

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

FRIDAY, 4 NOVEMBER 2005
9.39 A.M.
TRIAL

TRIAL CHAMBER I

Before the Judges:	Pierre Boutet, Presiding Bankole Thompson Benjamin Mutanga Itoe
For Chambers:	Ms Candice Welsch Mr Matteo Crippa
For the Registry:	Mr Geoff Walker
For the Prosecution:	Mr Peter Harrison Ms Shyamala Alagendra Mr Mark Wallbridge(Case Manager)
For the Principal Defender:	Mr Ibrahim Foday Mansaray
For the accused Issa Sesay:	Mr Wayne Jordash Ms Sareta Ashraph Ms Chantal Refahi
For the accused Morris Kallon:	Mr Melron Nicol-Wilson Ms Rachel Irura
For the accused Augustine Gbao:	Mr John Cammegh

1 [RUF04 NOV05 - CR]
2 Friday, 4 November 2005
3 [Open session]
4 [The accused Sesay, Kallon present]
09:35:39 5 [The accused Gbao not present]
6 [Upon commencing at 9.39 a.m.]
7 [The witness entered court]
8 JUDGE THOMPSON: Mr Jordash, you can continue your
9 cross-examination this morning.
09:36:59 10 MR JORDASH: Thank you.
11 WITNESS: TF1-314 [Continued]
12 [Witness answered through interpretation]
13 CROSS-EXAMINED BY MR JORDASH: [Continued]
14 Q. Good morning, Madam Witness. We were just going through --
09:37:18 15 PRESIDING JUDGE: Just a minute, Mr Jordash, we want to
16 make sure the witness can hear you. Would you again verify with
17 the witness if she hears what you're saying.
18 MR JORDASH: Certainly.
19 Q. Can you hear me, Madam Witness?
09:37:31 20 A. Yes.
21 Q. On Wednesday we were just going through your contacts with
22 the Prosecution. Do you remember?
23 A. Yes.
24 Q. Just taking you back, you recalled meeting with Jusu Yarmah
09:38:04 25 at Port Loko in October 2003; is that right?
26 A. Yes.
27 Q. You spoke Krio and the investigator Jusu spoke Krio to you?
28 A. No. The woman that I met at that guesthouse, she was
29 speaking to me in English and there was another one who was

1 translating.

2 Q. Okay. But the interview then was in a language you
3 understood, Krio. You spoke Krio and another person spoke Krio
4 to you?

09:39:00 5 A. Yes.

6 Q. And after the interview had finished and a statement had
7 been written, the statement was read back to you in Krio.

8 A. They didn't read any statement to me.

9 MR TOURAY: Your Honour, I apologise for running late.

09:39:24 10 PRESIDING JUDGE: Thank you, Mr Touray.

11 MR JORDASH:

12 Q. We confirmed you signed the statement as a true statement;
13 is that right?

14 A. Yes.

09:39:36 15 Q. That's a statement which reflected what happened to you
16 during your time with the rebels?

17 A. Yes.

18 Q. Do you then remember meeting the Prosecution in Freetown in
19 June 2004, so about seven, eight months later?

09:40:12 20 A. Yes.

21 Q. Did you meet somebody called Sharan Parmar?

22 A. Yes.

23 Q. And there was also an investigator there called Alfred
24 Sesay?

09:40:32 25 A. Yes.

26 Q. Did you go through the first statement you made and make
27 any additions or corrections to it?

28 A. Yes.

29 Q. Was the interview in English or Krio?

1 A. Well, Sharan spoke in English and the other person who was
2 there was translating. Then the one, Mr Sesay, he was talking
3 Krio and I was also talking Krio.

4 PRESIDING JUDGE: Mr Jordash, does that mean that there was
09:41:15 5 Sesay, Parmar and an interpreter, or Sesay was the interpreter?

6 MR JORDASH: Sesay was the interpreter, I think.

7 Q. Is that right? Was Sesay interpreting what Ms Parmar said?

8 A. Well, from when I started meeting with them, it was a woman
9 who was translating to me; it was not a man.

09:41:35 10 Q. Was there three people, then, from the Prosecution and you
11 in the meeting?

12 A. Yes.

13 Q. Were you able to follow what was being said to you through
14 the interpreter?

09:42:00 15 A. Yes.

16 Q. Did you make what corrections you wanted to make to that
17 first statement from 2003?

18 A. Yes.

19 Q. Did you then meet the Prosecution again in July this year,
09:42:33 20 19 and 20 July?

21 A. Yes.

22 Q. Did you go through your two previous statements?

23 A. Well, when I came, because the other one had gone, so the
24 one that I met when I came, he said, "Well, now talk again," so
09:42:56 25 that you can go through the statement all that I had made.

26 Q. And you went through and made corrections; is that right?

27 A. Yes.

28 Q. Did you again meet the Prosecution on 20 October 2005, a
29 short while ago?

1 A. Yes.

2 Q. Did you follow the same procedure going through the
3 previous statement?

4 A. Yes.

09:43:39 5 Q. Was the interview in Krio?

6 A. Well, the lawyer spoke in English and it was translated to
7 me.

8 Q. Did you again meet the Prosecution on 26th October 2005 and
9 go through the same procedure?

09:44:01 10 A. Yes.

11 Q. Making the corrections that you wanted to make?

12 A. Well, all that I'd said, yes, that was what I followed up.

13 Q. Have you tried on each occasion that you've met the
14 Prosecution to tell the truth?

09:44:37 15 A. Yes, I said all the truth to them. There were no lies.

16 Q. Am I right that you don't -- well, let me ask this: Do you
17 read or write English?

18 A. Yes, I can try.

19 Q. What I want to do is take you through some of the
09:45:02 20 statements which have been written about what you've said to the
21 Prosecution. Would it help you to have a copy of those
22 statements in front of you? Would you be able to use them to
23 fresh your mind?

24 A. Yes.

09:45:22 25 PRESIDING JUDGE: Again, Mr Jordash, just so we have a
26 clear understanding of what is what, what are you intending to
27 do? To refresh her memory? I know you just alluded to that.
28 Are you intending now to refresh the memory of the witness and
29 provide her with all the statements which she may have written up

1 to now or that have been written up to now? That's basically
2 what you want to do now. If that is the case, as I understand,
3 there are five statements, so it will take some time, to be fair
4 to the witness, so she can read whatever it is out there and she
09:45:55 5 can refresh your memory. This is what you want to do?

6 MR JORDASH: No. That is my sloppiness. I want to have
7 her look at the statements and I want to put a number of
8 inconsistencies to her.

9 PRESIDING JUDGE: Then because you were moving in the
09:46:10 10 direction of refreshing the witness's memory. So it's a
11 different scenario and I know you know the difference. In one
12 case, the witness has access to the statement, reads the
13 statement and, in this case, she refreshes her memory. In the
14 other case, they are not allowed to have the statement, you just
09:46:26 15 ask if they have a statement, did you say or didn't you say and
16 so on and then you're trying to put the contradiction, if any, to
17 the witness. But normally you don't give them a statement to
18 refresh their memory, because it's two different scenarios.

19 JUDGE THOMPSON: Let me join my brother in this. If it is
09:46:43 20 really prior inconsistent statements that you're trying to -- if
21 that's the rubric that you're proceeding on, do you have
22 specifically the particular alleged inconsistent areas that you
23 think you have sufficiently highlighted that you could put to
24 her?

09:47:05 25 MR JORDASH: I have a large number.

26 JUDGE THOMPSON: Yes. It would seem to me that if already
27 you have perceived in your mind that certain portions of her
28 testimony are inconsistent with certain portions of the several
29 statements that she made, then you can proceed with the specific

1 ones and put them. But if it's really to refresh her memory --

2 PRESIDING JUDGE: Can I ask, before we pursue this
3 discussion, that this not be translated to the witness or we ask
4 the witness to be excused. I just want to be prudent here.

09:47:42 5 Mr Jordash, what's your --

6 MR JORDASH: Yes, please. Yes, I don't think it's fair to
7 the witness, actually, for her to listen to these discussions.

8 PRESIDING JUDGE: But I do understand from her evidence
9 that she does understand English. So if we do have this
09:47:58 10 discussion, even though it may not be translated in Krio to her,
11 she will still understand what we are talking about. So if we
12 are to pursue this discussion, and I think we should, in order
13 that we make it clear what it is you do so we don't get into
14 another difficulty in the future.

09:48:17 15 MR JORDASH: Certainly.

16 PRESIDING JUDGE: So we may as well do it in the proper
17 fashion this morning so there is no possible ambiguity.

18 MR JORDASH: I completely agree. So could I request that
19 the witness be excused.

09:48:37 20 PRESIDING JUDGE: Yes. Can the Witness Protection Unit
21 assist for that, please.

22 [The witness stood down]

23 JUDGE THOMPSON: Mr Jordash, lest we don't -- as the
24 learned Presiding Judge has said, we don't complicate a process
09:50:15 25 which, from the Bench's perspective, is not that complicated. I
26 was saying that if you are proceeding under the rubric of
27 establishing prior inconsistent statements, then it would seem to
28 me - and correct me if I'm wrong in this assumption - that you do
29 have certain specific areas there, which you have already red

1 lined, so to speak, as being possible or alleged inconsistent
2 statements in respect of her in-court testimony. Is that a fair
3 assumption?

4 MR JORDASH: It is a fair assumption. But there are,
09:51:07 5 really, a number of processes which I would like to go through.
6 One of them would be to, at times, refresh her memory so she
7 remembers what she put her name to many, many months ago.

8 JUDGE THOMPSON: Well, let me stop you there. If that is
9 the case of course the Bench is not suggesting that you are
09:51:28 10 foreclosed in terms of your options. The question is, for the
11 purpose of tidiness, whether it is advisable, and then you of
12 course are the best judge of how you want to present your case,
13 to move from refreshing memory and then to prior inconsistent and
14 then back to refreshing memory and then perhaps to prior
09:51:53 15 inconsistent or whether we should, in fact, adopt a kind of
16 pigeon-hole situation here; deal with the refreshing memory
17 aspect and then, later on, deal with the prior inconsistent
18 statement aspect. Would there be any major logical objection to
19 that kind of approach, from your perspective?

09:52:17 20 MR JORDASH: Yes. From my perspective, yes.

21 JUDGE THOMPSON: All right. Let me hear it and be
22 enlightened.

23 MR JORDASH: Because sometimes the best tool of
24 cross-examination is surprise.

09:52:25 25 JUDGE THOMPSON: Quite.

26 MR JORDASH: And if witnesses are allowed to refresh their
27 memories on the whole of their statement before
28 cross-examination, much of that surprise is lost.

29 JUDGE THOMPSON: I agree.

1 PRESIDING JUDGE: I agree too.

2 MR JORDASH: What I would want is to be fair to the
3 witness. If I say to the witness, "You said X on Tuesday," and
4 she says, "Well, I don't remember", then that witness ought to be
09:52:53 5 allowed to refresh her memory perhaps in certain circumstances.
6 So it is a kind of process sometimes which lends itself to
7 refreshment of memory of the whole statement and sometimes just
8 the portion which is under consideration.

9 JUDGE THOMPSON: So you want to be given the latitude to,
09:53:08 10 in other words, oscillate between option one and option two.
11 Because we are not suggesting they are mutually exclusive
12 options.

13 MR JORDASH: Yes, I would.

14 JUDGE THOMPSON: But then of course, in that regard, it
09:53:23 15 puts a different complexion on the matter. This witness should
16 really be given some time to look at those several statements in
17 advance before you embark upon your undertaking.

18 MR JORDASH: Well, I would submit not. I would want this
19 witness -- for example, I have an inconsistency to put to her
09:53:41 20 concerning how many people raped her when she was captured which,
21 on the face of the statement, is four. What she said in Court is
22 three. I would like to, in a way, shortcut things by taking her
23 straight to the statement, saying, "This is what the statement
24 says. You signed it. It says four. What do you have to say?"
09:54:04 25 But I wouldn't want to give her the statement and let her read
26 everything, because there are other matters later on I wouldn't
27 want her to be forewarned about.

28 PRESIDING JUDGE: One of the difficulties in what you are
29 describing, Mr Jordash, at the same time is you are trying to

1 shortcut. You may shortcut too much. For example, I know from
2 the evidence the witness has given up to now that she has given
3 more -- she was interviewed more than once. I think it was four
4 or five times. Whether or not she signed the documents, I don't
09:54:35 5 know. You say she did.

6 MR JORDASH: The first statement she signed.

7 PRESIDING JUDGE: But again I would suggest to you that you
8 should show it to her, is it her signature or not and what did
9 she sign to, is it a statement in English? These are the kind of
09:54:49 10 things that we may be running into some difficulties and this is
11 based on past experiences with witnesses when you have this kind
12 of scenario of where interviews are conducted in Krio, statements
13 are in English, they sign but they don't know. All of that to
14 say because you are moving in a direction to show inconsistency
09:55:10 15 between what the witness is saying now and what it is in her
16 statement. If the statement -- there is some doubt as to its own
17 accuracy, then we are even in a more problematic area. So the
18 whole purpose of your cross-examination along these lines is to
19 show inconsistency between what has been said now and what has
09:55:29 20 been said on some other occasion.

21 MR JORDASH: Yes. But also as well, actually, just to show
22 overall unreliability. That this first statement has been
23 changed a number of times in the statement. So even if what she
24 said finally in the statement is not inconsistent with an oral
09:55:49 25 testimony, I want to take her through the statements to show
26 unreliability.

27 PRESIDING JUDGE: As my learned brother Justice Thompson
28 has told you, we are not trying to limit your ability to
29 cross-examine, but at the same time we want to follow through

1 with some logic as well and not to confuse the witness. This is
2 some of the issues. But I agree with you, if the purpose of your
3 cross-examination on this matter is to show alleged
4 inconsistency, the best approach would be not to show the
09:56:22 5 statement at the beginning. Whatever you do, we need to know
6 ahead of time what you are doing. If you are going now with
7 refreshing her memory, we would appreciate that you inform us as
8 to what it is you are trying to do at that particular moment,
9 otherwise we won't be able to follow you. Even if we can follow
09:56:46 10 you, we may have some questions to the way you are doing it at
11 that moment.

12 MR JORDASH: Certainly.

13 PRESIDING JUDGE: Justice Thompson?

14 JUDGE THOMPSON: Nothing more. You can proceed.

09:57:00 15 MR JORDASH: Thank you.

16 JUDGE THOMPSON: Let's have the witness back, please.

17 [The witness entered Court]

18 JUDGE THOMPSON: Mr Jordash, your witness.

19 MR JORDASH: Thank you. I have a copy of the witness's
09:59:14 20 original handwritten statement. It's unmarked. Could I ask
21 that, with Your Honour's leave, it be handed to the witness so
22 she can look at the document?

23 [Document shown to witness]

24 Q. This is a copy, Madam Witness, of the statement that was
09:59:57 25 taken following the first meeting you had with the Prosecution in
26 Port Loko when you met Jusu. Okay?

27 A. Yes.

28 Q. Can you look at each page at the bottom of the page and see
29 if you recognise the signature?

1 A. Yes.

2 Q. The first page.

3 A. Yes.

4 Q. Turn over the page, please, see if you see another

10:00:32 5 signature. Is that yours?

6 A. Yes.

7 Q. Would you keep going and just look at each signature and

8 confirm whether they are your signatures.

9 PRESIDING JUDGE: Mr Jordash, could you just refer when you

10:00:47 10 are making reference to the pages to the Court Management number

11 on these pages, if you have them available?

12 MR JORDASH: I don't think the Court Management have a

13 numbering on the original, or do they? They do. I don't.

14 MR HARRISON: It starts at 11340. That's the first page,

10:01:13 15 and the last page of that is 11346.

16 MR JORDASH: Thank you.

17 Q. Madam Witness, could I just take you back to the beginning.

18 The first page 11340 on the top right-hand corner, has that got

19 your signature on it?

10:01:42 20 A. It's my name that's there. It's at the bottom that my

21 signature is supposed to be.

22 Q. Did you sign it? Is that your signature?

23 A. Yes.

24 Q. Turn over the page to 11341. Is your signature on that

10:02:06 25 page, please?

26 A. Yes.

27 Q. Over the page to 11342; your signature on the bottom?

28 A. Yes.

29 Q. Over the page to 11343; your signature on the bottom?

1 A. Yes.

2 Q. 11344; your signature on the bottom?

3 A. Yes.

4 Q. 11345; your signature on the bottom?

10:02:43 5 A. Yes.

