

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

TUESDAY, 22 NOVEMBER 2005
10.33 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 Mr Alain Werner Ms Suzanne Mattler (intern) Ms Martine Durocher (intern)
For the Principal Defender:	NO APPEARANCE
For the accused Issa Sesay:	Mr Wayne Jordash Ms Sareta Ashraph Ms Salwa Chowdhury
For the accused Morris Kallon:	Mr Melron Nicol-Wilson Mr Charles Taku
For the accused Augustine Gbao:	Mr John Cammegh

1 [RUF22NOV05A - SGH]
2 Tuesday, 22 November 2005
3 [Open Session]
4 [The accused Sesay and Kallon present]
10:07:19 5 [The accused Gbao not present]
6 [Upon commencing at 10.33 a.m.]
7 PRESIDING JUDGE: Good morning, counsel. Honourable
8 Justice Thompson will give the ruling.
9 [Ruling]
10:35:06 10 JUDGE THOMPSON: This is the unanimous ruling of the Chamber
11 on the objection raised by the Prosecution to the
12 cross-examination of counsel for the first accused on
13 pre-testimony meetings between the Prosecution and Witness
14 TF1-045.
10:35:30 15 On 21st November 2005 during cross-examination of
16 prosecution Witness TF1-045 by counsel for the first accused,
17 Issa Sesay, the Prosecution objected to the Defence questioning
18 about pre-testimony meetings between the said witness and the
19 Prosecution's investigators. We have carefully deliberated upon
10:36:00 20 the merits of the said objection.
21 At this stage we wish to note that, and emphasise, that the
22 established practice followed by this Court, in both this trial
23 as well as the CDF trial, is that the Defence must establish
24 certain minimum requirements by way of proper legal foundation
10:36:32 25 whenever it intends to allege any inconsistency between a
26 witness' prior statement and his oral testimony at trial. This
27 practice is clearly consistent with the need to afford greater
28 latitude to the Defence in putting forward during
29 cross-examination questions pertaining to the written statements

1 given by a witness to the Prosecution whenever it intends to
2 allege prior inconsistencies with the contents of an oral
3 testimony.

4 Based on our deliberation, we therefore find the
10:37:20 5 Prosecution's objection to be meretricious and accordingly
6 overrule it. A reasoned written ruling will be filed in due
7 course.

8 PRESIDING JUDGE: So we are coming back to the trial having
9 disposed of this objection now. Mr Court Officer, could you make
10:37:41 10 sure that the witness is brought back.

11 [The witness entered court]

12 PRESIDING JUDGE: Good morning, Mr Witness.

13 THE WITNESS: Good morning, sir.

14 PRESIDING JUDGE: Mr Jordash, are you ready to carry on
10:41:20 15 with your cross-examination?

16 MR JORDASH: Thank you.

17 PRESIDING JUDGE: Thank you.

18 WITNESS: TF1-045 [Continued]

19 CROSS-EXAMINED BY MR JORDASH: [Continued]

20 Q. Good morning, Mr Witness.

21 A. Good morning, sir.

22 Q. If you recall yesterday there was -- sorry. If you recall
23 yesterday I was referring you to meetings you had with the
24 Prosecution, and we were looking at meetings you had had with the
10:41:57 25 Prosecution in April and May of this year. Do you recall that?

26 A. Yes, sir.

27 Q. I was asking you about what had happened during those
28 meetings in April and May.

29 A. Yes.

1 Q. Were you taken through your previous statements?

2 A. No, sir.

3 Q. So what were you taken through then?

4 A. Well, the statement that I gave that were with them, it was
10:42:55 5 from those statements that they used to ask me questions.

6 PRESIDING JUDGE: I suspected your question "taken through"
7 may be not clearly understood by the witness. His second answer
8 supports that. May I suggest, Mr Jordash, you ask him how it was
9 done and take it from there.

10:43:15 10 MR JORDASH: Yes, I will.

11 Q. So, were you asked questions by the prosecutor during those
12 meetings?

13 A. Yes, sir.

14 Q. Were you asked questions about subjects you had been asked
10:43:38 15 about before?

16 A. Yes.

17 Q. Were you asked questions about anything else?

18 A. Yes.

19 Q. Were you asked questions on new subjects?

10:44:26 20 A. Yes. The idea that I had, that I should explain to them.
21 They needed it, so I explained to them.

