waiting after saying that for the Court's direction. I don't
- 5 know the –
- 6 JUDGE THOMPSON:
- 7 Just a minute, what are you objecting to?
- 8 MR. BROWN:
- I'm objecting to this question which is: "Do you know who is in charge?" In part because the
- questions that are predicates like, "Do you know how many or do you --" frequently lead to the
- substantive answer and I am objecting to the substantive answer until we know the foundation. If, in
- fact, this is double or triple [inaudible] then its reliability may be subject to question. How does he
- know whatever he does know. We are entitled to apply to the Court for relief before the answer is
- 14 given, not afterwards.
 - JUDGE THOMPSON:
- But if the question is "Do you know who is in charge," what rule of evidence does that offend?
- 17 MR. BROWN:

- Absolutely none, Your Honour. But if I can go back to the question before when counsel was
- pressing, "Do you know how many," the answer that came in response wasn't yes, followed by a
- waiting for a question as to what the number was. So, I am anticipating, you are correct. This is pre-
- 21 emptive in the sense that this question can elicit the ultimate answer. I'm concerned about the next
- 22 guestion but I can't very well object once he answered that. The question to which I object is
- 23 presumably the next question which is, "Who was in charge?"
- 24 JUDGE THOMPSON:
- 25 Clearly, we would find it very difficult to apply any rule pre-emptively, because do you know who was
- in charge is not a leading question.
- 27 MR. PRESIDENT:
- 28 He has not even mentioned the name of somebody.
- 29 JUDGE THOMPSON:
- 30 It's not suggestive.
- 31 MR. BROWN:
- 32 I take Your Honours, what I take as guidance. Can I alter my objection to say, could the witness be
- asked to answer this question yes or no so that we might hear the next question before the following
- answer, and perhaps interpose an objection or perhaps not unnecessarily [inaudible] the question, if
- learned counsel could be instructed to ask this question on a "yes or no" basis.
- 36 JUDGE THOMPSON:
- From the way the question is framed it would seem as if -- that the rationale behind the question –

1 MR. BROWN:

- 2 That's true, Your Honour. It's fair to do this line of questioning. There have been more than one
- occasion when a fairly simple appointed question is laid to a nullity, and I'm trying -- I can't get away
- from your choice that I acted pre-emptively, but I think it is with some cause.
- 5 JUDGE THOMPSON:
- 6 It's just to appeal to the sense of fairness of the Prosecutor. Well, he is making an appeal and as I
- 7 said, we can't rule you out of order because there is no rule that has been infringed. But counsel is
- 8 virtually saying that what might follow might be perhaps a loaded gun.
- 9 MR. TEJAN-COLE:
- My Lord, I note counsel's concerned. When I posed the preceding question, I posed to the witness:
- "Do you know how many people captured you?" And his answer was, "I do not know." So I think
- learned counsel, as he himself admits, was being very pre-emptive in this particular case, and I think
- we should wait for the witness to answer the question and then I will take it up from there.
- 14 Q. Now, do you know who was in charge of these men in Kayima; this mixed group that you've
- 15 described?
- 16 A. Yes, I do.
- 17 Q. Do you know who gave instructions in Kayima?
- 18 MR. PRESIDENT:
- No, no, no, don't mix it. Who was in charge?
- 20 MR. TEJAN-COLE:
- 21 He said yes, he knows.
- 22 MR. PRESIDENT:
- Yes, follow it from there.
- 24 MR. TEJAN-COLE:
- 25 I'm laying the proper foundation. I notice my learned friend, Mr. Brown's hand is already on the button
- ready to object. So I am laying a proper foundation, Your Honour, before I asked.
- 27 MR. PRESIDENT:
- 28 Go ahead.
- 29 MR. TEJAN-COLE:
- 30 Q. Do you know who gave instruction to these troops in Kayima? Do you know the person who gave
- instructions, generally?
- 32 A. It was Gbundema.
- 34 MR. BROWN:

- This is the problem which I wish to address. It may be that he can properly say Gbundema without
- our objecting to its reliability. I was hoping before we got to the name to establish the foundation as to
- how he knew what he knew. I wish to make no implications that counsel acted improperly, but in the

run of these questions, he was not asked to give a name; a question to which I could properly reject.

2 This is why I did before, and I would still ask that the answer be stricken until such time as we lay the

foundation by which, you know, so that we may make application. Maybe he knew him from before

and knows his name, maybe he didn't, maybe, he never saw him. I don't know, but I think I'm entitled

5 to make an application of whether this is reliable.

6 JUDGE THOMPSON:

Counsel, what is your response? He is asking that the answer be struck off the record until the proper foundation has been laid.

MS. TAYLOR:

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36 37 Your Honour, on behalf of Mr. Tejan-Cole on this issue, what my learned friend is obviously getting at is whether or not this answer would be hearsay. It is the submission of the Prosecution that hearsay evidence is admissible in international criminal law, and is admissible before Your Honours. It is all a question of weight which is a matter for Your Honours to weigh once you've heard all of the evidence. If my learned friend wishes to test the basis upon which this witness, or in fact, any other witness says anything, then he can do so in cross-examination. But it is the view of the Prosecution that this evidence -- this question is permissible and the answer is admissible, if Your Honours please.

JUDGE THOMPSON:

Learned counsel is it -

19 MR. BROWN:

It is not all a question of purely permitting any hearsay at any time. There is a threshold, and we have not been willy-nilly objecting to it principally at this juncture, we have attempted at the time we were, to interpose an objection so that we may know the foundation. It may be that this is the kind of hearsay that is so reliable we wouldn't object, or it may be that the Court would overrule objections we might make. But to be precluded from making the objections (*inaudible*) not the proper way to go. Again the name is out, I ask it to be stricken until a foundation is established as to how he knew what he knew so that we might make application to the Court.

JUDGE THOMPSON:

But, if the -- yes, Mr. O'Shea. Learned Counsel, Brown, would you sit down as your colleague resumes –

30 MR. BROWN:

31 Yes.

32 MR. O'SHEA:

Your Honours, I would just like to note at this juncture, having heard from my learned friend from the Prosecution, and to quote a phrase which was used to me yesterday, it would be my submission that it would be premature to seek any overall ruling on the question of hearsay. One must take -- I think take it stage by stage because hearsay is a complicated area. I also would like to state that I do not go along with the statement that hearsay is admissible in all international criminal tribunals. I accept

that in the International Criminal Tribunal for Rwanda hearsay is freely accepted but one must remember that in that tribunal, the Court is also guided by the law of Rwanda which is civil law jurisdiction, whereas this Court is rather guided by the law of Sierra Leone and so far as it is guided by any national principles, which is a common law jurisdiction.

JUDGE THOMPSON:

But you do agree that the jurisprudence of these tribunals, and much as I never like to even go back to Nuremberg, I am particularly fond of citing that as the beginning of the jurisprudence, but the jurisprudence evolving as well as [overlapping microphones] indicates that as far as the admissibility of evidence is concerned in international tribunals, there is a very, very wide latitude. In other words, there is flexibility on that, and flexibility, of course, really means that whereas in the national system there is a clear exclusionary approach as a general rule to hearsay, it would seem to me that by logical deduction international tribunals are not obliged to follow any strict exclusionary principle insofar as hearsay evidence is concerned. But be that as it may, I think perhaps this objection is premature and I will overrule it, and hopefully, without prejudice to counsel raising the objection in a much more opportune context, but for now, I am not satisfied that this question is prejudicial at this stage.

(pages 1 to 18 by Momodou Jallow)

MOMODOU JALLOW - SCSL - TRIAL CHAMBER I - page 18

1 [11.33]

MR. BROWN:

May I be heard not for the purpose of re-arguing a ruling the Court has already made, but just to clarify my position because two learned counsel spoke after I did and I think narrowed the focus of it that -- to the extent that Rule 89(B) falls for evidence which favours a fair determination of the matter. And counsel subsequently did provide one of those challenges which might be made hearsay. My point was that without a foundation, no articulable basis, we would suggest, as unfair could be made to Your Honours. So while hearsay is among the objections I might have made, I wanted to be given a fair chance to address foundation in terms of fair determination. So I accept the Court's ruling. I'm not re-arguing it, but I wanted to be clear that my objection was slightly broader than hearsay because we really don't know the foundation.

JUDGE THOMPSON:

And like I said, we are overruling that objection at this stage.

MR. BROWN:

Thank you.

JUDGE BOUTET:

Before you address the Court, if I may, just to respond to the objection and the comments made by Mr. O'Shea. I do not agree with your statement of the law as far as this Court is concerned. The general provisions of the Rule 89 are clearly to the effect that this -- "The rules of evidence set forth in this section shall govern the proceedings before the Chambers. The Chambers shall not be bound by national rules of evidence."

 So in your statement, you were suggesting that this Court is bound by the rules of evidence in Sierra Leone, we were not. We may be guided, if need be, in the absence of, and that is not the case. I don't know what's happening in Rwanda, but I suspect it's the same as well. They have their own rules of evidence. They may be supplemented on occasion if, but to suggest that in Rwanda they are more inclined to apply civil law, is certainly, not in my view, founded in law.

MR. O'SHEA:

Respectfully, Your Honour, it wasn't my submission that this Court is bound by national law at all. I was simply --

JUDGE BOUTET:

All rules of evidence in this respect.

33 MR. O'SHEA:

Yes, Your Honour is quite right that one is` bound by the Rules of Procedure and Evidence, and Rule 89 is the guiding principle and this Court must decide what is fair and expeditious for this Court. It is for that very reason that I would say that this Court must address the question independently from my other international tribunal so far as rules of evidence were concerned. All I was trying to say was

that in so far as the International Criminal Tribunal for Rwanda has been guided by national principles,

- 2 it's being guided by -- more by civil law national principles in this particular respect. And that if there is
- any need or desirability of looking at any national systems, it's the law of Sierra Leone which is of
- 4 most pertinence. That's my only point.
- 5 MR. PRESIDENT:
- 6 Now, Mr. Clayson, you had --
- 7 MR. CLAYSON:
- Thank you, Your Honours. I simply wanted to observe that the Trial Chamber, of course, does have
- 9 very clear powers to govern the way in which witnesses are interrogated. I particularly refer to
- 10 Rule 90(F)(i).
- 11 MR. PRESIDENT:
- 12 And (F)(ii).
- 13 MR. CLAYSON:
- And (F)(ii), and I'm concerned that in relation to (F)(i) the points that were made by Mr. Brown plainly
- were directed towards the purpose behind that Rule; namely, that the mode and order of interrogation
- of witnesses ought to be conducted with a view to the ascertainment of the truth. And that principle is
- more likely to be advanced, if a witness is to be interrogated in the way, I submit, Mr. Brown indicated
- was in his submission appropriate, rather than skipping past important questions which are
- preliminary to a significant point being made.
- 20 MR. PRESIDENT:
- Well, we have taken note of these observations and I think counsel can continue, you know, in the
- light of the position of the Court not to sustain the objection by Mr. Brown. So, can counsel continue,
- 23 please.
- 24 MR. TEJAN-COLE:
- Thank you, My Lord.
- 26 Q. You'd said in your answer to the last question that Gbundema was in charge. Do you know the full
- 27 name of this Gbundema?
- 28 A. His full name is Komba.
- 29 Q. How did you know he was in charge?
- 30 MR. PRESIDENT:
- 31 Is it Gbundema?
- 32 MR. TEJAN-COLE:
- 33 It's Gbundema. It's G-B-U-D-E-M-A (sic).
- 34 MR. PRESIDENT:
- Yes, go ahead.
- 36 MR. TEJAN-COLE:
- 37 Q. How did you know that Komba Gbundema was in charge?

- A. Because we were under his battalion.
- 2 Q. You were under his battalion?
- 3 MR. PRESIDENT:
- 4 How did he know that it was Gbundema who was in charge? He has not answered the question.
- 5 MR. TEJAN-COLE:
- 6 Yes.
- 7 MR. TEJAN-COLE:
- 8 Q. How did you know that Komba Gbundema was in charge? How did you find this out?
- 9 A. When we were captured, we were with them in the bush and whatever they -- whatever decision they
- wanted to take they always referred to him.
- 11 Q. Do you know what group he belonged to?
- 12 A. Komba Gbundema was a rebel.
- 13 Q. And who do you refer to as rebel?
- 14 A. Rebels? These are the first people who started the war during 1991.
- 15 Q. Do you know them by any other name?
- 16 A. They are called RUF.
- 17 Q. Now, after you were marked were you given any medication?
- 18 A. No.
- 19 Q. How long did it take the marks on your chest to heal?
- 20 A. It took up to two months with me.
- 21 Q. It took about two months to heal. Did anything else happen after you had been marked?
- 22 A. When I was marked, they told us to go and take Barry's load to Yomandu.
- 23 Q. Who was Barry? Who do you refer to as Barry?
- 24 A. He was the commander in our town that is called Yomandu Town.
- 25 Q. What commander -- what type of commander did you -- what type of commander was he?
- 26 A. He was company commander.
- 27 Q. Do you know what group he belonged to?
- 28 A. He was in the RUF group.
- 29 MR. PRESIDENT:
- What's the name again? Let's have the name again.
- 31 MR. TEJAN-COLE:
- 32 Barry, Barry. He just said Barry.
- 33 Q. Do you know the full name?
- 34 A. No, I don't know.
- 35 Q. How was he referred to?
- 36 A. His rank was Captain Barry.
- 37 Q. Yeah, what did Barry say to you?