6 Q. 11346, the last page; your signature?

7 A. Yes.

8 JUDGE THOMPSON: Learned counsel, would it be helpful if

9 there is a date on that document, if we know it? I see my

10:03:04 10 statement on which I recognise my signature on the various pages,

11 but I don't have a date. Would that be helpful?

12 MR JORDASH: I think it would.

13 Q. Is it right, Madam Witness, there is a date on that

14 document which is 29 October 2003? Is that at the top of page

10:03:25 15 11340?

16 A. It is there, but I cannot remember the date, but the date

17 is there.

18 Q. What is the date?

19 JUDGE THOMPSON: That would be okay for my purpose, at

10:03:37 20 least it is a document which is dated.

21 MR JORDASH:

22 Q. Is it dated 29 October 2003?

23 A. Yes, October 2003.

24 Q. Do you recall, Madam Witness, telling the Prosecution, when

10:04:18 25 you first saw them, that after you had been captured you had been

26 raped by four people?

27 A. I told them that they were three.

28 Q. Did you not sign this statement, Madam Witness, to confirm

29 that what was in it was true?

1 A. Yes, I signed it, but I told them that it was three men
2 that raped me. It was not four.
3 Q. I suggest, Madam Witness, you told the Prosecution it was
4 four; is that right? And you then signed to confirm it was four.
10:05:22 5 A. I signed, but I was raped by three men, not four.
6 Q. Why did you sign, Madam Witness?
7 A. What made me to sign? Well, they gave it to me and they
8 said I was to sign, that is why I signed.
9 Q. You signed it because you said it was true, didn't you?
10:05:45 10 That's what you told us on Wednesday.
11 A. Yes.
12 MR JORDASH: I want to get this procedure right. I have a
13 clean copy of the statement being brought into Court now. I
14 would --
10:06:18 15 PRESIDING JUDGE: We are still talking of the same
16 statement, the one of 29 October?
17 MR JORDASH: Yes, and I would apply to have that section of
18 it filed as an exhibit, indicating an inconsistency.
19 JUDGE THOMPSON: Is that the only inconsistency in respect
10:06:52 20 to this particular statement?
21 MR JORDASH: No, there are many.
22 JUDGE THOMPSON: So why not take us through your laundry
23 list, so to speak, and after that ask for the document to be
24 received in evidence? What would be the disadvantage if you went
10:07:14 25 through the laundry list? Remember, the purpose of receiving the
26 document into evidence under the rubric of prior inconsistent
27 statement is a limited purpose and, clearly, would be based on
28 what you've highlighted as the alleged or perceived
29 inconsistencies. If we have all of it before you tender the

1 statement, it would seem to me to be a much tidier approach,
2 except if there are no more inconsistencies in respect of this
3 particular statement. Am I making myself clear?

4 MR JORDASH: Absolutely. I'm in Your Honour's hands.

10:07:57 5 JUDGE THOMPSON: It's a question of legal tidiness and
6 logic.

7 PRESIDING JUDGE: And to follow up on this, may I suggest
8 to use the very example that you have used, three and four and so
9 on, presumably it is written somewhere on the page. I would
10:08:14 10 suggest that maybe the best way to do that is take whatever is in
11 the statement, the statement reads this way: did you or did you
12 not say this, so we know exactly what it is you are making
13 reference to at that particular moment. In other words, the
14 witness has a right to know this is exactly what you are making
10:08:35 15 reference to in the statement at page three or four, whatever it
16 is, it reads, "Did you or did you not?" It will make our life
17 more simpler to when we are trying to assess if there is any
18 inconsistency.

19 MR JORDASH: Certainly.

10:09:02 20 Q. Just so that you are clear what your statement says, Madam
21 Witness, in regard to numbers of people, this is what it says --

22 JUDGE ITOE: On page what, Mr Jordash, so if she wishes she
23 can refer to it?

24 MR JORDASH: The typed copy it is 10726 and in the
10:09:28 25 handwritten copy it is 11340.

26 JUDGE THOMPSON: Which one will we be receiving in evidence
27 eventually?

28 MR JORDASH: The typed copy, so I will refer to that.

29 JUDGE THOMPSON: Page?

1 MR JORDASH: 10726.

2 JUDGE THOMPSON: So that is where the alleged inconsistency
3 between the numbers is, not so, on page 10726?

4 MR JORDASH: Yes.

10:10:17 5 JUDGE THOMPSON: That is inconsistency one.

6 JUDGE ITOE: Inconsistency one in the statement that I have
7 is on --

8 JUDGE THOMPSON: Alleged.

9 JUDGE ITOE: Is on 11340.

10 MR JORDASH: That is the handwritten copy. I am now
11 referring to -- I want to file the exhibit as the hand --

12 JUDGE ITOE: Is it the typed one that you are going to file
13 as an exhibit?

14 MR JORDASH: Yes.

10:10:23 15 JUDGE ITOE: That is 10726.

16 MR JORDASH: Yes.

17 Q. The statement says this, Madam Witness -- I'll read a few
18 lines so you understand the context:

19 "I was taken to Buedu together with other people captured
10:11:14 20 at Masingbi and other areas. I was just 11 years old. On
21 the night I was captured, I was raped by four of my
22 capturers."

23 Do you recall telling the Prosecution that on the night you
24 were captured you were raped by four of your capturers?

10:11:35 25 A. Yes, I told them that, but at that time, up to now, and the
26 hour that they went, I did not know what Special Court was and I
27 had not been thinking. So I only went and gave them a brief
28 explanation. So that was why I told them that, but I was raped
29 by three men.

1 Q. You told the Prosecution on 29 October 2003 that when you
2 were captured you were 11 years old, did you not?
3 A. That is what I told them. Just like I said that I couldn't
4 remember the date of birth to the time I was captured. I
10:12:22 5 checked. It was 10 years.
6 Q. The date of birth you gave on Wednesday was 10 October
7 1984.
8 A. Yes.
9 Q. You told the Prosecution, did you not, that you were
10:12:37 10 captured in April 1994. Is that right?
11 A. Yes.
12 Q. Wouldn't that then make you nine years old when you were
13 captured?
14 A. I was more than nine. I was more than nine,
10:13:00 15 because October to April is more than nine.
16 Q. Were you captured in April of 1994? Did you tell the
17 Prosecution that in October 2003?
18 A. No, 1994.
19 Q. Let me read the lines from the statement to you so you're
10:13:22 20 clear and so I'm clear. Page 10726, first page, first sentence,
21 "I was captured in 1994 at Masingbi. It was in April." Was that
22 something you told the Prosecution?
23 A. Yes.
24 Q. "I was taken to Buedu together with other people captured
10:13:51 25 at Masingbi and other areas." Is that what you told the
26 Prosecution in October 2003?
27 A. Yes.
28 Q. "I was just 11 years old." This is what your statement
29 says. Is that what you told the Prosecution then?

1 A. That was what I told them, but at that time, I couldn't
2 recall. I couldn't recall. That was why I told them that and
3 they met me in school, they just took me unawares and they said
4 that I was to go and give statement. So during that time, if you
10:14:25 5 had never done such a thing, whatever the case may be, you must
6 be panic-stricken. That was why I said so. But at that time, if
7 they had waited for me to recall a little bit, I would have given
8 them the correct thing.

9 Q. How old were you when you were captured, Madam Witness?

10:14:45 10 A. I was 10 years, I would take it like that.

11 Q. If you were captured in April of 1994 and your date of
12 birth is 10 October 1984 --

13 A. 1984.

14 Q. October; is that right?

10:15:13 15 A. Yes.

16 Q. Then you would have been nine when you were captured.

17 A. Well, we, according to tradition, we just took it for
18 granted that it was --

19 THE INTERPRETER: Your Honours, would the witness go a
10:15:32 20 little bit slower.

21 PRESIDING JUDGE: Madam Witness, can you just repeat that
22 last answer, please, a little bit slower.

23 THE WITNESS: I said according to tradition, when we are
24 more than nine, up -- it is five months to six months, so we will
10:15:51 25 take it for granted that you are 10 years old.

26 MR JORDASH:

27 Q. Your evidence is that if you are more than nine and a half,
28 then you tell people that you are 10; is that what you are
29 saying?

1 A. Yes, according to tradition this is how we are going to
2 take it.

3 Q. Which tradition is that?

4 A. When I was with my grandmother, she was the one who told me
10:16:31 5 that when you are more than such and such years, any days or
6 months that are after that, they will just take it for granted
7 that you are 10 years.

8 Q. Can I suggest that the reason you told the Prosecution that
9 you were 11 and now you say you were 10 is, in fact, because you
10:17:04 10 weren't captured?

11 A. Well, if I was not captured, why should I come here to come
12 and sit here and tell the Court that I was captured. Or if they
13 did not do anything to me, what would make me to come here and
14 come and sit here with idleness to tell the Court that I was
10:17:24 15 captured.

16 Q. Where did you get the clothes you are wearing? Were you
17 given them from the Witness and Victims Unit from the Court?

18 A. They were bought for me.

19 Q. Have you been involved with the Caritas?

10:17:41 20 A. Yes.

21 Q. So you have received education programs from Caritas?

22 A. Nothing. I have not had anything from them.

23 Q. Nothing?

24 A. Nothing, because the skills --

10:17:59 25 JUDGE THOMPSON: Is this cross-examination on the issue or
26 credit or both? I'm not limiting it, but I'm just asking for my
27 own curiosity whether those kinds of questions go to the issue or
28 they're just cross-examination directed at the credit of the
29 witness, or probably both.

1 MR JORDASH: Both. This witness, I would suggest, has
2 ulterior motives.

3 JUDGE THOMPSON: All right. I just wanted to satisfy my
4 own curiosity. I'm just sometimes a little vigilant when we get
10:18:45 5 into multiplicities.

6 PRESIDING JUDGE: Again I know what you are trying to
7 achieve, but along the same lines as well, the prior inconsistent
8 statement is there for a very specific purpose. I mean, you put
9 it to the witness, did you or did you not. You may use that
10:19:09 10 afterwards to make arguments. I'm concerned now that we may get
11 into some argumentative discussion with the witness as to why she
12 did or why she didn't do that when that could be the subject of
13 some pleadings and arguments for you with the Court, not with the
14 witness. That you're suggesting to the witness she may or may
10:19:29 15 not have done that for whatever is a different -- I'm not saying
16 you should not, but maybe if you're mixing it with the statement
17 at this time, it may get very confusing because the purpose, as I
18 say, of contradiction or inconsistency is limited to that. It
19 does not limit your cross-examination, but if you're injecting
10:19:49 20 that as part of that, it may get confusing and therefore we may
21 not get the true picture of the consistency, if this is what
22 you're trying to get at.

23 MR JORDASH: I'd moved on from the particular and specific
24 inconsistency and moved to --

10:20:06 25 JUDGE THOMPSON: I didn't want to move you away from that.
26 My learned brother has virtually voiced, in a different way, my
27 own concerns. But I'm prepared to be liberal to accept that,
28 perhaps, an allegation as to motive can also be so interwoven
29 with, perhaps, an inconsistency and I'm prepared just to shy away

1 from any further debate on that. But just to put you on guard
2 that we are very watchful that we don't stray away from the main
3 purport of the proceedings.

4 JUDGE ITOE: Mr Jordash, the point you want to make is that
10:20:58 5 the witness was never captured?

6 MR JORDASH: Yes.

7 JUDGE ITOE: I think you can pursue that, if you wish to,
8 because it goes to her credibility when we come to assessing it.

9 MR JORDASH: Thank you.

10:21:19 10 Q. You have received - is it right - money from the Witness
11 and Victims Unit?

12 A. Which ones?

13 Q. Well, you have been in Freetown for some time; am I right?
14 You have been here for a week, a few weeks?

10:21:39 15 A. Yes. When I came, initially, I slept, the next day I went
16 back.

17 Q. Have you received money since you came to Freetown?

18 A. This second coming?

19 Q. Well, whenever. At any time?

10:22:00 20 A. Yes.

21 Q. Have you had any money sent to your family?

22 A. I've not received any money that I've sent to my family.

23 Q. Have you had any other clothes bought for you than the ones
24 you are wearing?

10:22:20 25 A. Yes. Wednesday, they bought some dress for me to come to
26 Court and that included shoes.

27 Q. What did you do with Caritas?

28 A. What I did with Caritas? I was there and I was learning
29 skills.

1 Q. You were doing skills training at Caritas; is that right?
2 A. Yes.
3 Q. So because you said to Caritas that you were captured by
4 the rebels, you became part of their program - am I right - and
10:23:11 5 received skills training?
6 A. Yes.
7 Q. Now you told us on Wednesday that in 1994 you were told by
8 Scorpion that Issa Sesay was the overall commander and he was a
9 general; am I right?
10:23:33 10 A. Yes.
11 Q. Let me read again part of your statement, page 10726, six
12 lines down. This is dealing with your capture and being taken
13 to -- Madam Witness, if you just listen. I'm going to read part
14 of the statement to you.
10:24:11 15 A. Mmm-hmm.
16 Q. The statement talks of you being captured and taken to
17 Masingbi and it says, "Issa Sesay was also at Buedu. He was a
18 captain then."
19 A. Well --
10:24:31 20 Q. Did you tell the Prosecution that Issa Sesay was in Buedu
21 and was a captain in 1994?
22 A. Well, I cannot recall and I cannot recall again. Just like
23 I said, this is a program for which I was unexpectedly taken and
24 they asked me to explain, so I wasn't able to recall all that I
10:25:02 25 had said before. I cannot recall that again.
26 Q. Let's slow this down, Madam Witness. What is it that you
27 can't recall again?
28 A. Okay. When I came the other time this statement was not
29 read to me. They just asked me to tell the story. So when I

1 told the story -- when I went, I was able to recall, well, and
2 when I came back so I was able to tell the full story. This
3 story now, I was just taken from school, then I came to Caritas
4 and they said that people wanted to see me, so they took me to
10:25:41 5 the guesthouse.

6 Q. Did you tell the Prosecution Issa Sesay was a captain when
7 you arrived in Buedu in 1994?

8 A. I cannot recall.

9 Q. You described on Wednesday -- sorry, you wrote down on a
10:26:16 10 piece of paper the person's name who you say trained you in
11 Buedu. Do you remember that?

12 A. Yes.

13 Q. You told us on Wednesday that this person had a Liberian
14 accent, I think you said?

10:26:33 15 A. Yes.

16 PRESIDING JUDGE: I think she did say she was Liberian,
17 more than just an accent.

18 MR JORDASH: Thank you.

19 Q. Can you describe this woman?

10:26:48 20 PRESIDING JUDGE: Without mentioning her name.

21 MR JORDASH:

22 Q. Without mentioning her name, I beg your pardon. Can you
23 describe what she looks like?

24 A. The woman? She's slim, fair in complexion.

10:27:05 25 Q. Anything else?

26 A. No, that's what I can recall now.

27 Q. When you were trained what were you taught?

28 A. They taught me how to lay an ambush. I was taught how to
29 crawl. I was taught how to cock and fire and how to retreat.

1 Q. What guns were you taught how to cock and fire?
2 A. They were two pistol grip.
3 Q. How do you dismantle a two pistol grip?
4 A. I don't know.
10:28:25 5 Q. Do you know how to dismantle any guns?
6 A. I don't know.
7 Q. Let me read another part of your statement, same page,
8 10726, eight lines down. "One Liberian lady did the training
9 which lasted for two weeks. We were trained to dismantle and
10:29:05 10 handle guns." Did you tell the Prosecution you were trained to
11 dismantle guns?
12 A. I cannot recall that I said so. I was only trained how to
13 handle a gun and fire, but not to dismantle.
14 Q. Okay. How do you set an ambush?
10:29:34 15 A. Just to lie down on the ground.
16 Q. It took two weeks to be trained on a number of things. Was
17 the only training you were given was how to set an ambush and lay
18 down on the floor?
19 A. Well, the area I was trained at, that was the area I've
10:30:03 20 explained.
21 Q. Can you give us any other information, any training you
22 received on how to set up an ambush?
23 A. No. What I know, an ambush is just to lie down. You lay
24 your head flat on the ground so that when an enemy fires a shot,
10:30:29 25 you will not be hit by the bullet.
26 Q. But that's not setting an ambush, though, is it, Madam
27 Witness. That's just hiding from or avoiding being shot. Do you
28 know what an ambush is?
29 A. Well, that is what I know as an ambush, when you go and lie

1 down, somebody can come walk past you, they will not see you.
2 That is what I know as an ambush.
3 Q. Were you trained on the RUF ideology?
4 A. No.
10:31:13 5 Q. Do you know what the RUF ideology was?
6 A. No.
7 Q. You never learned from 1994 to 2000 anything about the RUF
8 ideology?
9 A. The only thing, when my boss man told me that somebody
10:31:41 10 would not live with me who could not fire a gun, that was the
11 only training I underwent.
12 Q. Right. Let's move on. I want to read another part to you,
13 page 10726. If you need to take a glass of water, please feel
14 free, Madam Witness. Everything okay?
10:32:56 15 A. Yes.
16 Q. Now, I want to read to you some more of your statement.
17 A. Mmm-hmm.
18 Q. The third line of the second paragraph of 10726. Sorry, I
19 will go further back to get context, so first line of that
10:33:19 20 paragraph. "After my training, I remained at Buedu under the
21 command of Commander Scorpion's wife called Hawa." Did you tell
22 the Prosecution that?
23 A. Yes. What made me to say that, anybody -- when a man --
24 Q. Madam Witness, I'm happy with that answer. Did you tell
10:33:48 25 the Prosecution this, "I did not know Scorpion's real name?"
26 [RUF04NOV05B - RK]
27 A. I don't know him.
28 Q. Right. The next line is what I'm particularly interested
29 in of your statement.