22 Q. So through their questions you gave them more than you had
23 given them before in terms of evidence against the accused?

24 A. Yes.

10:45:16 25 Q. And you saw the Prosecution again in June of this year; am
26 I right?

27 A. Yes.

28 Q. Was the procedure followed in June the same as the
29 procedure followed in April and May?

1 A. Yes.

2 Q. Were you asked about new subjects not previously discussed
3 before in June?

4 A. Yes.

10:46:07 5 Q. And also were you taken through previous statements you had
6 made?

7 A. Yes.

8 Q. Were the Prosecution particularly interested in mining in
9 June?

10:46:28 10 A. Yes.

11 Q. More than other subjects, would you say?

12 A. Yes, mining was one of them. So the other ones that they
13 asked me about were also other topics. They had concern about
14 all of them.

10:47:14 15 Q. Was mining the biggest concern they had, from what you
16 could see?

17 A. Yes.

18 Q. Thank you. Did you then give evidence in the AFRC trial in
19 July of this year?

10:47:36 20 A. Yes.

21 Q. I think that was on 19th July, 20th July, 21st and 22nd
22 July; is that right?

23 A. Yes, sir.

24 Q. And after that did you again see the Prosecution in October
10:48:15 25 of this year?

26 A. Yes.

27 Q. Is this right: On 13th, 14th, 15th, 21st, 24th and 25th
28 October?

29 JUDGE ITOE: Mr Jordash, can you go through the variation

1 again.

2 MR JORDASH: 13th, 14th, 15th, 21st, 24th and 25th of
3 October.

4 Q. Is that --

10:48:50 5 A. Yes, this year.

6 Q. How long did you spend with them on each day?

7 A. Sometimes we took five hours. Sometimes five hours,
8 sometimes two hours.

9 Q. Going through previous statements, is that something that
10:49:19 10 happened during those days?

11 A. Yeah.

12 Q. And were new subjects discussed in those days?

13 A. What do you mean? Repeat.

14 Q. Were subjects which had not previously been discussed
10:49:53 15 between you and the Prosecution discussed in October this year?

16 A. Yes, some of them.

17 Q. So did the Prosecution ask you about new subjects?

18 A. Yes.

19 Q. And so you answered and gave them new evidence?

10:50:34 20 A. They asked me what I knew about the accused, which was a
21 new idea, so I explained and added it.

22 Q. So in October, more than any time before, the Prosecution's
23 interest was in what you could say about the accused in the RUF
24 trial?

10:51:01 25 A. Yes.

26 Q. So previously their interest had been much more what you
27 could say about the accused in the AFRC trial?

28 A. Repeat it.

29 Q. Before October was it the case that the Prosecution were

1 questioning you more as regards the AFRC accused?

2 A. Well, this is an RUF trial. It concerns the RUF trial.

3 JUDGE THOMPSON: Could the witness restrain himself. Could
4 we have the Victims and Witness Protection Unit -- could you
10:52:21 5 escort the witness out for a brief while?

6 [The witness stood down]

7 PRESIDING JUDGE: Sorry, Mr Jordash. As you may have
8 observed, we had some consultation on the Bench and consideration
9 had to do with concern that we have with this line of questioning
10:54:57 10 which, on the face of it, appears to be different than what we
11 had in the past because we take it again that the purpose of your
12 questioning is to establish whether statements were made and, if
13 they were made, under which circumstances as such because you
14 intend to essentially question the witness about alleged
10:55:19 15 inconsistency between what may have been done in the past and
16 what he may have given in court. At least that has been my
17 understanding of the questions you are putting to this witness at
18 this particular moment. But your last line of questions seemed
19 to be moving away from that and focusing on a different aspect.
10:55:38 20 So that is really the concern I have and that's why we were
21 consulting on this.

22 I would like to hear from you what it is you are intending
23 to do now. It may be the case, but it is not clear to me. If
24 that is a different approach you are taking for a different
10:55:53 25 purpose I would like to see and hear from you in that respect.