- 1 A. When we were with him?
- 2 Q. No, could you explain what were you supposed to do with Barry?
- 3 A. I was with him; I was working for him.
- 4 Q. What type of work did you do?
- 5 A. We used to clear his place and we used to cook for him because he had no woman. And we used to
- do household work, sweeping and fetching wood, and we used to launder for him.
- 7 Q. Did anything happen whilst you were with Captain Barry?
- 8 A. Well, when I was with him, we had taken some time with him and they said there was a mission in
- 9 which we were commissioned to go to one village that was in the Northern Province. The town was
- 10 called Efin. We went there.
- 11 Q. [Overlapping microphones]
- 12 A. It was in the Northern Province.
- 13 Q. Do you know the name of district that this town was in?
- 14 A. It was under Kabala, Koinadugu District.
- 15 Q. And what was this mission to Efin?
- 16 A. They said they were to go and attack at Efin.
- 17 Q. Yes.
- 18 A. And they said we had to take all the cartridges and we took them and went away. We went to Kaima.
- We reached at Kaima and they mobilised some other people and we went to Efin. We went to Efin
- and they launched an attack.
- 21 Q. Did you take part in this attack?
- 22 A. The attack took place before me.
- 23 Q. Did you fire any gunshots during this attack?
- A. No, I did not because they did not give us any gun. You see, our own objective was to take the
- 25 cartridges.
- 26 Q. All right.
- 27 A. So when they launched the attack, they captured the town and they took all the little property and
- 28 brought it to us. And even that was Barry, you see, I was the one that was by it. And they came with
- seven people.
- 30 Q. Who came with seven people?
- 31 A. It's Barry. When he came with these seven people, he said I was coming -- he said, "I would come
- 32 and cut your hands --"
- 33 MR. PRESIDENT:
- 34 Please sit down, please sit down.
- 35 [Counsel Tejan-Cole complies]
- 36 Yes, Mr. O'Shea.

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Yes. Your Honours, it is an important principle that before a witness is called the Defence be on proper notice as to what evidence that witness is going to give.

Now, it would seem that the area that's being going into now, this attack at Efin, is an area which we have absolutely no notice. I don't know if my -- the -- we were earlier taking about other international tribunals. There is a decision by the International Criminal Tribunal for Rwanda by the name of *Bagasora* and there is another decision in the *Government II* case, both of which effectively exclude evidence which has been tendered in open Court of which the Defence have absolutely no notice.

The general practice which has developed in other international tribunals is that the Prosecution, if they believe -- if they wish other evidence to come out, what they need to do is to produce what has come to be known as a will-say statement, which is a statement that they produce to the Defence in reasonable time in advance of the evidence being given, which can fairly put the Defence on notice as to any additional evidence which is likely to come out from the witness.

 It would be submit -- my submission that it does not appear that the Prosecution is taken by surprise by this additional information, so this is information that before we came into court this morning it would appear that they were aware it was going to come out of this witness, and in my submission, in the absence of proper notice to us, it must be excluded because we do not have a fair opportunity to consider it.

23 MR. JORDASH:

24 Can I support that --

25 MR. PRESIDENT:

Yes, Mr. Jordash.

27 MR. JORDASH:

Can I support what my learned friend has just said. Now, clearly the Rules of Procedure and Evidence, in particular, Rule 66, are designed to ensure that Defence do have adequate notice of a witness's testimony.

The evidence which the witness has just given sounds, from his first few statements, as if this is going to be a substantial part of his evidence, dealing with an attack in which he took part. It is important, in our submission, that the Defence have notice of such allegations. They may concern or they may be alleged to concern our clients.

36 MR. PRESIDENT:

Well, this issue you are raising has come up before this Court in an earlier trial, and a ruling is

expected on it. But may we hear from the Prosecution, you know, on this particular issue.

- 2 MR. TEJAN-COLE:
- 3 Sorry, Your Honour. The -- in response to what my learned friends have said, Your Honour, we have
- 4 disclosed our obligation and we have brought -- we've given the Defence notice of this information.
- 5 The --
- 6 MR. PRESIDENT:
- 7 Including the one which is being testified to this morning?
- 8 MR. TEJAN-COLE:
- 9 Yes, Your Honour. Your Honour, the statement of the witness -- in his statement he didn't specifically
- mention this particular incident. Subsequently -- in a subsequent interview he mentioned the incident.
- We have an interview note which was served on the Defence on the 30th of June 2004 disclosing this
- material and this information to them. So we have complied with our obligations. We've given them
- the necessary information and I really don't know what they are complaining about.
- 14 JUDGE THOMPSON:
- Do you have evidence of service?
- 16 MR. O'SHEA:
- 17 Your Honours will remember -- sorry.
- 18 MR. PRESIDENT:
- 19 Mr. O'Shea, please wait, Mr. O'Shea.
- 20 MR. TEJAN-COLE:
- 21 Sorry, Your Honour. We have a letter here dated the 30th of June 2004 which was sent to all three --
- solicitors for all three Accused persons and in that letter, Your Honour, the second paragraph we
- 23 said -- we noted that these are supplemental statements which were inadvertently omitted when the
- 24 primary statements were disclosed unredacted. "You have been previously served with redacted
- versions of these supplemental statements." This -- the document I have before me is a letter which
- was sent to the solicitor for the third Accused.
- 27 MR. PRESIDENT:
- 28 Counsel.
- 29 MR. TEJAN-COLE:
- Counsel for the third Accused, Your Honour. So we have drawn their attention to it. We served them
- the necessary documents, we've put them on notice, and it's my humble submission, Your Honour,
- that they suffer no prejudice. We have given them the necessary material. They knew well in
- advance of this trial commencing that we were going to lead such evidence, supplemental evidence
- that the Accused gave (sic).

36 JUDGE THOMPSON:

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The question really is, do you have proof of service?

- 1 MR. TEJAN-COLE:
- 2 Yes, Your Honour. Yes, Your Honour.
- 3 JUDGE THOMPSON:
- 4 Could you show them?
- 5 MR. TEJAN-COLE:
- This is the receipt for one of the Accused persons.
- 7 MR. PRESIDENT:
- 8 Has the Defence seen the document?
- 9 MR. O'SHEA:
- Your Honour, yes. Your Honour will remember that I raised this once before that we've been served
- with one extra page in relation to this witness. The extra page that I've received I have in front of me
- and it says nothing about this attack at Efin. I have received one page dated the 28th of January
- 13 2004. I see the dates on that document which we've just been shown as the same, 28th of January
- 14 2004, but what I've got in front of me is a note of additional evidence but it seems to have no
- 15 correlation whatsoever with what we're hearing now.
- 16 JUDGE BOUTET:
- 17 There seems to be some confusion somewhere. You -- Mr. Prosecutor, you have mentioned that the
- interview notes were on 30 June.
- 19 MR. TEJAN-COLE:
- 20 It was served on the 30th of June, Your Honour, but it's dated the 28th of January 2004.
- 21 JUDGE BOUTET:
- So the document you are talking about is a document of 21 January 2004?
- 23 MR. TEJAN-COLE:
- 24 28th January 2004.
- 25 JUDGE BOUTET:
- 26 28th January 2004.
- 27 MR. TEJAN-COLE:
- 28 Yes, Your Honour. In that document it specifically mentions the evidence which the witness is about
- to testify which occurred in Efin near Yomandu.
- 30 JUDGE THOMPSON:
- Well, for an avoidance of doubt would you read this document? Would you read, because apparently
- 32 counsel on the other side is saying that there is no mention. I mean, the issue now is that the
- question of an attack was not one of the pieces of evidence or statements provided to the Defence,
- and you say that you served them on a supplemental cover.

- 36 MR. TEJAN-COLE:
- 37 If I may read the document as Your Honours requested.

- JUDGE BOUTET: 1 2 I have just read it. MR. TEJAN-COLE: 3 Yes, Your Honour. 4 JUDGE BOUTET: 5 We were given a copy of it. And I have to say that I subscribe to the comments made because there 6 is absolutely no reference in that document of 21 January to an attack on whatever (sic). 7 MR. TEJAN-COLE: 8 Your Honour, there is --9 JUDGE BOUTET: 10 Maybe you can read that as --11 JUDGE THOMPSON: 12 Let him read it for us. 13 JUDGE BOUTET: 14 15 Okay, go ahead. MR. PRESIDENT: 16 Is it not the one-page document? 17 MR. TEJAN-COLE: 18 19 One paragraph, short. MR. PRESIDENT: 20 One paragraph? 21 22 MR. TEJAN-COLE: 23 Yes, Your Honour. It reads: "Captain Barry was under the command of Komba Gbundema. I never saw him actually performing amputation but I saw him in possession of an axe with human blood, 24 other cutting implements and seven hands which he had amputated. These amputations actually took 25 26 place at a village called Efin, a distance from Yomandu, near the border with Koinadugu. We spoke to amputees." 27 28 29 The witness has already mentioned seven, he was about to talk about --MR. BROWN: 30 31 Your Honours, two just technical -- I'm sorry. 32 MR. PRESIDENT: Now, in your opinion, learned counsel for the Prosecution, I mean, would you say that the evidence he 33 34 is giving here, you know, is substantially the same as the one in this document which you say you 35 subsequently disclosed to the Defence? MR. TEJAN-COLE: 36
 - GIFTY C. HARDING SCSL TRIAL CHAMBER I page 26

That is my humble submission, My Lord. The material evidence which we are trying to adduce from

SESAY ET AL 12 JULY 2004 this witness is exactly as stated in the additional -- the supplemental interview notes. 1 MR. PRESIDENT: 2 But we are not yet -- we are not yet there. We have not --3 MR. TEJAN-COLE: 4 5 As My Lord pleases. I've not been even given the time --MR. PRESIDENT: 6 7 Yes, but you should not. They should pre-empt you, you know, when you start going into material 8 which has not been disclosed to them. I mean, it's their perfect right, you know, to raise the objection. You can understand why. 9 10 Yes, the Defence please, Mr. Brown. 11 MR. BROWN: 12 13 Yes, just two technical matters. When learned counsel read, he misread and I have done this so often I want it to be clear I'm not being critical of him, but it doesn't say "which he had amputated," it 14 15 says in the third line, "which had been amputated," which is a passive reference. And the copy I have says "W" spoke to amputees, which I've actually taken to mean the witness and that's what the form 16 17 says. And those were actually two minor technical differences which I've subscribed to just reading 18 quickly but which actually do make a difference in the meaning of the statement. 19 [Trial Chamber confers] MR. CAMMEGH: 20 Your Honour. 21 22 MR. PRESIDENT: Yes. 23 MR. CAMMEGH: 24 25 Forgive me for interrupting. Can I just make one rather astonishing observation? Is my learned friend 26 for the Prosecution seriously saying that the document just four lines long, prepared at the end of 27 January, not served on the Defence until the end of June, what, ten, maybe less days before the trial 28 commenced, represents proper service, particularly in circumstances where the evidence which we 29 are now hearing not only departs from what is in that four-line statement, but appears to be the thrust 30 of what may be this witness's evidence? It's quite shocking, and in my respectful submission, it's utterly unacceptable. 31 32 MR. PRESIDENT:

As I said, this objection is not -- is not novel to this Court and we -- we would -- so we would re-visit this issue. We've taken note of it. We'll re-visit it and counsel for the Prosecution will continue and at the appropriate time we will know what the status of this evidence, you know, would be in the light of the objection by the Defence and after we would have re-visited the issue. So, please let the counsel --

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JUDGE BOUTET:

2 May I, Mr. Presiding Judge, just before you allow the Prosecution to proceed, ask the Prosecution if at

all they have any response to the last objection as to why this document dated 28th January 2004 has

been served two weeks ago or did not serve but disclosed to the Defence two weeks ago?

5 MS. TAYLOR:

Your Honour, in response of that, I no longer have the copies of (inaudible) in front of me, it was being

7 handed up to Your Honours. The copy that was served on the 30th of June was an unredacted copy.

This was one of the supplemental statements that was raised by my learned friend, Mr. O'Shea, last

week saying that he thought that they were served late but they caused no prejudice to the Defence.

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The reason that no prejudice has arisen is because a redacted copy of this supplemental copy was

served much earlier -- I don't at the moment have the date to hand -- and the only matter that was

redacted when that supplemental statement was served was the name of the witness. And so the

Defence have had the name of this witness for the 42-day period that is mandated by the Court. It will

simply come to light when the unredacted version of the primary statement was served, this

supplemental statement was omitted, and so therefore the 30th of June came about.

JUDGE BOUTET:

18 Thank you.

19 20

Yes, you may proceed, Mr. Prosecutor.

21 MR. TEJAN-COLE:

- Thank you, Your Honours.
- 23 Q. Mr. Witness, you said that Captain Barry brought seven people. What happened to those seven
- 24 people, could you tell the court?
- 25 A. Yes.
- 26 Q. What happened to them?
- 27 A. When he caught the seven people --
- 28 MR. BROWN:
- 29 I object.
- 30 THE WITNESS: [Answered through interpretation]
- 31 -- he came with them.
- 32 JUDGE THOMPSON:
- 33 Objection is sustained.
- 34 MR. TEJAN-COLE:
- 35 Sorry, Your Honour.
- 36 JUDGE THOMPSON:
- The objection is sustained.

- 1 MR. TEJAN-COLE:
- 2 Your Honour, what was the --
- 3 JUDGE THOMPSON:
- 4 You said what happened to them.
- 5 MR. TEJAN-COLE:
- 6 Q. Did anything happen -- sorry, did anything happen to these seven people?
- 7 A. When he came with these seven people, he brought them. During the time, all the rice and other
- things that had been looted, you see, were brought by me and he told them that he was going to cut
- off their hands. He said, "Now you should go and tell the SLA" -- which was the national army -- "that
- 10 I Rebel Barry, I am on the way coming." And he took the axe and started chopping off these people's
- hands. By then I was standing by the rice that was looted. From there they told us to take all the
- loads and to go away. We took the load and came back on our base. I was with him and he went to
- a particular mission and did not come back. The people who captured us, they met me in the house
- and they took me and explained to me that they were the ones that captured me the other time. And
- they took with me (sic) and I was with their boss.
- 16 Q. Can you describe them to this Court?
- 17 A. The man who took me? They took me to their boss who was called S.K. That S.K was a rebel. We
- were there and we were there, we were being sent, you know, to cut sticks and to burn charcoal.
- Because we used to -- yes, because we used to cook with charcoal. We were not allowed to cook
- with wood because when you use wood to cook there will be some smoke, and if they see the air raid
- camps, they would notice that people are here. We were there burning charcoal. The other time they
- sent us to go in search of rice. And they sent us to our own chiefdom, which was Sowa Chiefdom, to
- get rice and we went there to get rice.
- 24 Q. How did you find this rice?
- 25 A. They would lead us. We would go to people's old farm and get rice from there. By then people had
- already run away. We would go from bush to bush searching and getting husk rice. We'd come and
- 27 beat it in mortar and put the rice in rubbers (sic). And so from there, therein a particular stick thrust
- 28 me. When I was coming the foot had already swollen. We reached at Tombudu, but I couldn't go any
- 29 further because the thing was so swollen that I couldn't walk anymore. So I stayed with one man that
- was called Ibrahim. I was with Ibrahim for some time.
- 31 Q. Do you know the full name of this Ibrahim?
- 32 A. Yes, I do.
- 33 Q. What is his full name?
- 34 A. His name is Ibrahim Tucker.
- 35 Q. Was he a member of any of the groups that you mentioned earlier?
- 36 MR. PRESIDENT:
- No, don't answer that question. Turn it round, turn it round. Turn the question round.