1 THE INTERPRETER: Can the interpreter make this correction:
2 Instead of saying, "I don't know him", it should be interpreted
3 as "I don't know his real name."

4 MR JORDASH: Right.

10:34:14 5 Q. That is something you told the Prosecution in October 2003,
6 that you didn't know Scorpion's real name.

7 A. That was the name I knew.

8 Q. Okay. This sentence is in your statement, Madam Witness:

9 "I do not know Scorpion's real name. He was a Sierra
10 Leonean. I was with Hawa until Johnny Paul sent a message
11 that we come out of the bush to join them. I came to
12 Makeni with other RUF."

13 Did you tell the Prosecution that you were in Buedu until
14 Johnny Paul sent a message that you come out of the bush, then
10:35:15 15 you went to Makeni with other RUF?

16 A. I did not say it was Johnny Paul, except if I cannot
17 recall, but I said it was SAJ Musa.

18 Q. Sorry, what did you say to the Prosecution about SAJ Musa?

19 A. I said he sent a message through radio communication that
10:35:50 20 he didn't support in order for him to come to Freetown.

21 Q. You are saying that you told the Prosecution that after the
22 message was received from SAJ Musa, that is when you came out of
23 the bush and went to Makeni; is that what you're saying you told
24 the Prosecution?

10:36:21 25 A. Yes.

26 Q. Let's read on. "At Makeni, which was in 1997, I was at
27 Makeni under the command of CO --

28 MR HARRISON: I just ask if this could be left as a blank.

29 MR JORDASH: I agree.

1 Q. Did you tell the Prosecution that after receiving the
2 message from Johnny Paul you went to Makeni in 1997?
3 A. Really, I cannot recall, but I did not tell them that it
4 was in 1997. It was in 1998. That is what I can remember that
10:37:26 5 was what I said to them.
6 Q. So you told the Prosecution that the message came from SAJ
7 Musa and you went to Makeni in 1998. Do you know how it is that
8 it got into your statement that it was Johnny Paul and it was
9 1997?
10:37:47 10 A. I cannot recall that I said so.
11 Q. You signed this page though, didn't you?
12 A. Yes, I signed it.
13 Q. Let's continue reading. The last line of 10726, same page,
14 Madam Witness:
10:38:18 15 "When the ECOMOG removed Johnny Paul from Freetown, most
16 SLAs, including Johnny Paul and other RUF commanders, such
17 as Issa, Morris Kallon, Superman, met us in Makeni and we
18 all retreated to the Eastern Jungle where we met Mosquito."
19 Did you tell the Prosecution that you had met Issa Sesay,
10:38:59 20 Morris Kallon, Superman in Makeni and retreated to the Eastern
21 Jungle when you left Freetown?
22 A. I cannot really recall, but that time I was taken unawares,
23 so what happened to me really that was what I was able to say
24 which was correct.
10:39:30 25 Q. I suggest that you did tell the Prosecution at this stage,
26 in October 2003, that you had been in Makeni and you had met all
27 the retreating troops and you retreated to Kailahun, to the
28 Eastern Jungle and you're now saying something quite different,
29 that you had remained in Buedu during all this time. Is that

1 right?

2 A. I was at Buedu, yes. But all that you are saying, I cannot
3 recall all, I cannot recall all, because I was just a small lady.
4 I cannot recall everything saying I should remember this, I
10:40:22 5 should recall this. I cannot.

6 Q. Did you come to Makeni in 1997 at the time of the coup by
7 Johnny Paul Koroma?

8 A. I cannot really recall.

9 Q. Let's read on. Third line on the statement 10727:
10:41:08 10 "It was while in Makeni, between 1997 and 1998, that one
11 A" --
12 This is the A you told us about on Wednesday --
13 -- "an RUF commander took me as his wife."
14 Do you recall telling?

10:41:32 15 A. It wasn't.

16 Q. Do you recall telling the Prosecution that A had taken you
17 as his wife whilst you were living in Makeni between 1997 and
18 1998?

19 A. I didn't say it was in Makeni.

10:41:53 20 Q. What did you say about when it was that A took you as his
21 wife?

22 A. That was in the jungle; it wasn't in town.

23 Q. When?

24 A. That I cannot recall here, but it wasn't in town.

10:42:36 25 MR JORDASH: Can I just take instructions, please?
26 [Defence counsel conferred]

27 Q. You've just told us that you were taken as a wife by A in
28 the jungle. Which jungle was that?

29 A. It was at the Eastern Jungle.

1 Q. What is this Eastern Jungle you refer to, Madam Witness,
2 where is it?
3 A. It is from Buedu, Guinea Highway into Kailahun.
4 Q. These are towns, aren't they, it is not a jungle; these are
10:43:43 5 towns -- Kailahun, Buedu -- the towns between Kailahun and Buedu?
6 A. What?
7 Q. What you have just described, it is towns. Why do you
8 refer to it as jungle?
9 A. Well, everybody -- when I was captured and I was taken,
10:44:14 10 that area was called the jungle area. That was the way they
11 called it.
12 Q. Have you ever met Superman?
13 A. Superman, I came to know him in Makeni.
14 Q. When?
10:44:56 15 A. During that time all of us had come out of the bush.
16 Q. When? What year?
17 A. I cannot recall the year, but all of us had come out from
18 the bush. That was the time you got this peace.
19 Q. That was the first time you saw Superman?
10:45:32 20 A. Well, when they were -- yes, let me just say so, because
21 they used to pass, but I did not know him.
22 Q. What do you mean by that, they used to pass there but you
23 did not know him? What do you mean?
24 A. Like this, if you will see some were passing, going, but I
10:45:56 25 was unable to identify them. Issa himself, I was unable to
26 identify him until when we came to Makeni, when I knew him very
27 well.
28 Q. Are you saying you did not know what Issa Sesay looked like
29 until you saw him in Makeni?

1 A. No, I saw him once, but I was unable to recognise him
2 actually, properly.
3 Q. Where did you first then see him?
4 A. It was at Buedu.
10:46:43 5 Q. What was happening when you saw him?
6 A. Hmm?
7 Q. What was happening, what was he doing, what were you doing
8 when you saw him?
9 A. I was seated at the veranda when he passed. So, luckily my
10:47:06 10 commander's wife was also on the veranda. I asked her who was
11 this person, then she said this was CO Issa, but by then Issa had
12 passed away, so I was unable to identify him properly.
13 Q. So this was after you had become a small girl in a small
14 girls' unit; am I right?
10:47:37 15 A. I don't understand.
16 Q. Were you sitting on the veranda -- I keep hesitating when I
17 refer to the witness' commander because it seems to me if the
18 name of the person who trained her is under seal then the
19 witness' commander, which is far more specific, ought to be.
10:48:06 20 PRESIDING JUDGE: But the evidence on the documentation and
21 statement they referred not to the training commander but to
22 other commanders. You're just using the time as they have been
23 described and given to you at this particular moment. I take it
24 to be an acceptance on your part that another one was or was not
10:48:27 25 a commander.
26 MR JORDASH: Well, I don't accept either the name of the
27 training commander --
28 PRESIDING JUDGE: I know.
29 MR JORDASH: I don't accept that there was an S.

1 PRESIDING JUDGE: To make sense with the evidence of this
2 witness, if you're trying to put some different meaning to the
3 term "commander", we may end up with more confusion than anything
4 else. The fact that you are saying to the witness, "your
10:48:53 5 commander" is to allow the witness to be able to respond to that
6 question. I don't take this to mean that you accept that someone
7 else was a commander.

8 MR JORDASH: I don't think I've made myself clear. I am
9 just concerned that in terms of special measures my view would be
10:49:10 10 that -- I have a difficulty accepting that the name of the
11 training commander would have identified this witness. But I
12 don't have a difficulty in thinking that the name of her specific
13 commander, whose house she lived at and whose wife she worked
14 for, would identify her, if true, which we don't accept it is.

10:49:32 15 PRESIDING JUDGE: We are in no position to answer that.

16 MR JORDASH: I'll continue, but I thought I had better say.

17 PRESIDING JUDGE: Yes.

18 MR JORDASH:

19 Q. Were you sitting on Scorpion's veranda when you saw Issa
10:49:55 20 Sesay?

21 A. Um-hum.

22 Q. Could you say yes or no, Madam Witness, please?

23 A. Well, I saw him, but I was unable to identify him, so
24 luckily my commander's wife came out and I asked her, because I
10:50:14 25 was -- as he was going he had bodyguards. So I said, "Who was
26 going?" Then she responded by saying it was CO Issa.

27 Q. Were you sitting on the veranda [Microphone not activated]?

28 A. Yes, um-hum.

29 Q. [Microphone not activated]

1 A. Yes.

2 Q. How long was it before you were given to Scorpion to be a
3 member of the Small Girls' Unit after arriving in Buedu?

4 A. Well, as we arrived -- because CO Blood was a patrol
10:51:02 5 commander, as we arrived, he said, "Now I'm going to hand you
6 over to Scorpion; you're going to live there." I said "Okay."

7 Q. How long was it before that that you were sitting on the
8 veranda and saw Issa Sesay?

9 A. I cannot recall.

10:51:29 10 Q. Was it a day or a week, two weeks, can you give us just a
11 rough idea?

12 A. No, I cannot recall, but it was on the same day when I went
13 to Scorpion. No, I cannot recall actually.

14 Q. Well, I want to refer you again to your statement, page
10:51:57 15 10726, fifth line down: "On arrival at Buedu, I met Superman
16 there." Did you tell the Prosecution in October of 2003 that you
17 met Superman in Buedu upon your arrival in 1994?

18 A. Yes, I told them that, but I did not recall well before I
19 went and told them.

10:52:32 20 Q. So you did tell them you met Superman but in fact what
21 you're telling us now is that you didn't see him or meet him
22 until Makeni after you had left Buedu. Am I right?

23 A. Yes.

24 Q. I'll just read on:
10:52:52 25 "Mosquito was then at Kailahun. Issa Sesay was also at
26 Buedu. He was a captain then. On our arrival it was Issa
27 Sesay who gave the command that all of us captured be
28 trained."

29 I just used that to refresh the witness's memory. Am I

1 right that you didn't see Issa Sesay give any command that you be
2 captured and that you be trained?

3 A. No. As I have said, I did not say that Issa gave direct
4 commands to me, but he gave the commands to the other commanders.

10:53:53 5 So my commander said a person should not stay with him without
6 now knowing how to fire a gun, not that Issa ordered me directly.
7 No, that was not what I said. He did not give me direct orders
8 or commands.

9 Q. You don't know, do you, what Issa Sesay did in Buedu in
10:54:19 10 relation to your training, if it happened?

11 A. I don't know.

12 Q. I want to move back to 10727. We were looking together at
13 the statement which said, "It was whilst I was in Makeni between
14 1997 and 1998 that A, an RUF commander, took me as his wife."

10:55:06 15 And the statement reads on like this, Madam Witness:

16 "I do not know the full name of A. I do not know his
17 present address. I went back to Kailahun with A. I gave
18 birth to a baby boy for him, but I lost the child at
19 Kailahun before he was given a name."

10:55:40 20 Did you tell the Prosecution in October --

21 A. I told them, but I did not tell them that it was in Makeni.
22 That was not what I told them.

23 Q. So you didn't say that you had returned from Makeni to
24 Kailahun with A?

10:56:04 25 A. No, I cannot recall.

26 Q. All right. Sorry about the delay. Okay, Madam Witness,
27 reading on through the statement, you told us on Wednesday, did
28 you not, that you had not seen Mosquito; you had heard that he
29 had been in Kailahun; am I right?

1 A. Yes.

2 Q. Page 10727 says something a bit different, Madam Witness:

3 "Whilst we were in the jungle before the AFRC invited us to
4 come out of the bush, I used to see Mosquito sending supply
10:57:44 5 of guns to us."

6 Did you tell the Prosecution that you used to see Mosquito
7 supplying guns to you at Buedu?

8 A. I cannot recall that, and I'm not sure if I told them that.

9 What happened, from the time I gave this statement, any time I
10:58:17 10 came, they would ask me to give additional statement, then they
11 pose different questions to me. That is why I gave different
12 answers.

13 Q. Well, so the answers you give may vary according to the
14 question that is asked, am I correct?

10:58:51 15 A. I don't understand.

16 Q. You've just told us that different questions were asked and
17 so you gave different answers. Are you suggesting that if
18 somebody asks you about Issa Sesay and asks you different
19 questions about him supplying weapons, you might give different
10:59:17 20 answers on the same subject?

21 A. That is not what I meant. They were not looking through
22 this paper that I had already given a statement. That was not
23 the area they looked and posed questions on me. Before my
24 arrival they have already prepared questions that they will put
10:59:40 25 to me.

26 Q. You were trying to tell the truth, were you not? To
27 whatever question was asked, you were trying to tell the truth?

28 A. I'm saying the truth. The only thing, if I had already
29 said anything, if they had looked into the document and they

1 asked me questions regarding that, the statement wouldn't have
2 been different.

3 Q. Madam Witness, so that I'm not being unfair to you, I know
4 some of these things which are in this statement you have
11:00:13 5 subsequently said that you don't recognise. I can refer Your
6 Honours to page 16861 so there's no doubt. I know that you've
7 withdrawn or given the Prosecution the information that what is
8 partly in this statement you don't accept any more. What I'm
9 interested in is whether you told the Prosecution in October of
11:00:46 10 2003 that you had seen Mosquito whilst you were in Buedu.

11 A. I've never -- Mosquito, I don't know him.

12 Q. Did you tell the Prosecution you had seen him? When you
13 saw the Prosecution in October 2003, did you tell the Prosecution
14 you had seen Mosquito in Buedu?

11:01:20 15 A. Mosquito, I have never seen Mosquito.

16 Q. Okay. Let me read on:
17 "Issa then was the commander at Buedu. I was opportuned on
18 one or two occasions to be near the wireless set when
19 Mosquito used to send for the commanders to go for supply
11:01:44 20 of arms and ammunition."

21 Did you in October of 2003 tell the Prosecution that?

22 A. No.

23 Q. Did you, reading on through the statement, last paragraph
24 of page 10727, say to the Prosecution -- before I ask you that,
11:02:40 25 Madam Witness, you saw Issa Sesay passing by. He was pointed out
26 to you whilst you were sitting on the veranda?

27 A. Yes.

28 Q. As you told us on Wednesday, you only ever saw him once and
29 that was the time you saw him whilst you were in Buedu?

1 A. Yes.

2 Q. Was that the only time you heard him as well, whilst you
3 were in Buedu?

4 A. Well, I heard about him, but I did not see him, but, as I
11:03:23 5 have said, we were not allowed to roam about.

6 Q. Well, I know you've said that Madam Witness, but you were
7 allowed to go into the bushes to collect water, weren't you?

8 A. Yes.

9 Q. And the bushes are outside of Buedu. The bush isn't in
11:03:43 10 Buedu, is it?

11 A. It was around there.

12 Q. Right. So you were allowed to walk from your house through
13 Buedu to the bushes to get water.

14 A. Where our house was located and where the bush was, it
11:04:04 15 wasn't far apart.

16 Q. Well, how far was it? Actually, don't answer that. I will
17 deal with that in closed session. I'll come back to that, Madam
18 Witness, hopefully soon. 10727, I want to ask you about the
19 third paragraph there. "Buedu is come distance from the border."
11:04:28 20 Did you tell the Prosecution that?