- 1 MR. TEJAN-COLE:
- 2 Q. Did Ibrahim belong to any group?
- 3 MR. PRESIDENT:
- 4 Who was Ibrahim?
- 5 THE WITNESS: [Answered through interpretation]
- 6 Ibrahim was a rebel.
- 7 MR. TEJAN-COLE:
- 8 Q. Did you stay with Ibrahim?
- 9 A. Yes, I was with Ibrahim up to after the disarmament.
- 10 Q. Do you recall when the disarmament was?
- 11 A. Yes.
- 12 Q. Do you know the year?
- 13 A. Yes.
- 14 Q. What year?
- 15 A. 2002.
- 16 Q. What did you do -- did you do anything whilst you were with Ibrahim?
- 17 A. Yes.
- 18 Q. Could you tell this Court what you did, what?
- 19 A. Yes.
- 20 Q. Can you tell the Court what you did?
- 21 A. Yes, I would.
- 22 Q. So go ahead.
- 23 A. I was with him. We would go for rice, we would go fishing, we would get -- fetch wood for his wife. If
- 24 his wife wasn't able to do any work, I would do it for him -- I would do it for her. You see, I was in this
- particular job up to the time of disarmament.
- 26 Q. Now, you said earlier in evidence that you were marked on your chest AFRC/RUF. Do you still have
- 27 this mark on your chest?
- 28 A. Yes. Yes, I have the marks. I will not lie.
- 29 Q. Could you show the Court this mark?
- A. Certainly, yes, I would show them. I will show the Court so that the Court will know that it is true that
- they marked me.
- 32 Q. Can you show them where the mark is?
- 33 A. Yes, I would.
- 34 MR. TEJAN-COLE:
- In answer to Mr. Walker's comments I don't think there would be a problem, Your Honour. If he
- stands up I don't know there would be a problem, Your Honour.
- 37 Q. Can you just stand up and show the Court the marks?

SESAY ET AL 12 JULY 2004 MR. PRESIDENT: The closet is even taller than him. 2 MR. TEJAN-COLE: 3 As Your Honour pleases. 4 5 [Witness complies] MR. TEJAN-COLE: 6 Your Honour, would the record reflect that the witness has shown his chest with the marks AFRC, 7 8 RUF marked on his chest. JUDGE BOUTET: 9 Marked on the upper portion of his chest. 10 MR. TEJAN-COLE: 11 On the upper portion of his chest. 12 13 May the witness -- You can put on your clothes again and sit down. 14 JUDGE BOUTET: 15 Before you carry on with your questions I just would like to ask in the translation booth I seem to have 16 some problem with my -- the sound on my earphones. There is a lot of echo, so I suspect a mic is 17 18 open somewhere or there are two mikes open in the translation booth. Whatever it is, we need to 19 correct that because it's very, very difficult to follow closely the evidence as it's being given. THE INTERPRETER: 20 Your Honour, the mikes are well adjusted. I don't think there is any problem here. 21 22 JUDGE BOUTET: 23 We need to solve that problem because it is absolutely impossible on occasion to hear what the witness is saying because of this echo. 24 THE INTERPRETER: 25 There is no problem here, Your Honour, with the mics. 26 JUDGE BOUTET: 27 28 Then there is a problem with the sound system somewhere. 29 30 Sorry, carry on. MR. TEJAN-COLE: 31 32 Yes, sir. Your Honour, with Your Honour's leave I would want to show the witness a photograph. JUDGE BOUTET: 33 Your mic. 34

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With your leave, Your Honour, I would want to show the witness and the Defence a photograph.

35

36 37 MR. TEJAN-COLE:

ı	MR	PRF.S	IDE	NT:

2 Give that photograph back to the Prosecution. Give it back to the Prosecution, please.

- 4 Can you lay grounds on that photograph, you know, before we even look at it.
- 5 MR. TEJAN-COLE:
- 6 Your Honour, we --
- 7 MR. PRESIDENT:
- 8 You are showing him a photograph, what's the purpose of the photograph? The photograph is just
- 9 coming from nowhere and --
- 10 MR. TEJAN-COLE:
- Your Honour, we had in our list of exhibits to the Defence disclosed this photograph to the Defence
- and this photograph is numbered 142, and all we intend to do is to get the witness to identify the
- photograph, Your Honour. That is all.
- 14 MR. PRESIDENT:
- 15 If he is concerned with the photograph, ask him questions about the photograph.
- 16 MR. TEJAN-COLE:
- 17 As Your Honour pleases.
- 18 MR. O'SHEA:
- 19 It serves to -- Your Honours, it serves to expedite matters. Can I just say at the outset that I object to
- 20 this exhibit going in at all on the basis of the best evidence rule. The photograph is essentially a
- 21 repetition of the evidence which has just been produced before Your Honours. The witness was
- 22 asked to show Your Honours the markings on his chest, he has done so. That is the best evidence.
- The photograph adds nothing at all.
- 24 MR. PRESIDENT:
- 25 Your response. And the Court would like in any event, after that, you know, to see the photograph.
- 26 MS. TAYLOR:
- 27 Your Honour, while undoubtedly it is true that the evidence is the markings on this man's chest, the
- 28 photograph merely is a reminder of that. There is nothing that is offended, in fairness, by tendering
- 29 this photograph. When Your Honours come to the end of this trial and consider your analysis of this
- 30 evidence, the record will merely show that this witness showed you his chest. And identification of
- 31 himself with the marks will aid your recollection of what was shown in this courtroom today.
- 32 JUDGE THOMPSON:
- Learned counsel for the Prosecution, is it intended to be tendered in evidence, as distinct from
- tendering for identification purposes, the document described as a photograph?
- 35 MS. TAYLOR:
- It was the intention of the Prosecution to tender the photograph in evidence, but if the Court would be
- assisted by merely being marked for identification, then the Prosecution has no objection to that

1	cause.
2	JUDGE THOMPSON:
3	Thank you.
4	MR. PRESIDENT:
5	Yes, please, lay your grounds for that photograph
6	MR. TEJAN-COLE:
7	As Your Honour pleases.
8	MR. PRESIDENT:
9	learned counsel for the Prosecution. We want to follow you very methodically on what you want to
10	do.
11	
12	Yes, Mr. Jordash.
13	MR. JORDASH:
14	I'm sorry to jump to my feet at this stage, it's having spoken to everybody in this camp nobody has
15	seen that photograph, and it doesn't appear to be on the exhibit list. It may be that that's just some
16	miscommunication, I don't know, but we would seek clarification from the Prosecution as to when that
17	was served.
18	MR. PRESIDENT:
19	Why don't we listen to let's follow the counsel for the Prosecution. We have already taken note of
20	Mr. O'Shea's objection, you know, that there is already primary evidence of this. We would like to
21	see, you know, what the photograph, you know, is going to add to the proceedings.
22	
23	Yes.
24	MS. TAYLOR:
25	Pursuant to the order of the Chamber dated the 5th of April of this year, the Prosecution filed on the
26	26th of April of this year a list of exhibits and copies of exhibits that were given to my learned friends.
27	This photograph is one of a bundle that was numbered 142, item 142 in the list of exhibits and copies
28	of exhibits filed by the Prosecution on that date. It's my understanding that copy a copy of this
29	photograph was given to the Defence on that date.
30	
31	As does Your Honour wish me to address you further as to why the Prosecution to seeks to put this
32	photograph in evidence before you?
33	MR. PRESIDENT:
34	You have sought to tender a photograph, you should lay, you know, a nexus, you know. You must la
35	a foundation for tendering whatever document. It's not addressing the Court; no, it's not a question of
36	addressing the Court.
37	

- 1 MS. TAYLOR:
- 2 Then I will leave my learned friend Mr. Tejan-Cole to do so.
- 3 MR. PRESIDENT:
- 4 Yes.
- 5 MR. TEJAN-COLE:
- 6 Q. Mr. Witness --
- 7 A. Yes, sir.
- 8 Q. Was your photograph ever taken?
- 9 A. Yes.
- 10 Q. You do you recall who took this photograph?
- 11 MR. PRESIDENT:
- Let him speak up, please. Let the microphone go close to him, please.
- 13 THE WITNESS: [Answered through interpretation]
- 14 I know the people who took this snapshot of me.
- 15 MR. TEJAN-COLE:
- 16 Q. Do you know their names?
- 17 A. No, I don't know their names.
- 18 Q. Where was this photograph taken?
- 19 A. It was in Koidu.
- 20 Q. Do you recall when this photograph was taken?
- 21 A. I will not remember exactly but that was the time when I went for this statement.
- 22 MR. TEJAN-COLE:
- 23 May I, with Your Honours' leave, now show the witness the photograph?
- 24 MR. PRESIDENT:
- Show him.
- 26 MR. TEJAN-COLE:
- 27 Q. Can you identify the person in that photograph?
- 28 A. Yes.
- 29 Q. Who is the person in that photograph?
- 30 A. It is I. It is I sitting here.
- 31 Q. And that was the photograph that was taken of you?
- 32 A. Yes, sir.

33

34 MR. TEJAN-COLE:

- 35 Your Honour, we produce that photograph for -- we tender that photograph in evidence, Your Honour.
- 36 MR. PRESIDENT:
- 37 Can you show it to the Defence, please.

JUDGE BOUTET: 1 Please, be careful with that photograph because it may disclose the identity of the witness if people 2 behind you saw it in the public gallery. Thank you. 3 MR. TEJAN-COLE: 4 5 Your Honours, I have just been reminded that the application of the Prosecution is that the photograph, since it reveals the face of the witness, be tendered under seal. 6 MR. O'SHEA: 7 8 I'm not going to add anything, Your Honours --MR. PRESIDENT: 9 Please wait, others are still looking at the photograph. 10 11 Yes, Mr. O'Shea. 12 MR. O'SHEA: 13 Yes, I'm sorry, Your Honour. I just wanted to say that I'm not adding anything to the submission that I 14 15 have already made. MR. PRESIDENT: 16 Yes. 17 18 19 Yes, we've -- the Chamber has taken note of Mr. O'Shea's observation that we have the best 20 evidence, but we would nonetheless, since the photograph is merely maybe corroborative of the best 21 evidence, admit it in evidence and mark it as Exhibit 2, I think, Exhibit 2. Is it two? Exhibit 2, and 22 following the application by the Prosecution it will be kept under seal in order to avoid divulging the 23 identity of this witness. 24 [Exhibit No. 2 was admitted] 25 MR. TEJAN-COLE: 26 I'm most grateful, Your Honour. MR. PRESIDENT: 27 Don't be too grateful, it's our duty. Yes. 28 MR. TEJAN-COLE: 29 30 Your Honour, that is all for this witness. MR. PRESIDENT: 31 32 That is all for this witness? MR. TEJAN-COLE: 33 Yes, Your Honour. 34 MR. PRESIDENT: 35 Yes, we are now at the stage of cross-examination. Can we have the cross-examination by the first 36 37 Accused, please.

Cross-examination by Mr. Jordash:

2 MR. JORDASH:

- 3 Q. We've just got a -- very few questions for you. It won't take long. If there is anything you don't
- 4 understand, please say so. Okay?
- 5 A. Okay, sir.
- 6 Q. You mentioned going to Koidu. Do you remember going to Koidu about a year and a half ago,
- November 2002, to see -- to have a statement taken?
- 8 A. Yes.
- 9 Q. And you also made a second statement this year on the 28th of January. Do you remember that?
- 10 A. 20th January?
- 11 Q. 28th of January of this year.
- 12 A. Yes.
- 13 Q. And in-between those two statements you came to Freetown to see the Prosecution. Do you
- remember that?
- 15 A. At the time when they brought me to Freetown?
- 16 Q. Yes, firstly in December of last year.
- 17 A. Yes, yes, yes.
- 18 Q. And I think also on the 4th of January of this year.
- 19 MR. PRESIDENT:
- Mr. Jordash, take him stage by stage. You have moved from January to December, why don't you
- 21 start from December and move from there.
- 22 MR. JORDASH:
- 23 I apologise.
- 24 Q. Firstly, you came on the 10th of December of 2003 to Freetown to see the Prosecution. Do you
- 25 remember that?
- 26 A. Yes, I can remember that.
- 27 Q. Then you came again on the 4th of January to see the Prosecution. Do you remember that?
- 28 A. I only came once when they came with me.
- 29 Q. Okay. Now, I want to just take you back to the first time you saw the Prosecution to make your first
- statement in November 2002. Did you hear that the Prosecution were coming and wanted to obtain
- 31 witnesses for the Special Court? What was it that you heard?
- 32 A. Yes.
- 33 Q. And did they -- I'm being very careful, I don't want to know anything about where you live -- but did
- you go to the Prosecution or did they come to you to your village?
- 35 A. The people who went to obtain statements from me?
- 36 Q. Yes.
- 37 A. I was in the village when I saw them. They said they had come to obtain statements from me.

1 Q. And did they say what statement they wanted? What was the question they asked?

- 2 A. When I came, I asked and they told me.
- 3 Q. What did you ask?
- 4 A. I asked them to tell me what they came to do and they said they came to obtain statements; that is,
- they were coming to take statements from people who had been with the rebels during the war. I told
- them that I had something to say, that I was going to give statements.
- 7 Q. The next -- is this right, is the next time you saw the Prosecutor the time you came to Freetown in
- 8 December 2003?
- 9 A. When I came -- the first time that I came, they took me to hospital for this mark that I have on my
- body. The second time that I came for this case that was the time that I saw them.
- 11 Q. And the second time was -- just so that we are clear -- where was that?
- 12 A. It was in May. They met me and they told me that the time was near, and they asked me whether I
- was willing, you know, to give evidence and I told them that yes, I was willing.
- 14 Q. That was May of which year?
- 15 A. May 2004.
- 16 Q. And where was that? Can you remember where it was that you saw the Prosecution in May of this
- 17 year?
- 18 A. Well, I don't know Freetown well, but we had met together.
- 19 Q. It was in Freetown though?
- 20 A. We met together but I do not know the exact location, because I do not understand Freetown.
- 21 Q. Okay, thank you. Now, just moving back again to the time in December 2003 when you came to
- 22 Freetown. Were you contacted by the Prosecution to come to Freetown or did you contact the
- 23 Prosecution and asked to come to Freetown?
- 24 A. Are you saying that if it was I that went and told them that I was coming to Freetown?
- 25 Q. Was that the situation or did the Prosecution ask you to come because they wanted to speak to you?
- 26 A. They brought me directly for this mark.
- 27 Q. Did they speak to you about what you were going to say when you came to the Special Court to give
- 28 evidence?
- 29 A. What I should come and say here in court?
- 30 Q. Did you talk to the Prosecution about that when you came in December 2003?
- 31 A. They told me -- they told me whether I was willing to give evidence and I told them that yes, I was
- 32 willing to do so.
- 33 Q. And did you talk to them about what it was you were going to say?
- 34 A. Yes, the statement that I gave them, I said I was coming to say this public so that everybody would
- 35 know.
- 36 Q. Did you look at your statement with the Prosecution and go through it?
- 37 A. You mean the statement that I gave them?

- 1 Q. Yes.
- 2 A. If we went through them?
- 3 Q. Yes.
- 4 A. What I told them is what I repeated.
- 5 Q. So, just so we are clear, there was a discussion about what -- about the content of your statement; is
- 6 that right?
- 7 A. I don't understand what you are saying.
- 8 Q. Just this: When you met the Prosecution, did you sit down with them with your statement to discuss
- 9 what was in your statement?
- 10 A. Yes, they read the statement to me repeatedly, and I said yes, that was what I said.
- 11 Q. So you -- I see. Just in relation to your visit to the hospital, were you given treatment at the hospital?
- 12 A. I don't understand what you are trying to say.
- 13 Q. You said a few moments ago that the Prosecution, in December 2003, took you to the hospital as
- concerns your -- the markings on your chest. Did you have treatment at the hospital?
- 15 A. No.
- 16 Q. Did you see a doctor?
- 17 A. No, the doctor who should have done the operation to take off these marks was not there, so I had to
- 18 come back.
- 19 Q. And is that an operation planned for the future?
- 20 A. I don't understand. Please repeat that.
- 21 Q. Well, you went to the hospital to see a doctor about removing the marks from your chest; is that
- 22 correct?
- 23 A. Yes. it is.
- 24 Q. And doctor wasn't there?
- 25 A. Yes, it is true he wasn't there.
- 26 Q. Are you intending to have an operation some time in the future to have the marks removed?
- 27 A. Yes, I gave the report. I gave the report so that these marks -- these marks could be taken off my
- 28 body because it's risky and it involves life.
- 29 Q. And had the Prosecution agreed to help you with that?
- 30 A. Well, I was not given full assurance for that.
- 31 Q. Were you given any assurance?
- 32 A. Assurance like what?
- 33 Q. For example, transportation to the hospital.
- 34 A. When I was coming here they brought me.
- 35 Q. Is the operation going to cost any money?
- 36 A. Well, I wouldn't know because they just brought me.
- 37 Q. Have the Prosecution offered to pay for any expenses for that operation?

- 1 A. Well, I wouldn't be able to tell.
- 2 Q. Have they spoken to you about it?
- 3 A. About what?
- 4 Q. About assisting you financially to have the operation.
- 5 A. I don't get you clearly.
- 6 Q. Have the Prosecution spoken to you about helping you financially to have the operation?
- 7 A. They did -- the Prosecution did not tell me about money. They did not even tell me that they were going to give me money so as to get these things operated.
- 9 Q. Who will pay for the operation?
- 10 A. Well, just like I keep telling you, I was in the provinces and they said they will take me and get these
- marks operated. I wouldn't know anything, whether they are the ones that are going to foot the bill or
- it's the government.
- 13 Q. Who was it who said about coming to Freetown to have a look at the marks?
- 14 A. It's one man that is called John.
- 15 Q. He is a Prosecutor, part of the Prosecutor team?
- 16 A. Well, when they were taking statements from me I did not see John, but a little bit later he came. He
- came and asked and he found out where I was. Both of us, we went together and started talking. He
- showed -- he showed me my name and he said I should prepare on Monday and that I was coming to
- be taken to Freetown for these marks. Monday, he came for me and he took me and brought me
- 20 here. And who is to foot the bill, I do not know at all.
- 21 Q. But just so that we are clear -- and I'm going to move on -- that man, John, was from the Prosecution;
- 22 was that your understanding?
- 23 A. Yes, I asked him, you know, for his name and he told me that he was called John but when they were
- taking statements -- obtaining a statement from me, he was not there.
- 25 Q. Did he ever say he was from the Prosecution? Who did you understand him to be?
- 26 A. I don't understand the question.
- 27 Q. Did you understand that John was part of the Prosecution, part of the group looking for your
- 28 statement?
- 29 A. Just like what I told you, I was in the village. John came to me. I had never known him before. You
- know, he came and asked and they started searching for me, and he saw me, because the people
- who obtained statements from me were one man and one lady. The man was black and the woman
- 32 was white. But John went and -- in search for me. I did not see him during that time. But I had given
- my name to that woman. You see, I think it was he (sic) that gave the paper to him to go and search
- 34 for me.
- 35 Q. Thank you. Now, when you came in May of this year to see the Prosecution, what did you come for
- that time? What was the purpose?
- 37 A. Why I came?

- Q. Yes.
- 2 A. One reason was -- the purpose for which I came is why I am sitting here for. Yes, the purpose of my
- being here is the burning issue for which I am here, that is, these marks that they put on my chest.
- That is the reason why I came here. If I should tell you that I came for some other business, it's a lie.
- 5 This is the main purpose for my being here, and it really burns me.
- 6 Q. Specifically, what did you do in May of this year when you saw the Prosecution? What did you, for
- 7 example, talk to them about?
- 8 A. May, which year?
- 9 Q. This year.
- 10 A. When I came to the Prosecutor?
- 11 Q. When I was asking you questions you said that you saw the Prosecution in May of this year, 2004. Is
- that correct?
- 13 A. Well, I saw them. I saw them.
- 14 Q. In Freetown?
- 15 A. Yes, inside Freetown.
- 16 Q. They asked you to come and see them in Freetown?
- 17 A. They went and met me and they told me that it was almost time, you know, for me to come, and this is
- the reason why I came. They went and met me.
- 19 Q. And did you sit with the Prosecution and again go through your statement?
- 20 A. He read the statement and I said yes, that was what I said.
- 21 Q. And did you go through it several times?
- 22 A. He read the statement for me. He read the statement twice.
- 23 Q. On that occasion in May, were you given any money for expenses?
- 24 A. When they met -- when they met me -- when they met me, they said that it was almost time for me to
- come and whether I was willing to and I told them yes, I was willing. And I left all the work that I was
- doing. They took me in their vehicle and we came.
- 27 Q. Now, I just want to ask you a little about Efin. When you went through your statement -- your
- 28 statements, when you went and saw -- when you saw the Prosecution, did you ever mention then to
- them an attack on the town of Efin?
- 30 A. Yes.
- 31 Q. When you'd given your two statements to the Prosecution, they were both read back to you; is that
- 32 correct?
- 33 A. Yes, when they read them to me it was correct.
- 34 Q. Were you aware that they made no mention of an attack in Efin?
- 35 A. The Efin attack took place as I told you, you know. I was there.
- 36 Q. Just listen to the question. When you gave your statement they were read back to you by the
- 37 Prosecutor; is that correct?

- 1 A. Yes.
- 2 Q. And read back to you on several occasions -- read back to you about several occasions?
- 3 A. Yes, they read the statement to me about twice.
- 4 Q. And there was nothing in those statements about a specific attack on Efin; is that correct?
- 5 A. Efin attack took place. You know, I saw all that happened just like what is happening here.
- 6 Q. Are you aware that the -- your two statements do not mention an attack in Efin; are you aware of that
- 7 fact?
- 8 A. Are you saying that the statement that I gave nothing was reflected about the attack at Efin?
- 9 Q. Yes
- 10 A. Are you talking about my own statement that I gave to these people? I told them about this attack; I
- did tell them. Except if they did not write that.
- 12 Q. Thank you. Now, my final subject concerns Efin again and Captain Barry. In your evidence when you
- answered questions to my learned friend for the Prosecution you talk about Captain Barry saying he
- was going to cut the hands of seven people. Do you remember that?
- 15 A. Yes, I do remember.
- 16 Q. When Captain Barry said that, where were you in relation to Captain Barry?
- 17 A. Yes, it was not that far; I was just by him.
- 18 Q. Can you use this Court to show us how far I was from you? Can you estimate the distance?
- 19 A. The distance is just between me and the Judges. It's just like from here to where the Judges are
- 20 sitting.
- 21 Q. Thank you. And after you'd heard Captain Barry say that, what happened after that? What did you
- see happen after that?
- A. When he said that he was going to cut these people hands, he did cut these people. In fact, he cut
- them and you see the hands shivering like that.
- 25 Q. Did you see him actually cut the hands?
- 26 A. Yes, with my own naked eyes. I did not -- I was not drunk. I saw all that happened.
- 27 Q. I want to ask you about your second statement, which is dated the 28th of January 2004. This is what
- 28 you say --
- 29 A. Like what?
- 30 Q. This is about Captain Barry: "I never saw him actually performing amputations, but I saw him in
- possession of an axe with human blood." I'll read it again just so that you understand what I'm asking
- 32 you: "I never saw Captain Barry actually performing amputations, but I saw him with an axe with
- 33 human blood."
- 34 A. No, I said I saw him. Perhaps the man who did -- who obtained the statement from me did not take
- me -- did not write that, but I saw him with my own eyes.
- 36 Q. Do you remember telling the Prosecutor -- the Prosecutor Tamba Kebeki --
- 37 A. That's my fellow who is called Tamba.

1 Q. Do you remember telling the Prosecutor that you had never seen Captain Barry actually performing amputations?

- A. No. He told me -- he asked me whether I saw this man cutting the hands and I told him that yes, and he asked me the area, and I told him that it was at Efin.
- 5 Q. Did the investigator read the statement back to you before you left to go back home?
- 6 A. I gave two statements for two hours.
- 7 Q. Just -- I'm almost finished. But just dealing with this second statement where you say Captain Barry --
- you hadn't seen Captain Barry performing amputations, did you have that sentence read back to you
- by the investigator after you'd made that statement?
- 10 A. The first day that I -- they obtained statements from me, just after I finished they took me and brought me.
- 12 Q. No, just listen to the question and then I'll be finished. Your second statement says you had never
- seen Captain Barry carry out amputations. Okay? You understand what I'm saying?
- 14 A. Yes, I have understood now.
- Q. Okay. When that statement had been completed, did the investigator read it back to you so that you could know what had been written?
- 17 A. At that time when I gave the statement, they came and read the statement back to me. I told him that
- I saw all that happened, and he said that he did not write that on the paper but I told him that I saw
- 19 everything.
- 20 Q. So you would say it's the investigator who wrote down something different to what you told him. Is
- that what you are saying?
- 22 A. Well, it's possible.
- 23 Q. Thank you.
- 24 MR. JORDASH:
- 25 I have nothing further.
- 26 MR. PRESIDENT:
- Well, the Court will rise and will resume its session at 3.00, 3.00 p.m. when we'll continue with the
- 28 cross-examination.

- The Court will rise, please.
- 31 [Luncheon recess taken at 13.02]
- 32 (Pages 19 to 42 by Gifty C. Harding)

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34 35

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[On resuming at 15.06]

- 2 MR. PRESIDENT:
- Resuming the session. The second Accused, counsel for the second Accused, cross-examination.
- 4 MR. BROWN:

- 5 Thank you, Your Honour
- 6 WITNESS TF1-074
- 7 Cross-examined by Mr. Brown
- 8 MR. BROWN:
- 9 Q. This morning you indicated that the Prosecution came to Koidu to take statements from people who
- 10 had been with rebels during the war. Is that correct?
- 11 A. Repeat it.
- 12 Q. This morning --
- 13 MR. PRESIDENT:
- Mr. Brown, you go slowly.
- 15 MR. BROWN:
- 16 I will, sir.
- 17 MR. PRESIDENT:
- 18 It takes time for the message, you know, to go through. Right, go ahead.
- 19 MR. BROWN:
- 20 Q. This morning you testified that the Prosecution came to Koidu town to take statements from those
- 21 who had been with the rebels. True?
- 22 A. I was in the village and they went there and took me from there. So we went to Koidu and it was there
- 23 that I gave them the statement.
- 24 Q. Did the prosecution tell you why they were in Koidu town?
- 25 A. Repeat what you have said.
- 26 Q. Let me try in a different way. Do you see in the courtroom one of the people who you spoke to in
- 27 Koidu town?
- 28 A. None of the people are here.
- 29 Q. So when you gave an interview in November of 2002 and a man took notes, that man who took those
- 30 notes is not here?
- 31 A. I have not seen him around here, but if I seen him then I wouldn't know him.
- 32 Q. I'm not sure how good your field of vision is from where you sit, but if you look to the far left, do you
- see a man in the back row on the prosecution side of the courtroom?
- 34 MR. PRESIDENT:
- [Cannot distinguish speaker] He does not appear to be seeing his far left. Is the far left seeing him?
- 36 MR. GBOYOR:
- I mean, I can only see his whole body, I can't see [Cannot distinguish speaker] view.