21 A. I did not say so, because I don't know the border. I never
22 told them that.

23 Q. Reading on, "I do not know the name of the radio operator
24 in Buedu." Did you tell the Prosecution that in October of 2003?

11:04:53 25 A. Yes, I don't know him.

26 Q. "I heard Issa himself sometime talk directly on the set."
27 Did you tell the Prosecution that you heard Issa Sesay talk on
28 the radio?

29 A. No.

1 Q. Reading further down that paragraph, third line from the
2 bottom 10727. "We were at Buedu with Johnny Paul and Issa at
3 Buedu." Did you tell the Prosecution that you had been with
4 Johnny Paul in Buedu?

11:05:47 5 A. No, Johnny Paul, I don't know him, I don't know Mosquito.

6 Q. Just turning over the page 10728, same statement, Madam
7 Witness. Third line from the top -- no, let me give you some
8 context. First line of 10728 reads like this: "Few months, say
9 about two, CO Scorpion again said Mosquito sent a radio message
11:06:42 10 instructing Issa to send a backup to SAJ Musa's group for the
11 invasion of Freetown." Did you tell the Prosecution that?

12 A. No.

13 Q. What did you tell the Prosecution?

14 A. I told the Prosecutor that SAJ Musa sent a radio message to
11:07:10 15 Issa, so Scorpion told me that Issa told him that SAJ Musa wanted
16 a backup in order to come to Freetown. But I never heard it from
17 Issa nor SAJ Musa. It was my commander who told me.

18 Q. Okay, thank you. Reading on: "Issa appointed Scorpion who
19 led the backup from Kailahun to Freetown." Is that what you told
11:07:51 20 the Prosecution in October?

21 A. Yes.

22 Q. Superman also went with the backup. Did you tell the
23 Prosecution that Superman had gone with the backup?

24 A. No, yes.

11:08:17 25 Q. What did you say about Superman?

26 A. I did not know Superman. I only came to know him in
27 Makeni.

28 Q. So, to be clear, you did not mention Superman to the
29 Prosecution in any way to do with any backup to do with being in

1 Buedu; am I right?

2 A. Superman -- in fact, he wasn't at Buedu. He came and went
3 back. He was at the Northern Jungle.

4 Q. No, Madam Witness, am I right that when you met the
11:09:03 5 Prosecution in October 2003 you did not mention to them Superman
6 being, at any stage, in Buedu; am I right?

7 A. I cannot recall.

8 Q. Reading on:
9 "Morris Kallon was in the Northern Jungle so I cannot tell
11:09:40 10 whether he was with the group that did advance for Freetown
11 invasion. Since my commander, Scorpion, left, I did not
12 get any information on what was happening at the front for
13 the Freetown invasion because it was he who was keeping us
14 constantly informed about communication between Mosquito
11:10:03 15 and Issa."

16 Did you tell the Prosecution that Scorpion had kept you
17 informed about communication between Mosquito and Issa?

18 A. Yes.

19 Q. What communication then were you informed about between
11:10:26 20 Mosquito and Issa during your time in Buedu?

21 A. No, they did not tell me about any communication, but he
22 told me that Issa and Mosquito communicated, but I cannot recall
23 that he told me about anyone.

24 Q. Reading on:
11:11:00 25 "Amara Peleto was in Scorpion's group that left Kailahun
26 for the backup to SAJ Musa and his group."

27 Did you tell the Prosecution that Amara Peleto was in
28 Scorpion's group which left as backup for SAJ Musa?

29 A. No.

1 Q. Any idea how this sentence got into your statement and you
2 ended up signing it?

3 A. Well, even the last time we experienced that problem --
4 when -- because 2003, the whole of 2004, I had no information
11:11:56 5 about this programme so some statement were written, so when they
6 asked me the questions, I said, "No, I did not say that."

7 Q. Why did you need information about the Special Court to be
8 able to answer truthfully and accurately to questions asked of
9 you about your experience with the rebels?

11:12:21 10 A. Well, what I knew was what I answered to.

11 Q. Was it that you needed to know who was being tried before
12 you gave your final version of events?

13 A. I never knew anybody. I knew nobody. The only thing, I
14 knew that Issa was in town, Morris Kallon and Gbao, but I never
11:12:59 15 knew that they were in here until the last time when I came to
16 testify.

17 Q. Reading on, 10728, third paragraph, last line of the
18 paragraph: "After the Lome Peace Accord I left Kailahun for
19 Makeni." Did you tell the Prosecution that you left Kailahun
11:13:50 20 after the Lome Peace Accord?

21 A. I don't even know Kailahun. I don't know Kailahun.

22 Q. Did you tell the Prosecution what it says here in your
23 statement, that you left there after the Lome Peace Accord?

24 A. No.

11:14:14 25 Q. Because you have seen the Prosecution on at least four
26 occasions since then and you have never corrected -- unless I'm
27 mistaken, you've not corrected, ever, that sentence: "After the
28 Lome Peace Accord I left Kailahun." Do you know how that got
29 into your statement?

1 A. What happened, as I'm explaining, this paper was not read
2 to me. At any time they want to obtain statement from me, that
3 they will show it to me, that they should go through it before we
4 could begin. They never showed that to me. I'm not sure as to
11:14:49 5 whether I said that.

6 Q. Madam Witness, you know perfectly well that since October
7 you have seen the Prosecution and been taken through that
8 statement. That's true, isn't it, you've gone through the
9 statement since October 2003?

11:15:11 10 A. Well, after they obtained the statement from me, from
11 that -- from 2003, they discontinued until the other time when I
12 saw a group that said they wanted to see me in Freetown and, when
13 I came, they asked me other questions. Those were the questions
14 I answered.

11:15:44 15 PRESIDING JUDGE: The question, Madam Witness, was whether
16 or not you were shown your statements, when you met with the
17 Prosecution. Were you or were you not shown these statements
18 every time you saw him?

19 THE WITNESS: I was not shown any statement. They did not
11:16:05 20 show me any statement.

21 MR JORDASH:

22 Q. Well, you may not have been shown them, but you were taken
23 through them. Somebody read the statements to you and asked you
24 whether it was accurate or not, didn't they? Think carefully
11:16:17 25 about your answer, Madam Witness.

26 A. They did not read it to me.

27 Q. What did you do then when you saw the Prosecution in
28 October of this year? What did you do?

29 A. I don't understand.

1 Q. Well, did you see the lady to your left in October of this
2 year?

3 A. Yes.

4 Q. She is to your left, she's listening. Did she not take you
11:17:02 5 through what your evidence was going to be?

6 A. She went through it, but not this paper. This paper from
7 2003, it is only today that I have seen it again with my eyes.

8 Q. I'm not asking if you've seen it. I'm asking if you went
9 through the contents. Think carefully about your answer. You
11:17:32 10 have an obligation to tell the truth.

11 A. Yes, she looked through certain areas and posed questions
12 to me.

13 Q. Moving through the statement, you told us on Wednesday that
14 you had been on two food-finding missions.

11:18:22 15 A. Yes.

16 Q. Do you remember that?

17 A. Yes.

18 Q. And you told the Court that there were some people who were
19 armed and they were 15 years old; is that right?

11:18:41 20 A. Yes.

21 Q. And anybody who was below 15 was not armed; am I right?

22 A. Yes.

23 Q. And on this mission civilians were chased away by the
24 throwing of pebbles on to the roofs of the houses.

11:19:13 25 A. We did not run after civilians. I said we met -- the
26 civilians had left, some had already left, then some remained.

27 Q. Well, what you told us on Wednesday was that the remaining
28 civilians ran away. Which is correct; did the civilians run away
29 or did some of them stay?

1 A. I said, some civilians run away then some remained. That
2 was what I said.

3 Q. Okay. You were not armed on either of these food-finding
4 missions; am I right?

11:20:03 5 A. Myself, I did not get any arm during that time, but there
6 were some that had arms.

7 Q. And you never, after these two food-finding missions, went
8 on food-finding missions again, you personally?

9 A. What?

11:20:31 10 Q. Am I right that during the whole time you were in Buedu you
11 personally only went on two food-finding missions?

12 A. Uh-huh.

13 Q. And each time you were not armed?

14 A. No.

11:20:47 15 Q. Let's now look at another statement; a statement dated 30th
16 June 2004, 10730. This is a statement that relates to when you
17 met Sharan Parmar.

18 A. Yes.

19 Q. And she took you through your 2003 statement, didn't she,
11:21:27 20 reading out bits to you; am I right?

21 A. I don't understand the question.

22 Q. Am I right that when you met Sharan Parmar she read through
23 at least parts of your October 2003 statement?

24 A. Yes.

11:21:56 25 I want to read the first page of that statement 10730, what
26 part of it says. This is the last paragraph of the page:

27 "I fought during the war in surrounding villages at Buedu.
28 We were doing food finding and I carried a gun. I fired a
29 gun."

1 Did you tell the Prosecution that you had gone on food
2 finding and carried a gun and fired it?
3 A. No. I only told her that I was taught how to fire a gun.
4 Q. Sharan Parmar was a nice lady, wasn't she?
11:23:01 5 A. Yes.
6 Q. Very keen to see that you were comfortable with what was
7 happening; am I right?
8 A. Yes.
9 Q. Very careful to make sure you understood what was being
11:23:19 10 said and what was being asked of you?
11 A. Yes.
12 Q. Very careful to check what it was that you said and to make
13 sure she had written it down accurately?
14 A. Yes, but she did not read the entire statement to me.
11:23:46 15 Q. Reading on:
16 "If you were on a food finding you would be given a gun.
17 If you met a target you would use a gun. The target was
18 Kamajors, we had to go into Kamajor zones."
19 Did you tell the Prosecution that?
11:24:10 20 A. No.
21 Q. Where did you go on your two food-finding mission, madam,
22 which villages?
23 A. I don't know the name of the villages.
24 Q. Reading on to 10731, third paragraph down -- fourth
11:24:42 25 paragraph, I beg your pardon. It says this, Madam Witness:
26 "I saw Issa Sesay and Morris Kallon and Superman and
27 Augustine Gbao at Buedu."
28 Did you tell the Prosecution that you saw Superman in Buedu
29 when you met Sharan Parmar?

1 A. I did not see them with my eyes, but I knew that they were
2 there.
3 Q. Did you tell the Prosecution, Sharan Parmar, that you had
4 seen Mosquito at Buedu?
11:25:25 5 A. No.
6 Q. How do you know that Superman was in Buedu?
7 A. No, I don't know.
8 Q. You don't know that he was in Buedu. You don't know one
9 way or the other?
11:25:56 10 A. I don't know.
11 Q. Let's look at the statement reading from that point:
12 "Augustine Gbao was not based at Buedu, he would come and
13 go. Big commanders like Issa, Morris Kallon, Superman and
14 Augustine Gbao would call meetings."
11:26:16 15 Did you tell the Prosecution that Superman and the others
16 named would call meetings?
17 A. I did not mention Superman. But for the meeting, I said
18 so.
19 Q. Where were you, Madam Witness, when the invasion of
11:26:54 20 Freetown took place on January 6, 1999?
21 A. 1991 or 1999?
22 Q. 1999.
23 A. I was in Makeni by then.
24 Q. So by January 6, 1999 you were in Makeni. What were you
11:27:34 25 doing there? And don't mention names of any relatives or your
26 commander who you were married to. What were you doing in
27 Makeni?
28 A. Well, I wasn't doing anything. When we were in the bush
29 after the message, it was then that Issa said that everybody

1 should come out of the bush and that we should come to town. He
2 said we were tired of being in the bush because we were not
3 animals, so we are to come to town. So everybody came to town.
4 I came there and I did not meet my mom. I was just there and I
11:28:12 5 was not doing anything.

6 Q. Were you just living there as an ordinary citizen?

7 A. Yes.

8 Q. What did you do in Koidu before arriving in Makeni?

9 A. Well, after that training and when I had gone for the food
11:28:56 10 finding I was only there when A had died. I was there with B. I
11 was not doing anything there again.

12 Q. Living as an ordinary citizen?

13 A. No, I was with B, to do all his house chores.

14 Q. Just moving to another statement, Madam Witness. Your
11:29:37 15 Honours, 16862.

16 PRESIDING JUDGE: Before you move to another statement,
17 Mr Jordash, I would like to know a bit more about the statement
18 you've just dealt with other than to say that it was with Sharan
19 Parmar. Who was there at that time other than Parmar and how was
11:29:55 20 that done? Obviously you're going to raise as an argument that
21 what is in there is -- we need to know a bit of the background of
22 that statement. You've led a lot of evidence as to the first
23 statement, but this one is very limited information as to how it
24 was obtained, who was present, what language was being used, how
11:30:20 25 the questions were posed. I mean, if your line of questioning
26 has to do with alleged inconsistency, we need to know some
27 background.

28 MR JORDASH: Certainly. The witness said Alfred Sesay was
29 present.

1 PRESIDING JUDGE: True, but was there any other person
2 present? What language was being used? Was the statement read
3 back to her? Did she sign it? All of this may help us to make
4 an assessment.

11:30:53 5 MR JORDASH: Certainly.

6 Q. Madam Witness, was Alfred Sesay present with Sharan Parmar?

7 A. Yes.

8 Q. When you were seen in June of 2004?

9 A. No.

11:31:15 10 Q. You told us about two hours ago that he was present when
11 you met Sharan Parmar.

12 A. Before I met Sharan Parmar -- it was I and Mr Sesay that
13 discussed first before Sharan Parmar came.

14 Q. Did Mr Sesay remain during the time that Sharan Parmar was
11:31:46 15 present?

16 A. He was not there by then; he had gone. From the time that
17 I started giving the statements, it was women that had been
18 translating for me.

19 Q. So there remained then, you, Sharan Parmar and an
11:32:03 20 interpreter?

21 A. There were other interprets who were there but I did not
22 know his name but it was not Mr Sesay interpreting.

23 Q. So it was someone else interpreting?

24 A. Yes.

11:32:21 25 Q. You would speak in Krio?

26 A. Yes.

27 Q. And the translator would translate it to Sharan Parmar?

28 A. Yes.

29 Q. Sharan Parmar speaks in English and the interpreter

1 translates it to you in Krio?

2 A. Yes.

3 Q. Sharan Parmar wrote what you said down; am I right?

4 A. Yes.

11:32:46 5 Q. Did she read it back to you and --

6 A. When I had spoken?

7 Q. After she had written everything you had to say, did she

8 read it back to you?

9 A. No, they had not done that to me.

11:33:06 10 Q. Think carefully about your answers to this, Madam Witness.

11 It is very important that we understand the process.

12 A. It was not read to me. When she asked in English, I

13 answered in Krio and it was translated and she would write and

14 after that she would say, "I'm finished with you and now I'm

11:33:32 15 going," and I would say, "Okay."

16 Q. Well, when she wrote a sentence down, would she check that

17 she was writing down the right thing?

18 A. If I would check?

19 Q. When Sharan Parmar wrote down what you said, was she

11:33:56 20 careful to check that she was writing accurately what you said?

21 A. She was just writing, I did not know -- whether she was

22 writing, writing or not. See, whatever I said she would write.

23 But she did not read that to me saying that this and this is what

24 was said. She did not do that.

11:34:19 25 Q. I suggest that you're lying, Madam Witness, and she did

26 check with you and she was as careful as she could to write down

27 accurately what you said.

28 A. She was careful in writing what I was saying, but she would

29 not finish and ask me this and this is what you said. After

1 writing everything, she did not say, "Now listen to what I've
2 written."

3 Q. How did you know that she was writing down accurately what
4 you said?

11:34:56 5 A. Well, I saw her holding a pen and she wrote and he
6 handwriting was clear. It was clear that she was writing.

7 Q. [Microphone not activated]

8 A. Well, the table that we sat on was big and where I was
9 sitting and where she was, it was a little bit far away. Just
11:35:14 10 opposite.

11 Q. Were you keen, were you determined to give an accurate
12 version of events?

13 A. Yes, that was what I had been given.

14 Q. Was Sharan Parmar, did she appear to you to be determined
11:35:33 15 to record as accurately as possible what you said?

16 JUDGE THOMPSON: Haven't you covered that ground already,
17 because I thought she had said, in fact, that she appeared to be
18 accurately recording what she had said.