- 1 MR. BROWN:
- 2 Could I ask that Mr. Gboyor to rise and come into the field of vision of the witness?
- 3 MR. PRESIDENT:
- 4 Yes, you can stand this way. Let him stand, stand. Here.
- 5 THE WITNESS: [Answered through interpretation]
- 6 Yes, I have seen the man.
- 7 MR. BROWN:
- 8 Q. Would you point to him?
- 9 A. Yes, sir.
- 10 MR. BROWN:
- Your Honour, I think the record can reflect that he is directing his attention to Mr. Gboyor who is in the
- back row of the prosecution side [Cannot distinguish speaker].
- 13 JUDGE THOMPSON:
- 14 Indeed, indeed.
- 15 MR. PRESIDENT:
- Now, Mr. Who?
- 17 MR. BROWN:
- Bobby Gboyor is how I have been introduced to him, Your Honour.
- 19 Q. When the man you just saw met you in Koidu, he wrote down what you said. True?
- 20 A. Yes, what I told him he wrote it down.
- 21 Q. Before he began writing he said some words to you. Yes?
- 22 A. Yes.
- 23 Q. He told you he wanted you to tell the truth. Yes?
- 24 A. Yes.
- 25 Q. He asked you whether you had been with the rebels during the war.
- 26 A. Yes, he asked me whether I've been with them.
- 27 Q. He asked you whether or not you had turned in any weapons during the demobilisation. Yes?
- 28 A. Yes, I told him that I have disarmed.
- 29 Q. And you disarmed by turning in weapons. Yes?
- 30 A. Yes. We all went and disarmed.
- 31 Q. What weapons did you turn in?
- 32 A. I disarmed with the grenade.
- 33 Q. And when you gave in the grenade you received money?
- 34 A. They disarmed first, we went back home. When we were taken back and we were calmed, myself and
- 35 the man with whom I was staying -- when we were calmed we were given -- go over that again. They
- 36 were given rubber buckets with 60,000 Leones with some blankets, with shoes and towels. So we
- were calmed for one week and we were discharged. After we discharged we were asked to go and

1 register our names again and we were given another three – three – 300,000 Leones each after the

- disarmament. From then on after that we were asked to give statements and I gave my statement.
- 3 After I've given my statement I went in search of my family members.
- 4 Q. The statement you refer to, is that different from the statement you gave to the gentleman seated in
- 5 the courtroom?
- 6 A. I didn't get you clear.
- 7 Q. You said first you received 60,000 Leones, blankets and a towel.
- 8 A. That was the disarmament time. That was the money for the disarmament.
- 9 Q. Then you received 300,000 Leones some time later.
- 10 A. Yes, after the disarmament and we were asked -- all the people who disarmed to go and register.
- 11 Q. And when you use the word -- the phrase, "After we gave a statement," are you talking about the
- statement you gave to the gentleman in the courtroom or another statement?
- 13 A. Yes.
- 14 Q. You began by answering a question about giving a statement to the man to your left. Correct?
- 15 A. Yes, that man on the left-hand side, I gave him my statement.
- 16 Q. Is that the statement you were referring to as being given after you received 300,000 Leones?
- 17 A. He is not the one that gave me the money.
- 18 Q. When you received the blanket and the towel, did you get 60,000 Leones or did you get 30,000
- 19 Leones?
- 20 A. When we disarmed, when we were with the rebels, the man with whom I was staying gave me a
- grenade. He asked me to go and disarm to it. We all went to together and disarmed. We were
- 22 calmed.
- 23 Q. When you disarmed and you were calmed you had a grenade in your hand. Yes?
- 24 A. Yes. It was during the disarmament, the time of the disarmament, that is a time when I had the
- grenade with me.
- 26 Q. During the disarmament.
- 27 A. Yes, yes.
- 28 Q. You gave the grenade to the people in charge of the disarmament?
- 29 A. Yes.
- 30 Q. Did you sign a piece of paper at the time?
- 31 A. When I handed over the grenade we were given yellow forms and we were asked to go home.
- 32 Q. And you were asked to fill out the yellow form. Yes?
- 33 A. Yes.
- 34 Q. And on the yellow form you were asked to indicate what organisation you had been with. Yes?
- 35 A. Yes.
- 36 Q. And you wrote RUF?
- 37 A. Yes, I told them that I was under the RUF.

- 1 Q. You then went and got 300,000 Leones.
- 2 A. When we are calmed listen, when we were calmed, after we were given the blankets, shoes and
- pots, when we were discharged they gave us the 30,000.
- 4 Q. Now when you met the gentleman with the Prosecution on the left side of the courtroom, did you tell
- 5 him that you had disarmed, handed in a grenade and signed a form which you filled out saying RUF?
- 6 A. The man asked me and I told them that I was with the RUF and the [inaudible]. This man who wrote
- 7 this -- this form.
- 8 Q. My question is when you spoke to the man who wrote the form --
- 9 A. Yes.
- 10 Q. -- did you tell him you had handed in a grenade, received money and identified yourself as RUF?
- 11 MS. TAYLOR:
- 12 I object to this, Your Honour. I submit that the question is confusing. My learned friend has used form
- in one sense and statement in another and it is now not clear whether he is talking about the yellow
- form or the statement and I would ask that he makes that clear.
- 15 MR. BROWN:
- 16 I was -- I'm sorry, may I respond?
- 17 MR. PRESIDENT:
- You are moving from the form to the statement and so and there was a yellow form.
- 19 MR. BROWN:
- 20 I will change.
- 21 MR. PRESIDENT:
- 22 There was a statement which we are referring to and which might have been recorded by the
- 23 gentleman on the right. So, I think you can retake --
- 24 MR. BROWN:
- 25 I will reform.
- 26 MR. PRESIDENT:
- 27 Reformulate your questions, please.
- 28 MR. BROWN:
- 29 Q. You spoke to the man from the Prosecution who is in the courtroom and he wrote while you spoke.
- 30 Correct?
- 31 A. Yes.
- 32 Q. And when he finished writing he read back to you the statement he had written.
- 33 A. Yes. I'm getting you, go on.
- 34 Q. And he read it in a language you understood.
- 35 A. He read it in Krio, we spoke in Krio.
- 36 Q. And he said to you, "This is an accurate and truthful statement." Yes?
- 37 A. Yes, go on.

- 1 Q. And he then handed you the statement and you signed it.
- 2 A. Go ahead, I'm getting you.
- 3 Q. He handed you the statement and you wrote your name at the bottom.
- 4 A. Yes.
- 5 MR. BROWN:
- Your Honour, might I show through your officer a copy of what I believe is the statement with the
- 7 witness's initial?
- 8 JUDGE BOUTET:
- 9 Can I ask you what you are intending to do? I suspect I do, but I would like to hear from you what you
- 10 are intending to do now.
- 11 MR. BROWN:
- 12 I simply wish, given all the possible variables in terms of language and a witness who does not read
- or write English, to be certain that this is a copy of the piece of paper that he signed and that he
- identifies his signature.
- 15 JUDGE BOUTET:
- You want to show that document to the witness?
- 17 MR. BROWN:
- 18 Yes, sir, I do.
- 19 JUDGE BOUTET:
- 20 Please do.
- 21 MR. PRESIDENT:
- [Cannot distinguish speaker]
- 23 MR. BROWN:
- 24 Your Honour, the personal approach that I was --
- 25 MR. PRESIDENT:
- 26 -- that he is an illiterate, that statement was recorded and read to him.
- 27 MR. BROWN:
- But he signed it after it was read back to him in *Krio*.
- 29 MR. PRESIDENT:
- I am just reminding you that he is illiterate.
- 31 MR. BROWN:
- 32 Your Honour, I can --
- 33 MR. PRESIDENT:
- 34 Go ahead.
- 35 MR. BROWN:
- Only in English, as I understand it.
- 37 MR. PRESIDENT:

- 1 Pardon.
- 2 MR. BROWN:
- I believe the testimony is that he is illiterate in English.
- 4 MR. PRESIDENT:
- 5 Oh yes, that's right.
- 6 JUDGE BOUTET:
- 7 That is what I have heard that he does not write or read English.
- 8 MR. BROWN:
- 9 Your Honour, I believe the witness spoke, but I didn't hear a translation.
- 10 THE INTERPRETER:
- He did not say anything. The witness did not say anything. He did not say anything.
- 12 MR. BROWN:
- 13 I have been wrong before.
- 14 Q. Is that your signature that you were just shown?
- 15 A. Yes, that is my signature.
- 16 JUDGE BOUTET:
- Because you have a document that has more than one page. How many signatures do we have on
- that document that you have?
- 19 MR. BROWN:
- 20 I would be happy to mark this document --
- 21 JUDGE BOUTET:
- No, I was just wondering for certainty, I am not sure -- I was not looking at the witness when the
- 23 document was shown to the witness. If you look at the last page, the first page --
- 24 MR. BROWN:
- 25 It is the last page, Your Honour.
- 26 JUDGE BOUTET:
- 27 Thank you.
- 28 MR. BROWN:
- 29 And under the English word, "Witness Affirmation" and a paragraph and the word, "signature".
- 30 JUDGE BOUTET:
- Thank you.
- 32 MR. BROWN:
- 33 Q. While you were speaking to the man who was writing, he was courteous to you. Yes? And while he
- was speaking to the man who was writing he was polite to you?
- 35 A. I did not get it clear.
- 36 Q. You were speaking and the man to your left was writing. Yes?
- 37 A. Yes.

- Q. The man was friendly to you.
- 2 A. Yes. We were together and I was talking to him while he was writing -- he did the writing.
- 3 Q. While you were talking and he was writing --
- 4 A. Yes.
- 5 Q. -- did you tell him about the grenade that you handed in?
- 6 A. Well he did not ask me about the disarmament business. He only came to take statement from me. If
- 7 he had asked me, but he did not ask me whether I disarmed or not.
- 8 Q. So, your testimony is that he never asked you whether you had disarmed?
- 9 A. No, he did not ask me that.
- 10 Q. He never asked you whether you had signed a yellow form with the letters RUF?
- 11 A. No, no.
- 12 Q. And he never asked you whether you had received money as part of the disarmament process.
- 13 A. No, we did not reach the disarmament part of it.
- 14 Q. You understood that he wanted you to tell him the entire truth about your experience with the rebels.
- 15 Yes?
- 16 MR. PRESIDENT:
- Do not precede your question with a yes. Ask the question plainly and leave out the word yes.
- 18 Please.
- 19 MR. BROWN:
- 20 Q. You understood that he wanted you to tell him the entire truth about your experience with the RUF.
- 21 A. Yes.
- 22 Q. Earlier this morning --
- 23 A. Yes.
- 24 Q. -- you explained there came a time --
- 25 A. Yes.
- 26 Q. -- in the presence of AFRC Bangalie --
- 27 A. Yes.
- 28 Q. -- that people were [inaudible].
- 29 A. Yes.
- 30 Q. And this morning you told this Court that you told the rebels that you wanted to join the RUF.
- 31 A. Yes, say I am with them.
- 32 Q. You didn't say that to the man when you made that statement, did you?
- 33 A. I told him.
- 34 Q. This morning you indicated that a man you knew who -- named Alhaji, came to you the night before
- and said you should say, "I want to join the rebels."
- 36 A. They said when they asked me if I say I was going away they would have killed all of us. So, if they
- 37 asked me, I should say that I was with them. So when they asked me who wants to go those who

want to go, let them go this way, and those who don't want to go, let them go this way, so I joined the

- 2 others on the other side.
- 3 Q. And this morning you told this Court that you, your brother and an old man said you wanted to be with
- 4 them.
- 5 A. Yes.
- 6 Q. When you spoke to the man who wrote down what you told him, you told him that, "All 15 of us lined
- 7 up and asked to be released as we did not want to join the rebels."
- 8 A. No. When -- the three when -- only three of us really came out of the lot and the 15 said they were
- going away. We said we were going to remain with them and join them.
- 10 Q. My question is directed to the conversation you had with the man on the left in Koidu. Do you
- 11 understand that?
- 12 A. Yes.
- 13 Q. When you spoke to the man in Koidu and told him that all [inaudible] "We had asked to be released
- as we did not want to join the rebels."
- 15 A. I did not get you clear.
- 16 MR. PRESIDENT:
- 17 Go Slow.
- 18 MR. BROWN:
- 19 Okay, I will go slower.
- 20 Q. I am now focusing your attention on your conversation —
- 21 MR. BROWN:
- Forgive my pointing, Your Honour, I don't mean to be rude.
- 23 Q. With the friendly man, an investigator, who took a statement from you in Koidu. And I am now going
- 24 to ask you whether you said these words to him, "All 15 of us lined up and asked to be released as we
- did not want to join the rebels."
- 26 A. We were 18 not 15. 18 of us were caught and not 15.
- 27 Q. Well, in fact, in two places in your conversation with the man on the left you told him there were 15 of
- you when you talked in Koidu. Is that true?
- 29 A. I said we were 18, those of us who were caught I say we are 18.
- 30 Q. So, if he wrote 15 he was mistaken; is that correct?
- 31 A. He is mistaken, we were 18.
- 32 Q. Do you know of any reason why he would deliberately misrepresent what you said?
- 33 MS. TAYLOR:
- Your Honour, I object to that.
- 35 JUDGE THOMPSON:
- 36 Sustained.

- 1 MR. BROWN:
- 2 Q. Had you ever met that man before the day you gave him the statement in Koidu?
- 3 A. What? Go over -- go over that again.
- 4 Q. There is a day in November 2002 in Koidu you were talking to the man on the left. Is that correct?
- 5 A. Yes, that is so.
- 6 Q. Before that day had you ever met him before?
- 7 A. That was the first day I met him.
- 8 Q. Now, let me put this question to you and I will try to read this slowly. Did you say the following words
- to him in Koidu on November 2002? "All 15 of us lined up and asked to be released as we did not want to join the rebels."
- 11 A. I told the man that 18 of us were captured. We were 18. In fact, they [*inaudible*] we are 18 and the farm -- on the farm. On the farm huts.
- Q. Putting aside for the moment the number, did you tell the man who is on the left there, when you spoke to him in Koidu in November 2002, that all of you lined up and asked to be released, "As we did not want to join the rebels."
- 16 A. I did not get you, repeat that.
- 17 Q. This morning you told the Court that three said you wanted to join the rebels and the rest said no. Is 18 that a fair statement?
- 19 A. I said -- listen I am repeating -- we were in bed at night, Alhaji called me in secret. He said, "Tomorrow 20 they will call us, the man will talk to us in a very fine way. Then whoever is going to his family 21 member it's not by force he can go. Whosoever wants to be with us, let him be with us. So don't say 22 that you are going, if you say that you are going -- if they said they are going to escort you, they will 23 execute you there." And indeed that is how it happened. Early in the morning around 11.00 we were 24 gathered and put us in a line. And the man spoke to us nicely and give us his confidence. He said, 25 "It's not by force." He said, "God cannot make all of us warriors. Whosoever wants to go to his family, 26 go this way. But those who don't want to go to their family, who wants to be with us, let him come on 27 this other side." They over -- confidence he gave us, I was also determined to go. But I raise up my 28 head and I saw Alhaji and he made a sign, he gestured to me with his eye. He winked to me and then 29 he shook his head and then I took note of that and I stood. Three -- he did that three times. So I was 30 there standing now. That's -- after that, when Alhaji made that gesture to me, then the man came and 31 asked whether we were with them. Then I said, "Yes, brother, I'm with you." So – so they decided to 32 escort the others. When it was there that they were going to kill them -- the woman made a comment, 33 she said, "You the rebels [inaudible] and the juntas are going to kill the people or to cut their hands. 34 When this thing happens tomorrow they will not say the junta, but they will say it was the rebels." She 35 says, they say that, they will be told the 15 and they joined the three of us. So we were asked to 36 remove our clothes and they started marking us. That is what I said.
- 37 Q. When you spoke to the man on the left in Koidu, did you tell him that you had said, "Brother I'm with

- 1 you."?
- 2 A. Yes, I said I was with them. How it happened that's what I'm saying.
- 3 Q. No, I'm asking you whether you told that to the man on the left when you gave your statement in
- 4 Koidu. Did you tell him that?
- 5 A. Yes, I told them that, told them that, "Whosoever is willing to be with them, let them go this way and
- those who are not willing let them go the other way."
- 7 Q. And you are telling this Court that that is what you told the man in Koidu that you told the rebels,
- 8 "Brother, I am with you."?
- 9 A. Yes. I said I was with them.
- 10 Q. So, if that is not in the statement, that is another mistake he made?
- 11 A. That is what I said.
- 12 Q. Well, when the man in Koidu read the statement back to you before you signed it, did you stop him
- and say, "No, no, no, I said to the rebels, 'Brother I will join you.'"?
- A. No, I did not tell him that. I didn't get the word, but what I did is what I have just said.
- 15 Q. This man Alhaji, how old is he? How old was he then?
- 16 A. No, Alhaji was already [inaudible] he is older than me. There were two Alhajis, the other Alhaji was a
- small one and the other Alhaji was a big one, he would give me who made the signs to me he was
- already a big man.
- 19 Q. Did you tell the man on the left about your conversation with big Alhaji the night before the line took
- 20 place?
- 21 A. The conversation between me and Alhaji?
- 22 Q. Yes.
- 23 A. Like I told you that he called me in Kono.
- 24 Q. Yes. Did you tell that to the man?
- 25 A. Yes, I said it. All what I have told you is what I have said.
- 26 Q. When you spoke to the man --
- 27 A. Yes.
- 28 Q. -- did you understand that he represented Prosecutors at the Special Court?
- 29 A. He told me that he is working for the Special Court and had been there to take statement from us.
- 30 Q. And did you understand that his office would decide who would be witnesses and who would be the
- 31 accused?
- 32 A. Sir.
- 33 MR. PRESIDENT:
- 34 [Inaudible] to this witness.
- 35 MR. BROWN:
- 36 Because I'm sorry.

- 1 MR. PRESIDENT:
- 2 [Inaudible] this question to this witness.
- 3 MR. BROWN:
- 4 May I respond? I don't know whether that was rhetorical or --
- 5 MR. PRESIDENT:
- I do not see the relevance as to his distinguishing who will be the witness or whatever, you know.
- 7 MR. BROWN:
- 8 I have a response, I would not proffer it unless I am invited.
- 9 MR. PRESIDENT:
- No, [inaudible] some attention to that.
- 11 MR. BROWN:
- May I respond to you?
- 13 MR. PRESIDENT:
- I have just made a remark, it calls for no question, no response rather.
- 15 MR. BROWN:
- When the Court speaks it always raises a question.
- 17 MR. PRESIDENT:
- 18 Right.
- 19 MR. BROWN:
- 20 Q. Do you know why the man on the left did not put in the statement the explanation you gave this
- 21 morning to the Court?
- 22 JUDGE THOMPSON:
- 23 Argumentative. It is speculative too, because -- what would it elicit --
- 24 MR. BROWN:
- 25 I'm sorry.
- 26 JUDGE THOMPSON:
- Yes.
- 28 MR. BROWN:
- 29 It could elicit knowledge as to why there is -- what I respectfully urge -- is a profound discrepancy
- between the statement and the testimony, that's what it could elicit, but you are also correct, it could
- 31 have elicited something else.
- 32 JUDGE THOMPSON:
- 33 But here is this -- the investigator is presumed to be an expert.
- 34 MR. BROWN:
- 35 Yes.
- 36 JUDGE THOMPSON:
- 37 He knows the methodologies and the modalities of what he is doing.

- 1 MR. BROWN:
- 2 Yes, sir.
- 3 JUDGE THOMPSON:
- 4 He is speaking to an illiterate witness, potential witness. If you ask the witness why the investigator
- 5 did not record certain things that allegedly he has said, wouldn't that be speculating?
- 6 MR. BROWN:
- 7 It would depend on the reason, Your Honour, but I --
- 8 JUDGE THOMPSON:
- 9 How would that assist the Court?
- 10 MR. BROWN:
- Well, if he knew of some motive -- I agree with your characterisation, I am not raising any question as
- to Mr. Gboyor's integrity [inaudible].
- 13 JUDGE THOMPSON:
- 14 I see.
- 15 MR. BROWN:
- 16 I am raising questions that I think are relevant to the assessment of the witnesses, but --
- 17 JUDGE THOMPSON:
- I think clearly the idea of discrepancies, alleged discrepancies, would be sufficient at the end of day
- 19 for probative value.
- 20 MR. BROWN:
- 21 I am guided by the Court's help.
- 22 Q. You mentioned this morning Captain Ibrahim Tucker.
- 23 A. Yes, yes.
- 24 Q. How long were you with Captain Ibrahim Tucker?
- 25 A. I was with Ibrahim for one year before we disarmed.
- 26 Q. And you provided assistance to his household?
- 27 A. Yes.
- 28 Q. Including sometimes going to get rice?
- 29 A. Yes.
- 30 Q. What was the furthest distance you travelled to get rice for Captain Ibrahim Tucker?
- 31 A. We went together, I went together with him. So, he did not leave me behind and then send me on my
- 32 own.
- 33 MR. BROWN:
- May I just have a moment, Your Honour? I am actually asking after I have taken, can I just have a
- 35 moment to confer?
- 36 MR. PRESIDENT:
- Yes, if you please.

MR. BROWN:

- 2 Your Honour, I have no further questions of the witness. I am sorry, I have no further questions of the
- 3 witness.
- 4 MR. PRESIDENT:
- 5 Thank you.
- 6 MR. BROWN:
- 7 Does the Court wish to mark this so that subsequently I don't -- I suspect the Prosecution has no
- 8 difference over the contents, but I don't know whether it's important for the record to mark items that
- are shown to witnesses. We could do it later, but I just wanted the Court's guidance and by this I am
- 10 referring to --
- 11 MR. PRESIDENT:
- 12 At this stage -- at this point in time no, really. Yes. Yes, the third Accused, please.
- 13 Cross-examined by Mr. O'Shea
- 14 MR. O'SHEA:
- 15 Q. Thank you, Your Honours. Mr. Witness, my name is Andreas O'Shea, I will be asking you a few
- questions. Could I ask you first of all, have you spoken to anyone during the course of this lunch
- 17 break about this case?
- 18 A. No, when we went out I didn't talk to anybody.
- 19 Q. All right. Now there have been quite extensive questions about your meetings with the prosecution.
- 20 And I will try not to cover ground which has already been covered but I would like to ask a few matters
- about that. When you were being asked questions by one of the other gentlemen, you mentioned a
- meeting in May, is that right, between you and the Prosecutor's office?
- 23 A. Which meeting?
- 24 Q. Well, let me put it this way. How many times have you met with a person or persons from the
- 25 Prosecutor's office?
- A. The man at my left -- the Prosecutor on my left-hand side that took the statement from me, that is what
- I want to know. Because we have met only once that he took the statement from me.
- 28 Q. Have you met any other individuals other than that man working for the Special Court?
- 29 A. Yes, we have met.
- 30 Q. Who have you met other than that man?
- 31 A. The man that -- the man that went and took me. And when I came back here and the man that
- 32 provided lodging for me, we've met also.
- 33 Q. Have you given statements to any other individuals apart from the gentleman in this courtroom? Did
- the question come through?
- 35 A. You have not passed the question yet.
- 36 MR. PRESIDENT:
- 37 Mr. O'Shea.

- 1 MR. O'SHEA:
- 2 All right, I'll put it again.
- 3 Q. Apart from the gentleman sitting in this courtroom that you have spoken about, have you given
- 4 statements to any other individual?
- 5 A. I've not got the question yet, you have not passed the question yet to me, I've not got the question yet.
- 6 JUDGE THOMPSON:
- 7 Are the translators –
- 8 THE INTERPRETER:
- 9 My Lord, I think there is a technical problem because the translators are translating exactly to the
- 10 witness.
- 11 MR. PRESIDENT:
- But the witness is not getting them, that is the problem.
- 13 THE INTERPRETER:
- But this is what I am saying, we need to consult the technicians.
- 15 JUDGE BOUTET:
- 16 Can Court Management check the system and see what the witness is having maybe it's his -- you
- are hearing it now?
- 18 MR. PRESIDENT:
- 19 Are you hearing it now?
- 20 THE WITNESS: [Answered through interpretation]
- Yes, yes.
- 22 MR. PRESIDENT:
- 23 Okay.
- 24 THE WITNESS: [Answered through interpretation]
- Yes, yes, I'm getting.
- 26 MR. PRESIDENT:
- 27 Mr. O'Shea, you can go on.
- 28 MR. O'SHEA:
- 29 Thank you, Your Honour.
- 30 Q. You have spoken about giving a statement to the gentleman in this courtroom. Would you know him
- as Bobby, would that be do you know him as Bobby or do you know him by another name?
- 32 A. He showed me his name, but I have forgotten his name.
- 33 Q. All right. Well, you gave one statement to this gentleman, did you give any statement to any other
- 34 individual about this case?
- 35 A. Only when I came back I met with the judges, they repeated my statement, and I spoke with them.
- 36 MR. BOUTET:
- 37 Maybe you can ask him what judges.

- 1 MR. PRESIDENT:
- 2 Which judges, we want to know which judges?
- 3 MR. O'SHEA:
- 4 Q. Mr. Witness, you are aware of the fact that the three gentlemen seated facing you with the red and
- 5 black gowns are the judges in this case. You are aware of that, are you?
- 6 A. Well, it is now I am knowing, now that you've told me. I know now.
- 7 Q. All right. So when you say that you have repeated your statement to judges, who do you mean?
- 8 A. The people that brought me.
- 9 Q. Do you remember when that was?
- 10 MR. PRESIDENT:
- Mr. O'Shea, ask him, the people that brought him from where?
- 12 MR. O'SHEA:
- 13 All right.
- 14 MR. O'SHEA:
- 15 Q. You say that people brought you, where were they bringing you from and where were they bringing
- 16 you to?
- 17 A. They brought me from Kono to this Court especially when I knew that something is bugging me in my
- heart. So they brought me to explain exactly what is happening.
- 19 Q. When did that happen?
- 20 A. It did -- they went and took me. That was in May. They said, "The time has come for the Court," and
- 21 I've given them statement. They asked me if I'm willing, that the time is near. I said, "Yes, I'm willing."
- They took me and brought me here. When they brought me, what I saw, what I hear -- what I hear is
- what I'm saying.
- 24 Q. And this is May of 2004?
- 25 A. Yes, yes.
- 26 Q. So you repeated your statement in May of 2004?
- 27 A. Sir.
- 28 Q. Are you saying that you repeated your statement to these people in May of this year?
- 29 A. When I came, they read my statement in front of me and I told them that what exactly I said is what is
- in the statement.
- 31 Q. Right. So have you only ever made one statement?
- 32 A. The only statement I made is the one they took from me in Koidu, that's what they read to me.
- 33 Q. And after you gave that statement are you saying that you have never given any further information in
- 34 addition to that one statement?
- 35 A. After the first statement I have given, they asked me if I know about any big man. I said, "Yes, I know
- 36 them."
- 37 Q. When did this conversation take place, was this in May?

1 A. The first statement that I made that they replied, it was there they asked me if I know about any big
2 man and the big people I know I named them, I told them.