19 MR JORDASH: I can move on then.

11:35:55 20 JUDGE THOMPSON: Yes, quite.

21 JUDGE ITOE: That she was not put in a position to verify,
22 because it wasn't read back to her. Would that reflect the
23 records?

24 MR JORDASH: I think that's fair, Your Honour, yes. 106 --
11:36:25 25 sorry, 16862.

26 Q. This statement relates to when you met -- this statement,
27 Madam Witness, relates to when you met the Prosecution in
28 Freetown on 26 October 2005, okay? Do you remember that?

29 PRESIDING JUDGE: So we're at 12671?

1 MR JORDASH: 16862, Your Honour. It is the very final
2 supplement.

3 Q. Do you remember meeting the Prosecution late October of
4 this year?

11:37:35 5 A. Yes.

6 Q. Did you meet the lady to your left?

7 A. Yes.

8 Q. Did she take you through your previous statements? Did she
9 read parts of them to you?

11:37:57 10 A. Yes.

11 Q. Did she read all of them to you?

12 A. Not all, but part of that.

13 Q. Okay. Did she seem determined to write accurately what you
14 said?

11:38:13 15 A. This one?

16 Q. The lady to your left.

17 A. Yes.

18 Q. Were you determined to give her an accurate version of
19 events?

11:38:28 20 A. Yes, according to the way she asked me, that was the way I
21 answered her.

22 Q. Do you mean by that, if she asked you a question, you would
23 answer as accurately as you could?

24 A. I'll try.

11:38:57 25 Q. Right. Did you have an interpreter to interpret Krio?

26 A. Yes.

27 Q. Did the lady to your left check with you that she had
28 recorded accurately what you had said?

29 A. Yes, even the last day.

1 Q. So you checked --

2 A. Yes.

3 Q. Together?

4 A. Uh-huh.

11:39:30 5 Q. Right. Well, I want to read it to you, or part of it.

6 Paragraph 3:

7 "Witness states that the RUF obtained their weapons when

8 they went on attacks on the Nigerians, Guineans and the

9 Kamajors. Witness states that her commander, CO Scorpion,

11:40:12 10 told her Issa Sesay went to Kailahun to get arms and

11 ammunitions. The witness saw Issa Sesay return from

12 Kailahun with trucks of arms and ammunitions. The witness

13 saw this on two occasions."

14 Did you tell the lady on the left that you had seen Issa

11:40:36 15 Sesay return from Kailahun with arms and ammunitions?

16 A. Yes. I did not see Issa, but I saw the truck filled with

17 ammunition.

18 Q. So why did you say you saw Issa Sesay?

19 A. I did not say that I saw him. I said I saw the ammunition

11:40:59 20 that he came with.

21 Q. How do you know it was Issa Sesay?

22 A. Well, I asked. I asked Scorpion. I said, "Who brought

23 these ammunitions?" And he said, "It was CO Issa."

24 Q. You see, I suggest you're lying, Madam Witness, about that

11:41:26 25 and many other things. Let's just deal with that. You're lying

26 about that, aren't you?

27 A. Well, you were not there. I that was there I have come and

28 testified. I have sworn on the Bible. I know that I'm not

29 lying.

1 JUDGE THOMPSON: Perhaps, Mr Jordash, we can take a
2 ten-minute break.

3 MR JORDASH: Yes, I have about a half hour left.

4 JUDGE THOMPSON: Yes, okay. The Court will recess for ten
11:42:06 5 minutes.

6 MR CAMMEGH: Before the Court does, I wonder if the Court
7 will be generous enough to give 15 minutes, simply for logistical
8 reasons. It takes some time to go to the canteen, join the cue,
9 get served, finish your drink and come back. I think with the
11:42:22 10 best will in the world that ten minutes is probably too short for
11 our purposes.

12 JUDGE THOMPSON: Certainly we're disposed to do that.

13 MR CAMMEGH: We're all grateful.

14 [Break taken at 11.45 a.m.]

11:42:02 15 [RUF04NOV05C - SV]

16 [Upon resuming at 12.05 p.m.]

17 JUDGE THOMPSON: Let's proceed, Mr Jordash.

18 MR JORDASH: Your Honour, thank you.

19 Q. Madam Witness, you've told us that you saw some trucks
12:03:52 20 which had arms and ammunition, I think, and you saw these trucks
21 in Buedu; am I right?

22 A. Yes.

23 Q. Describe where you saw them in Buedu.

24 A. Well, where I was and where they were keeping ammunition,
12:04:20 25 you would stand at the east and I saw where the truck was parked.
26 But I was not able to know where the ammunition was offloaded,
27 but I saw the truck.

28 Q. Right. Well, I'm going to save that question until closed
29 session if it was near to where you were staying. In order to

1 get to Kono in 1998 you must have gone through Kailahun; am I
2 right?
3 A. I did not pass through Kailahun.
4 Q. Which route did you take from Buedu to get out to --
12:05:15 5 A. We used shortcuts and we passed through Tongo and we went
6 to Kono.
7 Q. Madam Witness, I suggest that to get out of Buedu, to get
8 to Tongo, you still have to go through Kailahun.
9 A. Well, where we passed we did not pass through Kailahun.
12:05:39 10 Q. I suggest that you -- that is more evidence of the fact you
11 were not in Buedu because it would have been impossible to get
12 out of that area without going through Kailahun Town; am I right?
13 A. That's what you say, but I know that that was how it was.
14 Q. What route did you take then? What was the bypass, the
12:06:08 15 side road, the side path?
16 A. Well, the house where I was, we used -- there was a path at
17 the back. That was where we passed and we joined the other road.
18 I do not know the names of the villages.
19 Q. I'll come back to that. You told us on Wednesday that you
12:06:33 20 saw that when you were in Makeni Issa was killing people. Do you
21 remember saying that?
22 A. Yes.
23 Q. You said that Issa was killing people who raped. Do you
24 remember saying that?
12:06:57 25 A. Yes.
26 Q. You gave us an example of a rebel Issa Sesay had killed
27 when it was alleged the rebel had raped someone; am I right?
28 A. Yes.
29 PRESIDING JUDGE: Had raped civilians.

1 MR JORDASH: Sorry, Your Honour.

2 PRESIDING JUDGE: Had raped civilians.

3 MR JORDASH: Had raped civilians.

4 Q. Was it known that Issa Sesay would kill RUF if he
12:07:32 5 discovered that they'd raped civilians?

6 A. Yes, because if they went to a house and they met any young
7 girl and they raped her and if you are able to identify that
8 particular individual who raped, you just go and lodge the
9 complaint to MP. Then the complaint would be conveyed to him.

12:07:54 10 Q. And Issa Sesay would respond and execute the RUF when he
11 found an allegation proven; am I right?

12 A. He would first of all warn the individual and if the
13 individual does not desist, then he would kill.

14 Q. And the soldiers under his control in Makeni all knew that
12:08:25 15 was the way Issa Sesay would deal with them; am I right?

16 A. Yes.

17 Q. Would you agree that from what you saw of the rebels in
18 Makeni, they were therefore frightened of Issa Sesay and would
19 not commit such crimes when he was around?

12:09:03 20 A. Yes.

21 Q. Can you confirm that he gave orders to the RUF rebels in
22 Makeni not to harm civilians?

23 A. Yes, he gave that order.

24 Q. Was it an order which the rebels understood would be
12:09:52 25 followed by punishment if they broke the order or disobeyed the
26 order?

27 A. Yes, they understood that because he would pass the order
28 with some seriousness and he said now that we've come from the
29 bush and we've come to town, all the bad life that we've had in

1 the bush should be left there, it should not be brought into
2 town.

3 Q. So he ordered no raping, no killing; am I right?

4 A. Yes.

12:10:23 5 Q. No looting; am I right?

6 A. Yes.

7 Q. No burning people's properties; am I right?

8 A. Yes.

9 Q. No harm of any kind, no harassment of civilians; am I
12:10:47 10 right?

11 A. Uh-huh.

12 Q. If he discovered any of those things had been done,
13 execution was a real possibility?

14 A. Yes, more for rape, because as regards looting, if you are
12:11:18 15 caught looting you would take the things and return them from --
16 to the civilians from where you took them. You would be flogged
17 and you would be locked in the guard-room. After two or three
18 days, then you would be freed.

19 Q. So flogged on the orders of Issa Sesay; am I right?

12:11:37 20 A. Yes.

21 Q. Flogged by rubber, a piece of rubber tyre; am I right?

22 A. It could be used. They could also use a cable that is used
23 for electricity.

24 MR JORDASH: Can I just briefly take instructions, please.

12:12:48 25 Q. Where would civilians report crimes committed against them
26 in Makeni? Was it to the --

27 PRESIDING JUDGE: I thought she had been through that. She
28 said to the military police.

29 MR JORDASH: I want to just go into the detail of that, if

1 I may, but Your Honour is right --

2 PRESIDING JUDGE: Yes.

3 MR JORDASH:

4 Q. So it would be reported to the MP police [sic]. Would they
12:13:13 5 then carry out an investigation?

6 A. Well, when something is done to the civilians, we had the
7 G5. You go and lodge a complaint to the G5 and if the G5 tried
8 and were not able to settle it, then you would go to the MP, then
9 they would do the investigations.

10 Q. If the investigation found they committed crimes it would
11 be reported to Issa Sesay; am I right?

12 A. Yes. If they found out that and they said that this
13 individual has taken one's property and say return it and, if you
14 do not agree, then they will force you and, if you do not accept,
12:14:01 15 then you would have to leave the place or perhaps change your
16 location.

17 Q. Now you told us that one of your fears whilst being in
18 Buedu was that if you escaped, the Kamajors would catch you and
19 eat your flesh. Do you remember saying that?

12:14:33 20 A. Yes.

21 Q. Was this something that civilians were frightened of in
22 Buedu ; that if they left the RUF they would be caught and killed
23 by Kamajors?

24 A. Yes.

12:14:49 25 Q. From your conversations with other civilians in Buedu, was
26 this a fear that they expressed?

27 A. Yes.

28 Q. Was another fear that they expressed that they would starve
29 if they left Buedu?

1 A. Well, hunger, it's God that feeds people, because in other
2 parts, if you reach a particular village, whatever the case may
3 be, you must see fruit that you would be able to eat or some
4 other things.

12:15:54 5 Q. Just one further question, I think, in open session which
6 is this: could I suggest to you that you couldn't have been in
7 Buedu in 1994 or 1995 because Buedu was then under control of
8 loyal government troops and, in fact, the RUF weren't based in
9 Buedu in 1994/1995?

12:16:27 10 A. Well, that's what you say, but I know that when I was
11 captured that was the place that we went.

12 Q. In fact, just a correction, Buedu was occupied by NPRC
13 troops, 1994/1995?

14 A. Well, I don't know.

12:16:57 15 MR JORDASH: Could I please request that we have a closed
16 session. I'm happy if Your Honours prefer to wait until my
17 learned friends have cross-examined. It's simply one or two or
18 three questions dealing with the witness's location in Buedu
19 during 1994 to 1998. I'm in Your Honours' hands. I'm quite
12:17:25 20 happy to sit down at this stage and wait and have a closed
21 session at the same time as everyone else.

22 JUDGE THOMPSON: Remember the application was made at an
23 earlier stage and the Bench indicated a preference or indeed
24 ordered that you wait until you finish your cross-examination?
12:18:13 25 Is that the stage we're at now, your cross-examination is over?
26 But before we ask other counsel for their reactions to this, I
27 might want to interject something. We do not have at this stage
28 yet an application from you for having the statements received in
29 evidence as exhibits if you are still going on your option of

1 tendering them under the rubric of prior inconsistent statements.

2 I'm just advocating some quite of tidiness here.

3 MR JORDASH: Certainly. I can make the application now.

4 I've underlined the statements which I've put to the witness as

12:19:10 5 those which are inconsistent with her present testimony or oral

6 testimony.

7 JUDGE THOMPSON: Let's do it, uncomplicate things. Would

8 your final cross-examination also throw up possibly some

9 inconsistencies.

12:19:27 10 MR JORDASH: I can't anticipate that it would. I don't

11 anticipate that would.

12 JUDGE THOMPSON: So then we can close this chapter before

13 we move on to the question of your application for closed session

14 hearing?

12:19:42 15 MR JORDASH: Certainly. I don't know --

16 JUDGE THOMPSON: Subject to what the Presiding Judge might

17 want.

18 PRESIDING JUDGE: We're concerned that there might be,

19 indeed, in spite of what you say, some issues that may show some

12:20:37 20 differences in the closed session and, therefore, it might be

21 easier to just finish with you and, at the end, if this is still

22 your intent, then you tender it. In other words, let's do the

23 closed session and, after the closed session, you will tell us

24 that you have completed your cross-examination and, at the

12:20:55 25 completion, you will be tendering or not tendering such and such

26 documents.

27 MR JORDASH: Certainly.

28 MR TOURAY: May I just say, Your Honour, that I'll be doing

29 most of my cross-examination in closed session. I intend to.

1 PRESIDING JUDGE: Mr Cammegh -- we hear you, Mr Touray, but
2 we just want --

3 MR CAMMEGH: I'm not anticipating requiring closed session
4 at all. If it occurs to me between now and whenever the moment
12:21:36 5 arises I'll let the Court know, but thus far I think my
6 cross-examination should be in open.

7 PRESIDING JUDGE: We're only trying to assess some timings
8 of this because, obviously, it was only for a few questions by
9 Mr Jordash. But now --

12:21:50 10 MR CAMMEGH: It's always very difficult to predict time,
11 but I would be disappointed if I'd be any more than between an
12 hour and an hour and a half.

13 PRESIDING JUDGE: Thank you.

14 JUDGE THOMPSON: Mr Jordash, perhaps we should go into
12:22:41 15 closed session now and, of course, the standard procedure is to
16 have you make the application in closed session. How long will
17 your cross-examination last, do you think, for the final stages?

18 MR JORDASH: Fifteen minutes, and I mean a real 15 minutes.
19 It's a couple of descriptions I'm after, that's it.

12:23:08 20 JUDGE ITOE: No comments.

21 MR JORDASH: You show such little faith.

22 JUDGE ITOE: Mr Jordash, no comments.

23 JUDGE THOMPSON: Second accused counsel, you envisage that
24 your cross-examination would last for about how long? Just an
12:23:25 25 estimate.

26 MR TOURAY: Let me say two to three hours.

27 JUDGE THOMPSON: So then it means that if you are to follow
28 after Mr Jordash, then the members of the public will have to
29 retire probably for the rest of the day.

1 MR TOURAY: I believe so, Your Honour.

2 PRESIDING JUDGE: Because we are close to lunch-time, which
3 we will be at about 1 o'clock so after we come back, you say two
4 to three hours, and that will take us basically to the end of the
12:24:03 5 day.

6 JUDGE ITOE: Mr Cammegh may only be coming on board maybe
7 tomorrow morning or, rather, than Monday. On Monday, possibly.

8 MR CAMMEGH: I'm thinking about that and I'm thinking about
9 what Mr Touray just said in respect of being about two to three
12:24:17 10 hours. If the public gallery are asked not to bother coming back
11 this afternoon, we might reach a stage at say 4.00 or 4.30 where
12 Mr Touray has finished and I'm due to start in front of an empty
13 public gallery.

14 PRESIDING JUDGE: We're trying just to be as --

12:24:36 15 MR CAMMEGH: Well, I have a suggestion, and that is that I
16 don't mind going before Mr Touray. I'm ready to go and thereby,
17 of course, the public gallery can remain where they are.

18 PRESIDING JUDGE: But we still have to finish with
19 Mr Jordash in a closed session.

12:24:51 20 MR CAMMEGH: Well, that could either be done between now
21 and 1.00 or at a later stage. I'm really just thinking of the
22 public gallery more than anything else. It's just a suggestion.

23 PRESIDING JUDGE: We thank you for the offer. We'll try to
24 do as best as we can and we are very much conscious of -- we will
12:25:11 25 try to make sure that we keep the public in the gallery informed
26 as to what is and what is not, and that's why we're asking all
27 these questions. So we'll go to your closed session, Mr Jordash,
28 and we'll advise accordingly once we've completed it. For your
29 application, we need to move now into closed session so you can

1 make your complete application. We'll dispose of it and, if it's
2 granted, we'll hear the end of your cross-examination in closed
3 session and then take it from there.