- 3 Q. Have you ever received any payments of money from any individual working with the Special Court?
- 4 A. Well I've not received money.
- 5 Q. So, can I be clear about this, you have never received any payment of money from any individual
- 6 working for the Special Court? Is that right?
- 7 A. That did not stick in my mind. I did not receive any money from anybody.
- 8 Q. Are you sure about that?
- 9 A. Yes, I'm sure, I didn't receive any money from person.
- 10 Q. Have you been told by any person working for the Special Court that you will receive any money for 11 any reason?
- 12 A. No, it did not stay in my mind. They didn't give me money. They came -- I came -- they took me in a
- vehicle and they brought me here. They have not given me money. If they have given money it did
- not come to me, I didn't see money.
- Now, the translation that came through to us in English was that, "It did not stay in my mind." What do
- you mean by, "It did not stay in my mind."?
- A. It is like somebody giving you money, then you say, "I've forgotten about it," but they didn't give me
- money, so I cannot say they gave money to me.
- 19 Q. I wonder if you could help me with some of the names of the places that you have mentioned during
- 20 the course of your evidence. I will come back to that subject. You mentioned a place called -- and I
- 21 don't know if the translator could try and say the name of the place exactly the way I say it because I
- just want to be sure that we have got the places correct -- you mentioned a place called Yomandu. In
- 23 which district is Yomandu?
- 24 A. Yomandu is under Kono District.
- 25 Q. And then you mentioned a place called -- and forgive me if I've got it incorrect -- but Dandabu, is that
- correct, Dandabu?
- 27 A. Dandabu.
- 28 Q. Dandabu, and in which district is that?
- 29 A. That is also under Kono District, it is the chiefdom in Sandor Chiefdom.
- 30 Q. How far is Dandabu from Yomandu? Are you good with distances?
- 31 A. Well, it is not a far distance. Let me say, I walk with this one hour.
- 32 Q. Then you mentioned a place by the name of -- and please correct me if my pronunciation is wrong --
- you mentioned a place by the name of Baiwadu.
- 34 A. Yes.
- 35 Q. Where is Baiwadu?
- 36 A. It's in the Sandor Chiefdom.
- 37 Q. How far is Baiwadu from Yomandu?

- 1 A. That one is really far, it's not a short distance.
- 2 Q. Are you able to estimate at all?
- 3 A. Well let me say it is about ten miles.
- 4 Q. Then you mentioned a place called Wordu. Correct?
- 5 A. Yes. Wordu.
- 6 Q. And where is Wordu?
- 7 A. Wordu? It is by the north. But it is inside Kono in the Sando Chiefdom. When you are in our own
- 8 town -- our own town, you point your finger towards the north to locate that town.
- 9 Q. Yes, thank you. Now am I to understand your evidence correctly that in your mind the RUF were the rebels?
- 11 A. Yes.
- 12 Q. And the AFRC were the junta?
- 13 A. Yes, they are they are juntas.
- 14 Q. Now, you mentioned -- and you have already been asked about this by Mr. Brown -- you spoke about
- this lining up in Kayima where you were asked to go into two lines: those who wished to join the
- rebels or the junta, and those who wished to be released. Correct? And, correct me if I am wrong
- about this, but my recollection of your evidence is that at the beginning there was a suggestion that
- you should be executed that morning. Is that right?
- 19 A. Yeah.
- 20 Q. And then a gentleman by the name of Bangalie, an AFRC man, intervened and said, "No, don't
- 21 execute them, but they should have AFRC and RUF carved on their chests." Is that a fair summary of
- 22 your evidence?
- A. The woman made the comments, Bangalie and others planned to kill the people. When the woman
- say, "Eh, tomorrow they will not say -- it is not juntas but rebels that did the act." That's the reason
- 25 why Bangalie was afraid and said, "Well let's mark them." We were put in a line and marked.
- 26 Q. Was there any suggestion from anybody in the morning, not the night before, in the morning was there
- any suggestion from anybody that you should be executed?
- 28 A. That Bangalie said that, "Those of you who said you are leaving," that, "When you leave you tell the
- 29 government that we are in Kayima and they should take a jet and bomb us there. That you people
- say you are going now, we are going to kill you."
- 31 Q. So would it be correct to say that on that morning there was a suggestion that you should be killed?
- 32 A. That is what I'm saying, that Bangalie said they should kill all the people, they were now arranging to
- go about to kill the people, that was what Bangalie said, that they should be killed.
- Q. When you gave your statement to the gentleman in court, who I will now refer to as Bobby, if that is all
- 35 right --
- 36 A. I gave him statement, yes.
- 37 Q. Did you say in that statement --

- 1 A. Yes.
- 2 Q. Did you say in that statement that somebody had said on that morning that you should be executed?
- 3 A. Particularly Bangalie that he said the people should be escorted. I heard that.
- 4 Q. So why were you not executed?
- 5 A. I said the woman made comment that if they do that tomorrow, they will not say it is the junta that did
- 6 it, but they will say the rebels did it.
- 7 Q. You described the way Bangalie dressed and you said that he had a badge on his shoulder saying
- 8 "MP." Correct?
- 9 A. Yes, it is correct, that is what I saw "MP" on the left-hand side.
- 10 Q. Did he have any other kind of sign on his shoulder?
- 11 A. He had two ropes with that mark "MP". He had two ropes.
- 12 Q. Do you know what rank he held in the AFRC?
- 13 A. They used to call him Lieutenant Bangalie. I don't know if that is his correct rank, but that was the way
- they used to call him, Lieutenant Bangalie.
- 15 Q. Would you say that he had a strong personality?
- 16 A. Yes, they know him, that man they know him.
- 17 Q. During the course of your evidence this morning you mentioned the fact that rebels had taken some of
- 18 your property.
- 19 A. Yes, they took them.
- 20 Q. Did you say that to Bobby when you gave your statement?
- 21 A. Not asked me whether they took away my property.
- 22 Q. So, did you also not say anything about pillage or property being taken during the course of your
- 23 discussions with Bobby?
- 24 A. No, he did not ask me that question.
- 25 Q. If we go back to the evening before the morning when you were asked to line up, you spoke to a
- gentleman by the name of Alhaji, is that correct? Alhaji? Is it Alhaji?
- 27 A. Yes, yes.
- 28 Q. And he told you that he believed that you would be executed if you asked to be released the following
- 29 day. Correct?
- 30 A. Yes, I had the confidence that he will do it.
- 31 Q. Now, you say that there were 18 of you in total -- were there at that time.
- 32 A. Yes.
- 33 Q. Did you know any of those -- any of the other people among those 18?
- 34 A. [Inaudible] And my younger brother.
- 35 Q. Did you not know any of the others?
- 36 A. Another boy amongst us, he was called Alhaji, he was a small boy.
- 37 Q. When you spoke to Bobby, when you gave your statement to Bobby, did you mention some other

- 1 names of people?
- 2 A. I told him that there was another boy among us, his name was Alhaji.
- 3 Q. Did you not give any other names to Bobby?
- 4 A. The ones I knew are the ones that I've just named. But if I really did give another name, if he should
- 5 call that name if it is correct then I will tell him that it's correct.
- 6 Q. Did you give the name Tamba Sesay?
- 7 A. Yes, that is -- that is Tamba Sesay, he is an old man that is why I called him Pa Sesay.
- 8 Q. Right.
- 9 [By order of the Court this portion of the evidence (page 61 lines 14 and 15) has been extracted and
- 10 filed under seal
- 11 JUDGE BOUTET:
- 12 Mr. O'Shea --
- 13 MR. O'SHEA:
- 14 Yes.
- 15 JUDGE BOUTET:
- 16 -- there are protective measures, as you know.
- 17 MR. O'SHEA:
- Thank you, Your Honour, yes.
- 19 JUDGE BOUTET:
- Now, you should know that we have to be very careful about this.
- 21 MR. O'SHEA:
- Yes, I wasn't thinking about that, Your Honour, I apologise.
- 23 JUDGE BOUTET:
- 24 I appreciate, I am just -- now we may have another problem now.
- 25 MR. O'SHEA:
- Yes, the difficulty was that I hadn't appreciated that these people were as close to this gentleman.
- 27 MS. TAYLOR:
- Your Honour, just before my friend continues, I wonder whether that last response might actually be
- 29 struck from the record.
- 30 JUDGE BOUTET:
- We will strike it from the record, it is in front of the public and there is nothing we can do about that at
- 32 this particular moment.
- 33 MS. TAYLOR:
- 34 Yes, Your Honour.
- 35 JUDGE BOUTET:
- It's a concern I have. We go to these extremes to try to protect the identity of witnesses, but I'm not
- saying, Mr. O'Shea, that you did that on purpose, I understand it does happen, but I'm just trying to

- 1 caution you again to be careful.
- 2 MR. O'SHEA:
- 3 Yes.
- 4 JUDGE BOUTET:
- You knew the name of the witness in addition to his identification number, I guess and he had been talking of his younger brother so but, anyhow.
- 7 MR. O'SHEA:
- Yes, thank you, it didn't occur to me that that response would come out. Thank you.
- 9 Q. So, you did not know any of the others out of the 18 by their face or by their name?
- A. Even today I know some of them. Where they have -- who have his mark on them. There is another friend whose name was Tamba that died, Tamba that died.
- 12 Q. That person Tamba, is this a different Tamba from Tamba Sesay?
- 13 A. Yes, it's different from Tamba Sesay.
- 14 Q. And this person is not a relative of yours?
- 15 A. No, he is not and we met in the jungle during the war.
- 16 Q. Was he one of the 18?
- 17 A. No, he was not there that day [inaudible] but we met together under the same boss. The same boss.
- 18 Q. When you were asked by Alhaji or was told by Alhaji [inaudible] what might happen the following
- morning, did you warn anybody else?
- A. We were -- we were not in the same place, we were all distributed, we were not together. I was together with my younger brother, there were others in other rooms.
- 22 Q. At the time that you were lined up and stated to these people that you wanted to join them, at that time
- of your life were you working?
- 24 A. I was working. I really did some -- I worked like a jackass and that is why I made my statement.
- 25 Q. I'm sorry, I need to put the question in a different way. Before you used the word "captured" you in
- fact indicated that you did not want to be released, whether that was your real wish or not that is what
- 27 you indicated to the rebels, before that incident in your home town or village, did you have work?
- Were you employed? So before you were with the rebels were you employed when you were at
- 29 home?
- 30 A. The question is so many, there is little. Put it down, simplify your questions.
- 31 MR. PRESIDENT:
- 32 [Inaudible] answer the questions asked you. Before you joined the rebels were you working?
- 33 THE WITNESS: [Answered through interpretation]
- 34 I was working.
- 35 MR. PRESIDENT:
- 36 Mr. O'Shea, go on.

- 1 MR. O'SHEA:
- 2 Q. What were you doing?
- 3 A. I was in school.
- 4 Q. Well, if you were in school, you weren't working, were you, or were you working and in school?
- 5 A. I was working as well as attending school.
- 6 Q. What work were you doing?
- 7 A. I was doing some house -- domestic work. So when school closed I will go to get out my sister in the
- bush and then take gravel and we wash this gravel together.
- 9 Q. Did you receive any income for your work?
- 10 A. No, that was done for the family, I wasn't paid.
- 11 Q. Did you have a big family?
- 12 A. Sir, go over that again, I can't get it clear.
- 13 Q. Did you have a large family?
- 14 A. I didn't get you clear.
- 15 Q. Did you have a large family?
- 16 A. Yes, I have a large family.
- 17 Q. I think I am safe in asking this question. How many people were in your family? No?
- 18 JUDGE BOUTET:
- 19 That's fine if we stay at that level for now.
- 20 THE WITNESS: [Answered through interpretation]
- You want me to call the names of all my family?
- 22 MR. PRESIDENT:
- 23 No.
- 24 JUDGE THOMPSON:
- The number.
- 26 MR. O'SHEA:
- 27 Q. The number. In fact, let me warn you, if I may, don't mention the names of your family members for
- 28 your own safety. Do you understand? In fact, let me add that if I accidentally ask you a question
- 29 which might reveal your identity you must stop me. All right?
- 30 So, how many people were there in your family?
- 31 A. Well, we are many. By the time the war was coming I had my younger sister, my elder sister, my
- 32 father and my mother, and my stepmother because I have lost my mother. And two of my nephews.
- We were all on the way when we were captured, the others are all away in other camps.
- 34 Q. Was anybody earning any income in that family at the time?
- 35 A. No.
- 36 Q. So, would it be fair to say that the general situation of your family was quite a desperate one?
- 37 A. No, we were not really desperate. We were living with our family. When I said we are not working, it

doesn't mean that we are desperate. Our brothers are out and they used to send for our father. We

- 2 have our house where we stay, we eat. When we are ready to go to bed, we can go to bed at any
- time we want to. And when we are [inaudible] we can get up at any time we want to get up. It doesn't
- 4 mean that when I say that we are desperate it means that we are beggars going about begging.
- 5 Q. No, no, I can understand that, but times were difficult. Right?
- 6 MS. TAYLOR:
- 7 Your Honour --
- 8 A. When the time -- the time when things were really difficult was during the war and things were difficult 9 during the war. And I'm the only man.
- 10 MS. TAYLOR:
- Your Honour, this line of questioning has gone on for quite some time, and I do now raise the issue of
- relevance. What fact in issue are these matters relevant to?
- 13 MR. PRESIDENT:
- Mr. O'Shea, please go on and let it not be on and on and on, you know, we -- try to start wrapping up,
- please, if you could.
- 16 MR. O'SHEA:
- Well, I apologise if that is the general feeling but, I do have a direction in these questions.
- 18 MR. PRESIDENT:
- Go ahead, go ahead, but try to remain within the domain of relevance. I know you are there, but it is
- turning round and round and round and I hope we shall have a point where it will stop. Go
- 21 ahead, please.
- 22 MR. O'SHEA:
- 23 Q. When you were with the rebels --
- 24 A. Yes.
- 25 Q. -- did you ever try to escape?
- 26 A. I was not able to run away, the security was too tight.
- 27 Q. Did you ever fight?
- 28 A. I cannot lie that I fired a weapon, but they used to put loads on our head to go to the battlefield. From
- 29 there -- from there after that I will come back with another load on my head.
- 30 Q. Have you been in the battlefield?
- 31 A. Go over that again.
- 32 Q. Have you been in the battlefield yourself?
- 33 A. We used to take loads on our head and they used to attack. I know how to load the magazine of the
- gun, I know how to load it.
- 35 [Pages 43 to 64 by Susan G. Humphries]