4 MR JORDASH: Thank you.

12:26:00 5 PRESIDING JUDGE: Members of the public in the gallery, as
6 you've heard, we'll go into closed session now. We've been told
7 that it should not be for more than half an hour. Before we
8 break for lunch we'll come back in open session and hopefully be
9 in a better position to inform you what's happened this
12:26:19 10 afternoon. So we have to move now into closed session. Thank
11 you.

12 Mr Court Officer, can you make sure that we are now in a
13 closed session.

14 [At this point in the proceedings, a portion of the
12:27:21 15 transcript, pages 61 to 67, was extracted and sealed under
16 separate cover, as the session was heard in camera.]

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1 [Open session]

2 JUDGE THOMPSON: Before we continue, Mr Jordash, let me
3 just indicate to whoever may be in the public gallery that,
4 consistent with the general requirement, that criminal
12:49:40 5 proceedings are to be held in public as mandated by Rule 78 of
6 the Rules of Procedure and Evidence of this Court, but that
7 exceptionally as authorised by Rule 79(ii) of the said rules and
8 having regard to the need to protect witness's as provided for in
9 Rule 75, this Chamber, in response to the application on behalf
12:50:14 10 of the first accused for the remainder of the cross-examination
11 of Witness TF1-314 to be conducted in closed session, did grant,
12 by way of an exceptional procedure, the application of counsel
13 for the first accused. Shall we proceed then, Mr Jordash, with
14 the rest of your cross-examination?

12:50:42 15 MR JORDASH: I've finished but I do want to --

16 JUDGE THOMPSON: Yes, but you're not finished for the
17 purposes of the open session, if you did postpone an application
18 for certain statements of the witnesses to be received in
19 evidence.

12:51:01 20 MR JORDASH: I did. I have a copy of the statement which I
21 have marked according to the statements I have put to the witness
22 and have alleged are inconsistent with her oral testimony. I
23 would apply for those statements marked as I've indicated to be
24 an exhibit.

12:51:32 25 JUDGE THOMPSON: Which is the first statement? Which date
26 does that bear?

27 MR JORDASH: The first statement is 29 October 2003.

28 JUDGE THOMPSON: Right. Shall we take them separately.
29 What's the Prosecution's response to this request?

1 MR HARRISON: There's no concern with the marked statements
2 being tendered. I just wanted to try to revisit the Court to
3 some of the concerns that existed before. In the past what would
4 happen, if there had been a statement given subsequent which
12:52:07 5 corrected a comment made in an earlier statement, when that
6 happened in the past was that Defence counsel did take on that
7 added obligation to actually draw that to the attention of the
8 Court, and Mr Jordash did do that in a general way referring to
9 one particular one, but without going to the specific paragraphs
12:52:26 10 with the witness. If the Court is of the view that it should
11 fall to the Prosecution to do that in re-examination, we're happy
12 to do that. If the Court feels it's more efficient or if Defence
13 counsel wish to do it themselves, we're content with that
14 procedure as well. As far as this application, we don't see a
12:52:46 15 principle basis to oppose it.

16 JUDGE THOMPSON: Right. Thanks. We would proceed with
17 the -- the practice of the Court has been to request that the
18 Defence, if they seek to prove prior inconsistent statements, to
19 put in the document themselves and if they don't consider it a
12:53:14 20 legal option or necessary to put in the supplemental statement
21 and if that statement is meant to clarify or correct certain
22 allegations or matters in respect of the controlling statement,
23 it's perfectly within the purview of the Prosecution to tender
24 that statement. I think that's the practice that we've adopted,
12:53:39 25 unless there has been any variation, and I don't think the
26 learned Presiding Judge would want to comment on this.

27 PRESIDING JUDGE: I'm perfectly in agreement with that.

28 JUDGE THOMPSON: So we will let Mr Jordash put in the
29 statement or statements that he wants to put in. The first one

1 is the one of 29 October 2003.

2 PRESIDING JUDGE: Which are from pages 10726 to 10728,
3 inclusive, presumably?

4 MR JORDASH: Yes, through to 10729.

12:54:35 5 JUDGE THOMPSON: May we hear the counsel for the second
6 accused, your response to Mr Jordash's application for this
7 statement to be received in evidence?

8 MR TOURAY: Your Honours, as long as it doesn't affect the
9 second accused, we have no objection.

12:54:52 10 JUDGE THOMPSON: The assumption here is that certain
11 portions have been highlighted which will, in due course, be the
12 sections to which the Chamber will apply its collective mind when
13 it comes to evaluating the alleged inconsistencies, vis-a-vis the
14 witness's testimony in court.

12:55:22 15 PRESIDING JUDGE: Yes, and it is important to let you know,
16 Mr Touray, as well as Mr Jordash, that this statement is not
17 ruled to be admissible for the content of the statement. It's
18 only admissible for the very limited value and purpose of showing
19 alleged inconsistency between those parts that you are alleging
12:55:43 20 to defer. So it's there solely and only for that purpose. This
21 is strictly for assessing credibility in respect of those alleged
22 inconsistencies, for no other purposes.

23 MR TOURAY: We have no objection.

24 JUDGE THOMPSON: What about counsel for the third accused?

12:56:01 25 MR CAMMEGH: No objection.

26 JUDGE THOMPSON: Then with the highlighted portions --

27 MR JORDASH: Sorry, I beg your pardon?

28 JUDGE THOMPSON: You have the portions highlighted
29 completely.

1 MR JORDASH: I have.

2 JUDGE THOMPSON: And everything has been done to do that,
3 to make sure we have everything highlighted?

4 MR JORDASH: It's underlined.

12:56:23 5 JUDGE THOMPSON: Yes, well, that's what I mean by
6 highlighted. The document will be received in evidence and
7 marked Exhibit 49.

8 PRESIDING JUDGE: Mr Court Officer, could you take that
9 statement from Mr Jordash and show it to the Prosecution and then
12:56:39 10 mark it.

11 MR JORDASH: Could I just inquire as to whether we will
12 have access to these exhibits. It's just that I want to
13 photocopy it for our records.

14 PRESIDING JUDGE: You can make arrangement with the Court
12:58:05 15 management for that, Mr Jordash. I don't see any problem.

16 MR JORDASH: Thank you.

17 PRESIDING JUDGE: For the record, this exhibit will be
18 sealed, just like the other previous exhibits, because it does
19 contain information about the identity of this witness and some
12:58:38 20 other information that could indeed relate to the identity of
21 this witness. So given the protective measures, we will make
22 sure that this statement is indeed sealed from public disclosure.

23 [Exhibit No. 49 was admitted]

24 JUDGE THOMPSON: Mr Jordash, do you have any other
12:59:00 25 statement you intend to tender?

26 MR JORDASH: Two others.

27 JUDGE THOMPSON: Two others. Well, let's proceed the same
28 way. The alleged inconsistency is already highlighted?

29 MR JORDASH: They are and the first one is 30th June 2004,

1 page 10730 and page 10731.

2 PRESIDING JUDGE: So those are the interview notes.

3 MR JORDASH: Indeed.

4 JUDGE THOMPSON: What's the Prosecution's response to that?

12:59:38 5 MR HARRISON: There's no objection to the underlining and

6 the tendering of that document.

7 JUDGE THOMPSON: Mr Touray?

8 MR TOURAY: No objection, Your Honour.

9 JUDGE THOMPSON: And Mr Cammegh?

12:59:52 10 MR CAMMEGH: No objection.

11 JUDGE THOMPSON: The document again will be sealed in

12 evidence and marked Exhibit 50. Again this document will be

13 sealed.

14 [Exhibit No. 50 was admitted]

13:00:53 15 JUDGE THOMPSON: Mr Jordash, your next statement, the third

16 one, the date?

17 MR JORDASH: Proofing on 26th October 2005, page 10735.

18 JUDGE THOMPSON: Prosecution?

19 MR HARRISON: I think I better wait to see the document. I

13:01:30 20 spoke too soon with the last one. I see that instead of

21 sentences being underlined it's just words and I think it's

22 probably just an oversight, but just so that we're all working on

23 the same understanding, I'm pretty sure that Mr Jordash would

24 have liked to have simply drawn a line through the sentence as

13:01:50 25 opposed to a name.

26 JUDGE THOMPSON: Okay. Mr Jordash?

27 MR JORDASH: I was actually intending for the words because

28 I wanted to be as accurate as possible about how the witness had

29 put -- how she'd answered. I think my learned friend is

1 referring to the sentence, "I saw Issa Sesay and Morris Kallon
2 and Superman and Augustine Gbao at Buedu". When I put that to
3 the witness she said, "I didn't tell the Prosecution that I'd
4 seen Superman at Buedu".

13:02:26 5 PRESIDING JUDGE: That's right.

6 MR JORDASH: She did say she'd seen Issa Sesay. I was
7 unclear as to the state of evidence about Morris Kallon or
8 Augustine Gbao but I thought I would apply quite restrictively.

9 PRESIDING JUDGE: Yes, but the question you put to the
13:02:43 10 witness was, "Did you say I saw" -- you had the whole sentence
11 there. The answer to that was, "I didn't say Superman was
12 there". In other words, she did not deny saying this except for
13 Superman. So that's my recollection of her evidence which is not
14 different than yours. So what I'm saying is you put the whole
13:03:02 15 sentence to the witness and to that she said yes or no or in
16 part.

17 MR JORDASH: Well, I'm happy to have the whole thing
18 underlined.

19 PRESIDING JUDGE: I think it should be the whole because
13:03:14 20 that was the way the question was posed and the same with the
21 other one. Obviously the evidence as it has been led will
22 dictate to us how to assess that underlined portion.

23 MR JORDASH: Certainly, I'm content with that.

24 PRESIDING JUDGE: Mr Harrison, does that answer your
13:03:35 25 concern with that?

26 MR HARRISON: Yes, that was the point that I thought to
27 raise.

28 PRESIDING JUDGE: Mr Court Officer, could you take this
29 document, this is the one of 30th June 2004, to Mr Jordash. So

1 that one was the one we said would be Exhibit 50.

2 JUDGE THOMPSON: Does the Prosecution have any objection to
3 the one of statement 26/10/05 being tendered?

4 MR HARRISON: There's no objection. I'm just asking for
13:04:37 5 clarification. It's half of a sentence that's underlined and I'm
6 not trying to say there's a right or wrong way to do it. If
7 that's what you want, that's fine.

8 JUDGE THOMPSON: Let Mr Jordash go through the same ritual.
9 Do you want to clarify that, Mr Jordash?

13:04:53 10 PRESIDING JUDGE: I think it was the same thing.

11 JUDGE THOMPSON: The same position applies with respect to
12 Exhibit 50.

13 PRESIDING JUDGE: Your question was the whole sentence.
14 Your emphasis was on the first part of the question but you did
13:05:06 15 put to the witness the whole sentence.

16 MR JORDASH: Is this the sentence that the witness saw Issa
17 Sesay return?

18 PRESIDING JUDGE: Yes.

19 MR JORDASH: I'll amend that. I apologise.

13:05:20 20 JUDGE THOMPSON: Any objection by counsel for the second
21 accused?

22 MR TOURAY: No, Your Honour.

23 JUDGE THOMPSON: And counsel for the third?

24 MR CAMMEGH: No, Your Honour.

13:05:29 25 JUDGE THOMPSON: Again we'll receive this document in
26 evidence and mark it Exhibit 51, again to be sealed.

27 [Exhibit No. 51 was admitted]

28 JUDGE THOMPSON: The Court will take a lunch break from now
29 until 2.35.

1 [Luncheon recess taken at 1.08 p.m.]

2 [RUF04NOV05D - AD]

3 [Upon resuming at 2.50 p.m.]

4 JUDGE THOMPSON: Mr Touray, I think it is your turn now to
14:49:26 5 cross-examine.

6 MR TOURAY: Your Honour, I want to reiterate my application
7 for a closed session.

8 JUDGE THOMPSON: For the entire cross-examination? You did
9 say substantial.

14:49:44 10 MR TOURAY: Substantial, this is what I said, yes.

11 JUDGE THOMPSON: Let's hear your application then. You did
12 say that you will be conducting your cross-examination for about
13 three hours.

14 MR TOURAY: The entire process. I cannot really say how
14:50:04 15 long the closed session will be.

16 JUDGE THOMPSON: That is fine. Which means that we will
17 have to ask the members of the public gallery to recuse
18 themselves, so to speak.

19 PRESIDING JUDGE: Madam Court officer, will you inform us
14:50:40 20 when the closed session is ready to proceed? Mr Touray, in the
21 meantime, you have indicated that a substantial part of your
22 cross-examination will have to be conducted in closed session.
23 Is that a part or a portion of your cross-examination that ought
24 to be conducted in public and, if so, you are going to do that at
14:51:10 25 the end of your cross-examination presumably?

26 MR TOURAY: Yes, I will do that.

27 PRESIDING JUDGE: Okay.

28 JUDGE ITOE: It is not convenient in your strategy to start
29 with that?

1 MR TOURAY: It is not, sir.

2 [At this point in the proceedings, a portion of the
3 transcript, pages 77 to 93, was extracted and sealed under
4 separate cover, as the session was heard in camera.]

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1 [RUF04NOV05 - CR]

2 [Open session]

3 JUDGE THOMPSON: This is a brief ruling for the purposes of
4 the resumption of this open session after closed session hearing
16:14:09 5 of the first segment of cross-examination of Witness TF1-314 and
6 consistent with the general requirement that criminal proceedings
7 are to be conducted in public, as mandated by Rule 78 of the
8 Rules of Procedure and Evidence of this Court, but that
9 exceptionally, as authorised by Rule 79(ii) of the said Rules,
16:14:41 10 and having regard for the need to protect witnesses as provided
11 for in Rule 75, this Chamber, in response to the application on
12 behalf of the second accused for the first segment of the
13 cross-examination of Witness TF1-314 to be conducted in closed
14 session, did grant, by way of an exceptional procedure, the said
16:15:09 15 application.

16 We'll proceed, Mr Touray, with the second segment of your
17 cross-examination in open session.

18 MR TOURAY:

19 Q. Madam Witness, at the time of the invasion of Freetown, you
16:15:51 20 knew that Morris Kallon was in the Northern Jungle?

21 A. I did not understand.

22 Q. At the time of the invasion of Freetown in 1999, January,
23 you knew that Morris Kallon was in the Northern Jungle?

24 A. Well, I don't know.

16:16:35 25 Q. But you cannot say that he was with the group that advanced
26 to Freetown?

27 A. Well, I can't tell. I only know that my own commander,
28 Scorpion, came. I do not know about any other one.

29 Q. Now, you remember making several statements to the OTP?

1 A. Which one is the OTP?
2 Q. The Office of the Prosecution.
3 A. Yes, saying what?
4 Q. I'll come to that. You remember you made one on 29 October
16:18:04 5 2003?
6 A. I can't recall the dates, but people did meet me and they
7 would tell me that they were coming from the Special Court and
8 they want us to talk.
9 Q. Do you remember you made a statement whilst you were at the
16:18:38 10 Port Loko guesthouse?
11 A. Yes.
12 Q. That was in October 2003?
13 A. Yes.
14 Q. You know that that statement was taken down in writing, was
16:19:09 15 recorded in writing?
16 A. Yes, because when they were interviewing me, I did see them
17 writing.
18 Q. You didn't sign the recorded statement?
19 A. Yes.
16:19:34 20 Q. Do you recall saying that it was Superman and Gbao that led
21 the men that kidnapped the UNAMSIL personnel at Makoth. "I know
22 because I was in Makeni. I disarmed in 2000 at Makeni." Do you
23 recall saying that?
24 A. Yes, I did say that because at that time I could not recall
16:20:20 25 properly.
26 Q. Do you also recall an interview you had with the Office of
27 the Prosecution on 19 and 20 July 2005?
28 A. I can remember the interviews, but I could not recall the
29 dates.

1 Q. Were you informed that you were, in fact, to testify before
2 this Court in the July session of this Court, July 2005?
3 A. No. They told me it would be in October last year that I
4 would have come to testify, but for the whole of 2004, they
16:22:05 5 just -- the Court just abandoned me and I never received any
6 information. Nothing.
7 Q. Did you come here in 2005 and your statement was reviewed?
8 A. When in 2005?
9 Q. In July 2005.
16:22:41 10 A. Yes.
11 Q. In that interview, you retracted some statements earlier
12 attributed to you?
13 A. If I retracted? I do not understand.
14 Q. You are recorded as having said that you could not recall
16:23:17 15 stating certain other facts you -- allegedly you had made on the
16 previous occasion.
17 A. Yes, we made some corrections, because at some point I will
18 tell them that I cannot remember any more.
19 Q. Do you recall during that time you also said this:
16:23:54 20 "I maintain that Augustine Gbao and Superman had a meeting
21 where they planned an ambush of UNAMSIL trucks. They led a
22 group to Makoth and laid the ambush."
23 THE INTERPRETER: Can the learned counsel take it slowly so
24 that the interpreter can do his work effectively.
16:24:14 25 JUDGE THOMPSON: Learned counsel, can you take that advice?
26 MR TOURAY: I do, Your Honour.
27 Q. Do you recall maintaining and confirming that Augustine
28 Gbao and Superman had a meeting where they planned an ambush of
29 UNAMSIL trucks?

1 A. Yes.

2 Q. "They led a group to Makoth and laid the ambush."

3 A. Yes.

4 Q. "About 30 minute later, the UNAMSIL trucks arrived."

16:25:07 5 A. Yes.

6 Q. "About 30 minutes later the UNAMSIL trucks arrived."

7 A. Yes.

8 Q. "And after the last truck passed, the RUF opened fire."

9 A. I did not talk about firing there. I didn't talk about

16:25:15 10 firing, because the UNAMSIL, as soon as they instructed them to

11 pull over, they all pulled over. They didn't shoot, nor did the

12 RUF shoot.

13 Q. You said UNAMSIL peacekeepers were taken to Kailahun?

14 A. I can't recall saying that, because I just know that they

16:25:41 15 were placed in a truck and they took them towards Kono. I don't

16 know whether it was Kailahun or Kono; I do not know.

17 MR TOURAY: May the witness be shown, first of all, the

18 statements of 29 October 2003?

19 PRESIDING JUDGE: What is it you want to do, Mr Touray, if

16:26:09 20 I may ask you?

21 MR TOURAY: Inconsistency.

22 PRESIDING JUDGE: Why would you show the statement to her?

23 MR TOURAY: Well, just to identify it before I tender it.

24 PRESIDING JUDGE: Okay. So you want to use the exhibits

16:26:24 25 that we already have, or you want to tender that as a separate

26 distinct exhibit?

27 MR TOURAY: Well, I think I can use the exhibits already in

28 Court. That is already marked. I have to mark mine.

29 PRESIDING JUDGE: Fine.

1 MR HARRISON: I have a minor suggestion. We know one is
2 marked already. The Prosecution would be quite content if it
3 were to be marked again by Mr Touray and he could simply put
4 adjacent to the marking "second A", referring to the second
16:27:01 5 accused, rather than having the same document --
6 PRESIDING JUDGE: Or a different document. I think it was
7 underlined with a pencil. Maybe you can do it in a different
8 colour.
9 MR JORDASH: A black pen.
16:27:13 10 MR TOURAY: We will do that.
11 JUDGE THOMPSON: I think we are of the same mind. I was
12 going to suggest in fact that we use the same document.
13 PRESIDING JUDGE: We were at 48. You were at 29 October,
14 Mr Touray?
16:27:42 15 MR TOURAY: 29 October 2000.
16 PRESIDING JUDGE: That's Exhibit No. 48.
17 MR CAMMEGH: While that is being done, Your Honour, I
18 wonder if you mind if I left the room for no more than one
19 minute?
16:28:09 20 JUDGE ITOE: Is one minute realistic, Mr Cammegh?
21 MR CAMMEGH: Time me and we will see.
22 PRESIDING JUDGE: You might not be at the door in one
23 minute. Thank you for asking.
24 MR TOURAY: Please look at that document. The portion --
16:28:45 25 MR HARRISON: I am sorry to interrupt, but I would like to
26 have an idea what was marked by Mr Touray.
27 JUDGE THOMPSON: Yes, you better show the other side,
28 please.
29 PRESIDING JUDGE: And for the record as well, Mr Touray, I

1 know you have shown the statement of 29 October, which page or
2 line, the second page, what is it you're asking the witness to
3 speak about?

4 MR TOURAY: It's on the UNAMSIL issue at page 10729.

16:29:31 5 PRESIDING JUDGE: Would you read, for the record, the
6 portion you want to put to the witness exactly?

7 MR TOURAY: Yes: "You did say it was Superman and Gbao
8 that led the men who kidnapped the UNAMSIL personnel at Makoth?"

9 PRESIDING JUDGE: So what is your question to that, that
16:29:49 10 this is what she said?

11 MR TOURAY: Well, I have already elicited that evidence.
12 We only want to identify the document that this is.

13 Q. Would you please look at 10729, Madam Witness?

14 MR HARRISON: I am sorry to interrupt, but the Prosecution
16:30:21 15 doesn't insist that this be identified by the second accused.

16 MR TOURAY: Okay.

17 MR HARRISON: It's an exhibit as indicated through the
18 questioning of the first accused. The Prosecution does not see
19 the necessity of having each accused go through the same steps
16:30:36 20 one after the other.

21 MR TOURAY: Well, we tender the document anyway.

22 PRESIDING JUDGE: It's already an exhibit. What you are
23 asking for is a specific portion or part of the exhibit --

24 MR TOURAY: That specific portion.

16:30:52 25 PRESIDING JUDGE: That's why I was asking you question.
26 Exhibit No. 49, 29 October --

27 JUDGE THOMPSON: 29 October 2003, Exhibit No. 48.

28 MS EDMONDS: It's Exhibit No. 49.

29 JUDGE THOMPSON: That's correct, yes. Sorry, my mistake.

1 PRESIDING JUDGE: Exhibit No. 49, Mr Touray, more precisely
2 at page, you were saying --

3 MR TOURAY: At page 10729.

4 PRESIDING JUDGE: And the question to the witness?

16:31:35 5 MR TOURAY: Is: "You did say it was Superman and Gbao that
6 led the men that kidnapped the UNAMSIL personnel at Makoth?"

7 THE WITNESS: That was what I said, but at that time I did
8 not recollect correctly. These were all the first statements I
9 made.

16:32:21 10 MR HARRISON: If I can just draw to counsel's attention the
11 Prosecution sees it as saving time if, in fact, Defence counsel
12 wishes to refer to the corrections as well, rather than leaving
13 it to the end. But, again, we leave it to Defence counsel to
14 decide.

16:32:57 15 THE WITNESS: I want to use the ladies.

16 JUDGE THOMPSON: We will recess for a brief while.

17 [Break taken at 4.38 p.m.]

18 [Upon resuming at 4.55 p.m.]

19 JUDGE THOMPSON: Proceed, Mr Touray.

16:53:31 20 MR TOURAY:

21 Q. Can you look at this document, Madam Witness; your proofing
22 of 19th and 20th July 2005?

23 MR HARRISON: I don't know if I can help or hinder matters,
24 but the Prosecution does not dispute these are statements and
16:54:09 25 we're quite content for Mr Touray to show the witness a document,
26 but it says right in the top sentence that this material has not
27 been reviewed with the witness and has not been read back to the
28 witness and we make that concession and we assert that to be
29 accurate, but we're still content that this be called a statement

1 and be marked as an exhibit, should Mr Touray wish to do so.

2 PRESIDING JUDGE: Mr Touray, do you wish to comment on
3 that?

4 MR TOURAY: Well, I do wish to tender the document. I've
16:54:50 5 already gone through certain aspects of the document with the
6 witness and she has found that she made certain statements and
7 retracted some.

8 PRESIDING JUDGE: Which part?

9 MR TOURAY: It's page 12672, paragraph 8 where she said:
16:55:30 10 "Augustine Gbao and Superman had a meeting where they
11 planned an ambush of UNAMSIL trucks, they led a group to
12 Makoth and laid the ambush. About 30 minutes later the
13 UNAMSIL trucks arrived".
14 Then at the bottom, "The UNAMSIL peacekeepers were taken to
16:55:48 15 Kailahun". That's the area that interests me.

16 PRESIDING JUDGE: Can I suggest that you put that very
17 question to her, whether she did say or didn't say that.

18 MR TOURAY: I have already put that.

19 PRESIDING JUDGE: In that very language?

16:56:09 20 MR TOURAY: Yes.

21 PRESIDING JUDGE: You quoted from that paragraph?

22 MR TOURAY: This paragraph, yes, I did.

23 PRESIDING JUDGE: I was following those questions, but I
24 didn't know you were quoting from that very wording of that
16:56:17 25 paragraph.

26 MR TOURAY: I was.

27 PRESIDING JUDGE: Okay. So that statement --

28 MR TOURAY: That has not been tendered. It wasn't tendered
29 by my learned friend Mr Jordash.

1 PRESIDING JUDGE: Well, given the admissibility we have
2 adopted for the admissibility of evidence as such, we'll accept
3 that, but obviously we note your comments, Mr Harrison, that this
4 document has not been reviewed or read by the witness.

16:57:01 5 MR HARRISON: That's acceptable.

6 PRESIDING JUDGE: So a question of weight will be attached
7 to this.

8 MR HARRISON: I'm just observing, I don't know if Mr Touray
9 wants the witness to be reading the document.

16:57:16 10 PRESIDING JUDGE: We need to mark this document now as an
11 exhibit on your request. Madam Court Officer, can we get the
12 document?

13 JUDGE ITOE: What's the date of the document?

14 MR TOURAY: It's proofing on 19th and 20th July 2005.

16:57:37 15 PRESIDING JUDGE: It's a document that is called
16 "Additional Information Provided By Witness TF1-314."

17 MR HARRISON: I'm sorry to interrupt, but I don't think
18 Mr Touray went through the exercise of marking the document.

19 MR TOURAY: We've done that already.

16:57:54 20 MR HARRISON: I'm sorry. Can I just ask if it is the
21 entirety of paragraph 8 that is marked?

22 PRESIDING JUDGE: No, we will just ask the officer to show
23 it to you, Mr Harrison.

24 MR HARRISON: I'm content if I'm just informed.

16:58:26 25 PRESIDING JUDGE: You'll be shown the document.

26 MR TOURAY:

27 Q. Now, Madam Witness --

28 PRESIDING JUDGE: Should we mark it? Exhibit 52.

29 [Exhibit No. 52 was admitted]

1 PRESIDING JUDGE: Exhibit 52 is additional information
2 provided by witness TF1-314, more specifically the part
3 underlined on that page in paragraph 8. So this is Exhibit 52.
4 MR TOURAY:
16:59:57 5 Q. Now, Madam Witness, you remember under the direct
6 examination by the Office of the Prosecution before this Court on
7 2 November 2005 in open session, you did say -- I'm reading from
8 the transcripts --
9 MR HARRISON: Can I just ask for the page?
17:00:21 10 MR TOURAY: Yes, it is page 47.
11 MR HARRISON: Are you indicating, Mr Touray, that you want
12 this document to be given to the witness?
13 MR TOURAY: Indeed so, yes.
14 PRESIDING JUDGE: That's transcript page 47 of which date?
17:00:38 15 This morning or Wednesday?
16 MR TOURAY: 2nd November 2005.
17 Q. Could you please turn to page 47, Madam Witness?
18 A. Yes.
19 Q. Line 29 of that page, or let us start from line 27. The
17:01:49 20 question is:
21 "Q. How do you know that Augustine Gbao and Morris Kallon
22 called for a meeting to attack UNAMSIL?
23 "A. We had a boy at the house. He attended a meeting".
24 Then the next page, page 48, continuing, you said:
17:02:09 25 "He was an RUF. After the meeting, he came and reported to
26 us that Augustine Gbao and Morris Kallon said they were
27 going to attack UNAMSIL."
28 A. Yes.
29 Q. Now, you remember I asked you this afternoon at [By

1 direction of the Court, this word has been redacted] where you
2 were staying --

3 PRESIDING JUDGE: I remind you that we are now in open
4 session.

17:02:47 5 MR TOURAY: I'm sorry, Your Honour. Extremely sorry, Your
6 Honour.

7 PRESIDING JUDGE: That's fine. We'll make sure this is
8 struck out from the public part of the record.

9 MR TOURAY:

17:03:01 10 Q. You remember saying you had only you, your husband, your
11 children and some civilians were staying in the house at the
12 address you gave? You remember saying so this afternoon?

13 A. He was not in the house. He used to come there to eat.

14 Q. I'm putting it to you, madam, that you have not been
17:03:55 15 truthful to this Court.

16 A. I'm saying the truth. Even the lawyer who interviewed me,
17 that was what I told him. I told him that there was a boy who
18 used to come to the house to eat. He went to the meeting and he
19 came and reported to us and, from there, he went back.

17:04:29 20 MR TOURAY: I have no further questions for this witness.

21 JUDGE THOMPSON: Proceed, Mr Cammegh.

22 MR CAMMEGH: Your Honours, during this cross-examination
23 which I'm hoping with a fair wind I can wrap up by 6.00, I will,
24 nevertheless, be making frequent references to the body of
17:05:43 25 statements made by this witness. There are six in all. I must
26 confess I'm slightly at a loss as to the situation in relation to
27 exhibiting them because, in my case, what I would simply like to
28 do is refer the witness to refresh her memory as to what she said
29 in relation to certain events, firstly. Then, secondly, refresh

1 her memory as to areas which follow on in various following
2 statements, additional informations, as to where she has
3 contradicted herself or amended her account.

4 So the position, as I see it, it's unlikely, I think, that
17:06:26 5 I'm going to be putting contradictions by way of contrast from
6 her oral evidence to the statements. It's more a question of
7 contradictions contained herein. I wonder really, that being the
8 case, whether it is necessary for me to underline contradictions
9 revealed in further additional witness statements which, by
17:06:53 10 themselves, reveal that contradiction. I hope I'm making myself
11 clear.

12 PRESIDING JUDGE: Not really, talking for myself.

13 MR CAMMEGH: I don't know if Your Honours have the copy of
14 the statements in front of you.

17:07:12 15 JUDGE THOMPSON: Let me see if I can contribute on
16 disentangling your web here. How many statements -- you're going
17 to refer to the ones already in evidence. There are four of them
18 already in evidence.

19 MR CAMMEGH: I believe so.

17:07:36 20 JUDGE THOMPSON: So that should not be the problem for you.
21 Then the problem would be for the ones that are not in evidence
22 where you seem to be alleging that there may well be internal
23 contradictions or inconsistencies. When I say internal, not
24 inconsistencies in relation to her in Court testimony here, but
17:07:58 25 the various statements that she made to the --

26 MR CAMMEGH: Quite.

27 JUDGE THOMPSON: Right. Good.

28 MR CAMMEGH: Contradictions which she isolates herself
29 during subsequent proofing sessions.

1 JUDGE THOMPSON: Good. So then of course, looking at it
2 from my own perspective, we come straight into the area where it
3 would seem to me that perhaps in this kind of exercise we fall
4 back on our decision as to our commitment to the principle of
17:08:32 5 orality, but I just leave it at that. That's my own response to
6 that.

7 MR CAMMEGH: No doubt Your Honours will stop me if I'm
8 handling it wrongly, but what I would suggest is that this small
9 bundle of statements here, which are about 16 pages long in
17:08:48 10 total, is placed in front of the witness so I can refer her to
11 the individual items as I go along. That's the way I would
12 normally do it.

13 JUDGE ITOE: Mr Cammegh, there are six statements in all.
14 Four are already tendered.

17:09:07 15 MR CAMMEGH: Yes.

16 JUDGE ITOE: Do you have any difficulty in referring to
17 those portions and marking them so as to avoid another
18 innovation, and then coming to the other two to tender them and
19 we get along.

17:09:21 20 MR CAMMEGH: I suggest my method is by far the simpler. If
21 I can just look forward, there's a witness coming called Gibril
22 Massaquoi who goes to six volumes, I think in excess of 2000
23 pages. It may well be that there are more than just the
24 occasional contradiction there. If we each have to tender our
17:09:41 25 own contradictions in exhibit form, it is going to significantly
26 add to the length of the trial.

27 PRESIDING JUDGE: Mr Cammegh, I do have some questions as
28 well. What you will be attempting to do is to show that
29 inconsistencies in between statements --

1 MR CAMMEGH: Exist in here.

2 PRESIDING JUDGE: That's right, not necessarily with the
3 evidence that the witness has given. In other words, not
4 inconsistencies between what evidence the witness has given in
17:10:54 5 Court today, or Wednesday as well.