36

- 1 [16.30]
- 2 Q. Earlier you mentioned that you had handed in a grenade during the disarmament process?
- 3 A. Yes, I gave it. The man who I was staying with gave it to me to go and disarm together, and we went and disarmed.
- 5 Q. So you are saying this was not your grenade, or it was not a grenade in your possession?
- 6 A. No, I didn't have it before that time. You cannot disarm twice. So there was no way that man could
- 7 have kept that grenade with him. So we went together and we disarmed. If it remained in the corner,
- 8 it can lead to armed robbery.
- 9 Q. Can I suggest to you that at the time you went along with the rebels you did so, in fact, voluntarily?
- 10 A. I did not go there with my clear heart. There was no way to do it, we were forced to join. The men
- were with the weapons and I cannot sit down. When they asked you to sit down, you have to sit
- down. If they asked you to lie down, you have to lie down. If I did not honour that, I wouldn't have
- been alive today. I was subject to order in their care until they disarmed.
- 14 Q. Did you personally feel that there would be some benefit for your family in going along with the
- rebels?
- 16 A. What? Go over that again.
- 17 Q. Did you not feel at the time you went along with the rebels that there might be some ultimate benefits
- for your family who were not working?
- 19 A. That is no benefit. I cannot see that as a kind of benefit. I will show you the example. You cannot
- take a cow from somebody and give him a rat. That is no benefit. What kind of help is that? All our
- 21 homes were damaged -- our home was destroyed. Is that benefit?
- 22 JUDGE THOMPSON:
- 23 I'm sure learned Counsel you don't want to pursue this line of argumentative kind of -- what
- speculative answers -- how does it assist us? I don't know what to record.
- 25 MR. O'SHEA:
- 26 Well, I'm trying to be fair to the witness –
- 27 JUDGE THOMPSON:
- All right.
- 29 MR. O'SHEA:
- 30 -- by suggesting to the witness that there may be another avenue for his route to this Count which
- was rather more voluntary than he suggested to the Court.
- 32 JUDGE THOMPSON:
- Well, I follow that. It's just that you can see the answers flowed out in such a very argumentative way
- of rejoinders and things, and we are trying to ascertain facts.
- 35 MR. PRESIDENT:
- You may also have been suggesting that may be because they were living in misery he was better off
- in joining not only the rebels, but the junta and he has replied to that anyway.

1 MR. O'SHEA:

- Yes. I just felt that it was fair to put it to the witness.
- 3 Q. When you spoke about the first incident with the AFRC vehicles coming, you remember that part of
- 4 your evidence?
- 5 A. Sir, repeat that. Go over that again.
- 6 Q. At the beginning of your story you told us that there were a number of vehicles that arrived at, I think it
- 7 was Yomandu; is that correct?
- 8 A. Is correct. Go ahead.
- 9 Q. So you described the AFRC, and you described the fact the vehicles were marked AFRC?
- 10 A. That is exactly, but I did not say there were many, many vehicles. The first one, there was only one
- vehicle which was a Toyota and it was marked AFRC. There was not a long distance between us.
- They came down, they alighted and asked us for the youths. The second one that was the time they
- caught my sister's worker, three vehicles; two Toyotas, and one Nissan. There were not many, many
- vehicles, there were only four. They not come on the same day. The three came on the same day,
- the one came alone.
- 16 Q. Were all the vehicles that you saw marked AFRC?
- 17 A. It was not all of them were marked. The first one with the soldiers which came from Koindu was
- marked AFRC. The three vehicles that came later had no mark on them; the two Toyotas and one
- 19 Nissan.
- 20 Q. Can I just ask you this one last question? You said that you can't read or write in English. Can you
- read or write in *Krio*?
- 22 A. When I told you that I cannot read or write, I did not tell you that I did not go to school. If you tell
- 23 somebody in class one, he knows. What about me? I went above that. I know how to read A-B-C-D.
- When I saw the vehicle marked AFRC, so I can know that, I should know that. I cannot read Krio
- book, I cannot read *Krio*, but I know that -- there is no *Krio* book.
- 26 Q. Can I ask this one last short question? When you spoke to Bobby, you spoke to him in *Krio*?
- 27 A. I spoke in Krio to Bobby.
- 28 MR. O'SHEA:
- 29 Could I just have one moment, Your Honour?
- 30 MR. PRESIDENT:
- Yes, and may be to ask another short, short question. Go ahead, please.
- 32 MR. O'SHEA:
- Thank you.
- 34 MR. PRESIDENT:
- 35 Is that all?
- 36 MR. O'SHEA:
- 37 Yes, Your Honour.

SESAY ET AL: 12 JULY 2004 MR. PRESIDENT: 1 2 Is there any re-examination, please? MR. TEJAN-COLE: 3 None. Your Honour. 4 5 MR. PRESIDENT: Learned Counsel for the Prosecution, if we were to take your next witness, I mean, you think that his 6 7 examination-in-chief will last about how long? MS. TAYLOR: 8 Certainly longer than the sitting day today, Your Honour. 9 MR. PRESIDENT: 10 Certainly longer than -11 MS. TAYLOR: 12 13 The rest of the sitting day, today. In fact, I was going to seek leave of the Chamber that we not start that witness until tomorrow morning. That witness is the first of our gender crime witnesses, and Your 14 15 Honours will recognise that category of witnesses are a particularly vulnerable category of witnesses and she would be the first witness, that we use the voice distortion equipment, and she is a 16 17 particularly vulnerable witness. And in our submission, it would be better to start with that witness first 18 thing tomorrow morning, rather than do 20 minutes or half an hour of this afternoon both for the whole 19 benefit and for the comprehension of the evidence she gives for everyone in this room. MR. PRESIDENT: 20 21 Yes. I do not think that the Defence have any particular observations to make in relation to the 22 application or the comments by the Prosecution, seeking an adjournment for tomorrow because of the 23 particular circumstance of this witness. MR. JORDASH: 24 25 From my own side, if it helps to ensure that the distress of the victim witness is minimised, then I think it is a sensible application. 26 MR. PRESIDENT: 27 28 Right, I think we would have continued but we are adjourning. We could have continued for another 29 one hour, and even slightly beyond but because of the particular circumstances that have been 30 brought before the Court by the Prosecution, circumstances which we considered reasonable, we are 31 adjourning our session to tomorrow at 10 o'clock. We shall resume at 10. The Court will rise please. 32 MS. TAYLOR: 33 Your Honour, pardon me. There is just one further application that the Prosecution has in respect of 34 this witness. The language that she would testify in is *Temne*. The head of the translation unit, the

language unit of this Court has obtained a person who would sit in the booth to facilitate the

translation for the Court, and although she is a *Temne* speaker, she is not a qualified translator. And

the application of the Prosecution is that we are allowed to have sitting in Court with us a qualified

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1 Temne interpreter so that if there is any issue, that interpreter who is qualified hears the translation,

- Then that might be addressed in the appropriate way.
- 3 MR. PRESIDENT:
- 4 Yes. Mr. Brown.
- 5 MR. BROWN:
- 6 I don't know if I heard learned counsel saying "sitting in the box."
- 7 MR. PRESIDENT:
- 8 You are withdrawing your comments. Well, I hope that this will be sorted out tomorrow. I very much
- hope so, but those are matters for the translation team, you know, to sort out. Please, sort that out
- properly with the translation team and the Defence as well.
- 11 MS. TAYLOR:
- My application is to seek leave of this Court to have someone who is not a lawyer sit at the bench of
- the Prosecution.
- 14 MR. PRESIDENT:
- We will look at that, you know, tomorrow and see what -- where we go from there. We will look at that
- tomorrow but take the necessary measures, you know, with the head of the interpreters to ensure that
- things go through the normal way. Yes, you are up again, Mr. Brown.
- 18 MR. BROWN:
- 19 Your Honour, it reflects on the one hand -- I would ordinarily not think it my place to comment on who
- 20 learned counsel has at their table as long as they are part of their team, but the inference is unclear to
- 21 me on two grounds: One is, I have every confidence in the interpreting and translating skills that have
- been assembled as part of the process, and the issue of equality of arms. If there is a specified need
- 23 because of some special linguistic issue that cannot be addressed by the skilled staff that has been
- 24 assembled, we should know what it is so that we might be prepared to meet it. I mean, I'm not saying
- it just because they have a *Temne* speaker there. We need one, but I don't know what the issue is
- 26 that underlies this, so that the reason you show me up and down was -- who sits at their table as long
- as it's consistent with the Court's view is fine. But I don't know what the issue is that arises and how
- 28 this might affect my ability, along with my colleagues, to represent Mr. Morris Kallon. May I know
- 29 what it means?
- 30 MR. PRESIDENT:
- 31 She is talking of an interpreter from *Temne* or so. Is it *Temne*?
- 32 MS. TAYLOR:
- The language of *Temne*.
- 34 MR. PRESIDENT:
- And there is no official interpreter for that. But there is lady, you know, somebody who was being
- brought and who can assume that role and she is asking for leave, you know, from the Court for that
- 37 to happen. So what we –

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- 2 It is not clear to me either as to what it is because, correct me if I'm wrong, there will be an interpreter
- in the translation booth, but that interpreter is not a qualified interpreter.
- 4 MS. TAYLOR:
- 5 Yes, Your Honour.
- 6 JUDGE BOUTET:
- 7 In addition to that, you would like to have your own interpreter sitting in court, not talking of the
- translation booth. You are talking of another one who is part of the Prosecution team, presumably.
- 9 MS. TAYLOR:
- Yes, he was a member of the Office of the Prosecutor, yes.
- 11 JUDGE BOUTET:
- So where does that leave the Defence.
- 13 JUDGE THOMPSON:
- In other words, what I would like to know myself, what would be the function of the interpreter that you
- are going to bring in court?
- 16 MS. TAYLOR:
- Without casting any doubt upon the good faith of the team that is being assembled by the Court to be
- the interpreter, and I have no doubt that the person who is brought in with that language by the Court
- will do their level best in good faith and to the best of their ability to translate, that person is not a
- 20 qualified translator. And it was thought --
- 21 MR. PRESIDENT:
- 22 But is the person you are bringing a qualified translator?
- 23 MS. TAYLOR:
- Yes, he is. And the issue was that if there is any difficulty that that persons hears with the translation,
- 25 then --
- 26 MR. PRESIDENT:
- 27 Did he undergo the training of the translators which was organised by the Special Court for the
- 28 interpreters?
- 29 MS. TAYLOR:
- I don't know whether he underwent that training.
- 31 MR. PRESIDENT:
- 32 No, you said he is trained -- he is qualified. In what sense is he qualified? Besides, you know it, it is
- not just speaking the language that makes you a qualified interpreter.
- 34 MS. TAYLOR:
- That is precisely the point. With the person that has been brought to the Court for the purposes of the
- 36 Court, I understand, because I am not qualified in any sense other than the fact that this person
- speaks this language and I speak English. The person that the Prosecution would wish to bring into

1 Court is qualified. I don't know what the qualifications are specifically, but has qualifications as --

MR. PRESIDENT:

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You see, this is why I said you should discuss the matter with the Defence because you mentioned somebody from the Prosecution. I mean, it's a question of arranging your matters with the Defence because I wonder if the Defence is going to go along with an interpreter, qualified or not, you know, furnished by the Prosecution. So I don't know.

7 JUDGE THOMPSON:

I would like to make that point myself, and I add to what my brothers are saying that the concept of a Prosecution interpreter raises for me a red flag. It does raise a red flag because again the equality of arms, the question I asked myself, who is an interpreter for the Prosecution, I need to be satisfied as to neutrality, impartiality and objectivity.

12 MS. TAYLOR:

Your Honour, I wonder if there is a misunderstanding. It is not suggested for a moment that someone who is employed by the Office of the Prosecutor is going into the booth and translate for the Court.

That is not what is suggested.

JUDGE BOUTET:

17 That is clearly understood. This is not -- my question is along also what Judge Thompson has raised.

What about equality of arms? I mean, if you had some, let's say reservation about the quality of the

interpretation that would be done officially for the record, and you would like to be reassured by

having somebody sitting on your side, who speaks and understand and translate in Temne, what

about the Defence? How are they to be offered the same equality of treatment?

22 MS. TAYLOR:

Your Honour, it matters not where this persons sits in the Court. If my friend would wish, I would be happy for him to sit on their side of the Courtroom. The issue is --

25 JUDGE THOMPSON:

But let me tell you what matters now. If this interpreter has been procured by the Prosecution, we need to be able to resolve the question of impartiality and objectivity. That is critical because it sounds like an expert witness so to speak. The same kind of analogy can help here.

MS. TAYLOR:

Your Honour, all I am saying in response to that is that this person is a qualified interpreter, and their whole job is not to be prejudiced; is to listen to a language and translations irrespective of who is speaking or where they have come from. I'm certainly not trying to seek any advantage for the Prosecution.

34 JUDGE THOMPSON:

No, I am sure, not.

36 MS. TAYLOR:

I concerned only that where the translation for the record of this Court is being done by someone who

1	is not qualified as a translator as a speaker, that this person would assist.
2	JUDGE BOUTET:
3	Can I suggest that you discuss with the Defence. At the moment we are not in a position to say
4	anything on that.
5	MR. PRESIDENT:
6	I did invite you to do that, so you better embark on that and we will see how it will turn out to be. I
7	think the Court will now rise, and we will resume tomorrow at 10.00.
8	Whereupon the hearing adjourned at 17.35, to be reconvened on
9	Tuesday, the 13th day of July 2004, at 10.00.
10	(Pages 65 to 71 by Momodou Jallow)
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