6 MR CAMMEGH: That's the primary --

7 PRESIDING JUDGE: Then why do we need to hear that? All we
8 can invite you to do is once you produce these documents, they
9 are exhibits in Court, you can speak and argue about that, that
17:11:08 10 document A is different than document B because, and so,
11 therefore, there are inconsistencies between them. Why do we
12 need to go through this exercise? This is not the purpose of
13 showing -- I mean, inconsistent statements have to do with the
14 evidence of the witness. What you are purporting to do - I am
17:11:26 15 not saying you should not be doing it - it's more as an argument
16 than discussing with the witness. Because, as I say, these
17 documents, on the face of them, speak for themselves. If the
18 witness says this on document A and says something different on
19 document B, well, we can read it. We don't need the witness to
17:11:42 20 tell us that.

21 MR CAMMEGH: I see the point Your Honour is making. The
22 difficulty I have with that, it essentially clips my wings in
23 terms of trying to test this witness's credibility in relation to
24 the subject, for example, that Mr Touray was just cross-examining
17:11:59 25 about. I would be -- of course, it sets me apart from the other
26 two defendants, because that procedure would only have been
27 visited upon me rather than the other two. I think there has to
28 be a level playing field.

29 PRESIDING JUDGE: No, we're not trying to clip your wings

1 in this respect. If your argument has to do with inconsistencies
2 between the statements and not between the statement and what the
3 witness has said in evidence today, or in her evidence in Court,
4 and this is not what your colleagues have done. Indeed, they
17:12:31 5 were clearly trying to show an inconsistency between what was
6 said in the statement and what the witness has said in
7 evidence-in-chief, or even in cross-examination.

8 MR CAMMEGH: I wonder, Your Honour, because I know this
9 lady can speak, or at least understand some English. I don't
17:12:47 10 know if it is appropriate we should continue with her present,
11 because I would like to make one or two references to illustrate
12 why I'm determined to do or was determined to do what I want to
13 do.

14 JUDGE THOMPSON: Yes, I think, perhaps, we should ask the
17:13:04 15 witness to retire. I, myself, am a little doubtful procedurally
16 as to the propriety of this approach. We need to hear some legal
17 arguments on it. Can we ask the victims and witness personnel to
18 escort the witness out for a while to see if we can resolve this
19 problem.

17:14:00 20 [The witness stood down]

21 MR HARRISON: Can I just ask if the Court would consider
22 excusing the witness for the day? I'm told that the witness is
23 quite tired and that she may suffer from high blood pressure,
24 which causes her fatigue, and I'm just noting the time. I'm
17:15:00 25 asking the Court to consider releasing her for the day.

26 [Trial Chamber conferred]

27 PRESIDING JUDGE: Mr Harrison, we do agree with your
28 request and we will release the witness for the remainder of
29 today. I don't know if you wish her to come back and we ask her

1 to come back at 9.30 on Monday morning?

2 MR HARRISON: Yes, I can have Mr Wallbridge speak to
3 witness and victims services to confirm that.

4 PRESIDING JUDGE: She can be informed that she does not
17:16:12 5 have to come back this afternoon. We will hear the argument from
6 Mr Cammegh and take it from there. Mr Cammegh, so it is clear,
7 we want to understand what you're proposing to do. As it is, we
8 have no witness, so you can speak and tell us exactly what it is
9 you intend to do. Our comments are not intending to curtail your
17:16:38 10 cross-examination, but we want to make sure that what is done is
11 the proper process, that is basically what we're concerned about.

12 MR CAMMEGH: All I'm asking is that the general common law
13 method of cross-examination is continued here, which is that the
14 witness is cross-examined in relation to her credibility by
17:17:01 15 reference, amongst other things, to contradictions. Of course,
16 those contradictions don't necessarily have to be limited to what
17 she wrote in a previous statement by contrast to what she said in
18 a courtroom. They can, as frequently happens in any
19 jurisdiction, be made by reference to altered states within two
17:17:22 20 separate witness statements made at different times by that
21 witness.

22 In my submission, there are many of those in this
23 particular case, as I said, indicated, for example, by the
24 additional information of 19 and 20 July, I'm speaking off the
17:17:45 25 top of my head here, the interview notes of 30 June. I could go
26 on and on. I would like the witness to have the whole body of
27 her statements in front of her in order that in a timely and
28 efficient fashion I can draw contrast or comparison, if you like,
29 between what she said, for example, on 29 October -- I'll give

1 examples of this in a moment -- and what she might have said on
2 on 30 June, the following year, et cetera, et cetera.

3 I'm afraid I must confess, if we are going to proceed by
4 way of in counsel's order or in defendant's order various
17:18:37 5 statements without uniformity, but various statements, one here,
6 one there being exhibited in isolation, it breaks the uniformity
7 and makes things, with respect, look a little bit untidy. I'm
8 not actually going to ask for anything to be exhibited. All I
9 want to do is to flag up the differences, and there may well be
17:18:58 10 some differences by way of contrast to what she said in oral
11 testimony as well. And as we've done in the past, make the
12 specific reference so, in future, on the transcript, no one can
13 be under any doubt; reference to the date of the statement, the
14 page that I'm asking about and the precise line and, no doubt,
17:19:19 15 the precise quotation.

16 Now, that's what we've done before. In my criminal
17 advocacy career, that is what I've always done. If I can just go
18 to the extreme, but, nevertheless, pertinent example, of this
19 witness who has made six lever-arch files of statements. These
17:19:53 20 statements comprise interviews which were stretched over a period
21 of time, something about three months, I think.

22 PRESIDING JUDGE: You're not talking about this witness,
23 you're talking about a witness to come?

24 MR CAMMEGH: A protected witness, and a very important one
17:20:06 25 at that. Now, one would have thought if the rule that the Bench
26 is attempting to set down today applies to that witness, we're
27 going to have a myriad of exhibits in relation to each and every
28 separate interview, each of them about 30 pages long. There's
29 going to be so much time administratively trying to track down

1 which exhibit refers to which statement, or which interview,
2 we're going to lose time. Overall, in my submission, Your
3 Honour, it is an unnecessary, with respect, departure from a
4 method we've been used to so far, which is that you refer to
17:20:46 5 the -- I say "you" colloquially - one refers to the transcript to
6 find reference to the page and the line and define the
7 contradictions that way, or record the contradictions that way.

8 [RUF04NOV05F - RK]

9 MR CAMMEGH: You see the difficulty is that it is very
17:21:04 10 difficult to simply underline a specific contradiction or
11 statement, because all these statements turn on nuance or a lot
12 of them depend on their context. It is going to be a task which,
13 in my submission, is going to stretch the bounds of practicality.

14 I turn to the other point Your Honour made, which was why
17:21:29 15 can't we simply flag up the contradictions, exhibit the statement
16 and make a reference to them hence forward when speeches are made
17 or in final submissions in writing. There is a simple answer to
18 that, and that was the point I was about to come to before the
19 witness was asked to be excused. It is this, and I will use this

17:21:50 20 example just off the top of my head: This witness is in actual
21 fact, I think, probably the most dangerous witness I've heard so
22 far against my client. Dangerous for a number of reasons, first
23 of all, because hearsay is accepted, so prima facie there is
24 evidence that she heard Gbao was in Buedu, and she has given
17:22:14 25 evidence orally that Gbao was aware of girls being taken as wives
26 and also that Gbao had some SBUs. Now that is hearsay.

27 She doesn't mention anything about that in her first
28 statement. In fact, one has to go as far forward as the 20th of
29 October of this year, just two weeks ago, the fifth document that

1 was taken from her, two years after the initial statement, to
2 find the place where she says that Gbao was using SBUs. If I am,
3 on Your Honours' analysis, simply to record that on paper in
4 analytical form, it is going to lack the force of having been
17:23:03 5 isolated and amplified through cross-examination. It is simply
6 not going to stick in the memory. But there is another important
7 reason why we have cross-examination, and that is to erode the
8 witness's credibility, to erode that person's demeanour and
9 performance in the witness box, to put them under a bit of
17:23:22 10 pressure, if you like. Because thereby, further contradictions
11 and in one's experience, lies, can also be discovered.

12 Now, of course, that relates far more powerfully when we
13 have a jury trial. But we don't sit here taking it for granted
14 that Your Honours will check every dot and cross T in two years
17:23:54 15 or a year hence. We want to perform in such a way as our
16 cross-examination leaves an indelible mark on your memory for two
17 reasons. Number one, because that is what helps the Defence by
18 making an example of a witness, showing her not telling the
19 truth. Secondly, because by eroding their credibility, as I just
17:24:21 20 said, you can inevitably isolate further lies or further issues
21 or facts which go to the defendant's advantage.

22 Now, what is really damning about this witness's evidence
23 in my case is the UNAMSIL business. Your Honours know that I am
24 in a difficult position because I've not been given any
17:24:45 25 instructions. Your Honours know that I explored during the last
26 session the possibility perhaps that self-defence may have been
27 at play, and can the Prosecution negate that. It is only by
28 putting a plethora of contradictions or mistakes that the witness
29 has made either in her statements or in Court that I can really

1 form any foundation on which I can truly test her credibility as
2 to the UNAMSIL situation.

3 Cross-examination is the most important tool in a defence
4 advocate's armoury because it is the only way that counsel can
17:25:19 5 get behind what is on the statement. Your Honours' idea, while
6 elegant academically, if I can put it that way, denies me the
7 opportunity to find out more, because I will not find out more
8 unless I'm able to put the defendant, or take her to task on what
9 she has already put down. Therefore, that's why I say my wings
17:25:46 10 are clipped. I'm denied the opportunity of exposing further
11 information, further lies or what have you by that witness. I
12 have gone on for a long time.

13 PRESIDING JUDGE: My comments were not -- obviously, if you
14 are trying to go test the credibility of the witness by putting
17:26:03 15 to her something she may have said on one day and something
16 different on the another day and so on. My comments have nothing
17 to do with that. I'm talking of using statements as statement of
18 prior inconsistent statement, what she said today. But what you
19 are talking about now is a totally different scenario.

17:26:23 20 MR CAMMEGH: In that case I misunderstood Your Honour.

21 PRESIDING JUDGE: If you're using those witness statement
22 or statements that she may have made in the past to test her
23 credibility, yes, absolutely. This is, as you say, the very
24 purpose of cross-examination. We are were not intending to do
17:26:42 25 that. Obviously you're not using then the statements as a prior
26 inconsistent statement. You're using that for another purpose,
27 which is a legitimate purpose in cross-examination. We're not
28 trying to -- that's why when I said that if all you are trying to
29 do is to show there are a difference, then we need not go through

1 that. But you are telling me that it is much more than that.
2 That's why we're asking and we've asked the witness to be excused
3 so we can understand your position.

4 JUDGE THOMPSON: You've clarified my own lingering doubt on
17:27:12 5 the issue, and purely by what you've said. So far your
6 explanation has helped, because what I understand you to be
7 saying is that you have spotted some very serious contradictions
8 between statements that the witness might have made to the
9 investigators.

17:27:31 10 MR CAMMEGH: And omissions.

11 JUDGE THOMPSON: And you would like the opportunity of
12 highlighting for the purpose of the Court those statements
13 through the vehicle of cross-examination.

14 MR CAMMEGH: And to ask her why such unequivocal changes --

17:27:49 15 JUDGE THOMPSON: I can't see any difficulty as long as the
16 principle of orality is the machinery through which the
17 particular contradictions come before the Court, because as you
18 said earlier on, you do not intend to exhibit anything.

19 MR CAMMEGH: It wasn't my intention, no.

17:28:09 20 JUDGE THOMPSON: I do not see how you are foreclosed from
21 doing what you have now so, in your subsequent presentation,
22 clarified for me. I have no difficulty in seeing that. The only
23 difficulty I had, as the learned President of the Court said, was
24 that if you were going to use the rubric of prior inconsistent
17:28:28 25 statement to achieve the purpose which you were trying to apprise
26 the Court of then it would be an unconventional and unorthodox
27 use of the rubric.

28 MR CAMMEGH: Can I be completely candid. Where there are
29 mistakes which the witness in subsequent additional statements

1 wishes to make good - there are various ones - all I want to do
2 is ask her why. It would be foolish and otiose just for me to go
3 further than that, because the contradiction is already there. I
4 just want to know why and lay the ground on my client's behalf to
17:29:19 5 suggest that she is an unreliable witness not worthy of credit
6 because she shifts her ground back and forth as she does. So it
7 is to ask her why, and then to conclude by saying, "If as we have
8 observed, you have corrected yourself on these several occasions,
9 how can we accept that what you say about Gbao in Makeni,
17:29:42 10 vis-a-vis UNAMSIL is credible?" That would be my strategy. If
11 that offends, I would like to know now so I can rejig what I
12 propose to do. But in my submission that shouldn't offend. I
13 hope I've made clear exactly what I was trying to do.

14 PRESIDING JUDGE: I don't think it does. The concern I
17:30:09 15 have with this line of question and approach is that it may
16 become argumentative with the witness. If it gets to that stage
17 we will stop you.

18 MR CAMMEGH: Your Honour, I have no intention of going down
19 that road, because, as I've said and as we are all now aware, the
17:30:24 20 various things that are flagged up, we don't need to argue about
21 them and they are there in black and white. I repeat, the
22 question is why. If I go beyond that, I shall welcome Your
23 Honours' intervention.

24 JUDGE ITOE: All I need to say, Mr Cammegh, is that the
17:30:43 25 Chamber has taken, gone into trouble of laying down a certain
26 procedure for the purposes of tagging and flagging those portions
27 of statements which are alleged to be inconsistent with the
28 witness's oral testimony. If you want to adopt some other
29 procedure, it is your case, it is for you to make your options.

1 MR CAMMEGH: Of course being last on the indictment --

2 JUDGE ITOE: I hope you remain within the logic of the
3 procedure you're outlining and that it will not be going forwards
4 and backwards and getting, as my colleague has pointed out,
17:31:32 5 argumentative with the witness, because really, I, for one, do
6 not see any -- I do not see any real difference, you know,
7 between the procedure you want to adopt and the procedure that
8 has been adopted all along and which this Court has set out. The
9 portion which you allege to be inconsistent, or where you think
17:31:59 10 the that witness testified in error, should not be highlighted
11 and tendered and even if -- I have said it before, and that is,
12 that four statements are already in, two are yet to come in, I
13 don't see any difficulty with the Court at all, because we have
14 it on record that, as far as the first accused is concerned,
17:32:23 15 these are the portions on which the first accused is relying to
16 highlight the prior inconsistencies of the this particular
17 witness's testimony, same with the second. Even if it comes to
18 the third, we will be able to distinguish, as far as every
19 statement is concerned, the inconsistencies that have been
17:32:43 20 highlighted and that concern the Defence of any of the three
21 accused persons. If you want to walk another road, you know, to
22 achieving your objectives, which principally are to defend the
23 interests of your client, I think it is your case and you are
24 entitled, as far as I'm concerned, you know, to tackle it the way
17:33:05 25 you want.

26 MR CAMMEGH: Thank you, Your Honour.

27 JUDGE ITOE: Under the surveillance of the Court, of
28 course, when it comes to it.

29 MR CAMMEGH: Yes. Your Honour, I'm trusting myself to say

1 that on this particular occasion it should be very
2 straightforward. Can I make one further point on the subject of
3 highlighted contradictions between what is written and what is
4 said. Of course, the luxury I have being last on the indictment
17:33:32 5 is that there will be occasions when I can simply adopt what my
6 learned friends have isolated and underlined previously to my
7 getting to my feet. I will endeavour not to be argumentative.
8 That is not my purpose on Monday and, of course, I will stand
9 corrected should it venture into that.

17:33:53 10 PRESIDING JUDGE: You have clarified our understanding of
11 your position, so I hope that our comments have assisted you in
12 where you want to go. So based on that, unless you have some
13 other representation to make we'll adjourn court today and resume
14 on Monday at 9.30.

17:34:13 15 MR CAMMEGH: Can I just ask one thing. This is the last
16 thing I will say. I haven't got a clean copy of the statements
17 here. I don't know if the Prosecution do. I would simply ask
18 them to be put in front of the witness and I will take her
19 through the relevant parts on Monday morning.

17:34:30 20 PRESIDING JUDGE: I think they should put that in a binder
21 in front of witness that she can use on Monday.

22 MR CAMMEGH: Thank you.

23 PRESIDING JUDGE: Thank you. Court is adjourned.

24 [Whereupon the hearing adjourned at 5.40 p.m.
17:34:49 25 to be reconvened on Monday, the 7th day of
26 November, 2005, at 9.30 a.m.]

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EXHIBITS:

Exhibit No. 49	71
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WITNESSES FOR THE PROSECUTION:

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