26 MR JORDASH: Firstly I would submit that my approach has
27 not changed. I think I have always been cross-examining on this
28 subject, firstly, to establish the fact that the witness has made
29 these statements but, secondly, and equally, my concern has been

1 to try to lay bare the investigative approach of the Prosecution
2 insofar as they, I submit, are continuing to investigate and
3 produce new evidence through the course of this trial.

4 In due course I will submit, whether here or elsewhere,
10:56:57 5 that that was an approach which was in breach of the accused's
6 rights to know the case against him at the beginning of the
7 trial. What this witness has done is to confirm exactly that
8 approach, which was to be asked new questions about new subjects.
9 I do submit that it's important both in terms of understanding
10:57:27 10 how this evidence came into being and its reliability now. How
11 late in the day it came relates directly to its reliability, I
12 would submit. But also to establish, as I have said, the
13 fairness of this procedure at the end of the Prosecution case.

14 So it is a mix approach. One, to establish the minimum
10:58:00 15 requirements. Two, to establish the unreliability of evidence
16 which is produced so late. Three, to establish that the
17 Prosecution's approach is an unfair one.

18 PRESIDING JUDGE: But our ruling this morning and the
19 objection yesterday were -- we have assumed and our decision was
10:58:20 20 based and premised on the fact that you were trying to establish
21 the background as to how these statements were made to deal with
22 what you are alleging are inconsistencies between his evidence in
23 court and what he may have given in previous statements. It was
24 all along these lines that we moved. Now you seem to be having a
10:58:45 25 dual focus, which is that but at the same time trying to
26 establish something more. Our decision has dealt with prior
27 inconsistent statements, and we have allowed these lines of
28 questions essentially dealing with prior inconsistent statements.
29 You are doing this, but you are doing more. That is why, in

1 fact, the concern that I have raised is that you seem to be
2 moving away from that to try to establish something more. This
3 is essentially what you are saying, that you want to show a
4 practice by the Prosecution that you allege is unfair by doing
10:59:19 5 what you are -- which is moving away from prior inconsistent
6 statement per se.

7 MR JORDASH: That objective is, in effect, subsumed in the
8 objective of showing unreliability. Because what I am not doing
9 is simply trying to establish inconsistency; I am trying to
10:59:45 10 establish unreliability. Part of that unreliability, I submit,
11 is the lateness of the evidence. The lateness of the evidence
12 can only properly be explored if we understand why it was late.
13 Whilst number three objective, to show the unfairness in due
14 course, is an important one, the process of establishing
11:00:14 15 unreliability is the focus which allows me, in effect, to do
16 both: To show unreliability, but also to show the unfairness of
17 the process.

18 JUDGE THOMPSON: Interesting. But does it also allow you
19 to show illegality? Because I would like to be enlightened on
11:00:31 20 that to see whether the line of cross-examination in meant to
21 elicit evidence that may well lead this Court to conclude that
22 the Prosecution has acted illegally.

23 MR JORDASH: Yes. In due course, we have under
24 consideration an abuse of process argument that whilst Your
11:01:03 25 Honours have allowed the taking of supplemental statements, on
26 the other hand Your Honours have also frowned upon the systematic
27 nature of it. I refer Your Honours to the ruling of 361 and our
28 application to exclude the additional evidence, in which Your
29 Honours noted that the supplemental statement process was

1 becoming systematic. In due course, at the end of the
2 Prosecution case, I would certainly consider holding up to Your
3 Honours what the process has become due to this cumulative
4 possess of supplemental statements and, if there is merit in the
11:01:44 5 argument, submitting that it has been an abuse of process because
6 the defendant has been denied the minimum rights to know the case
7 against him prior to the case beginning.

8 JUDGE THOMPSON: So it is not just simply that you might be
9 inviting this Court at the end of the day, if you elicit the
11:02:10 10 evidence and you are allowed to do that, to say on an aggregation
11 of the evidence there has been a violation of the doctrine of
12 fundamental fairness.

13 MR JORDASH: Yes.

14 JUDGE THOMPSON: Would you put it as high as and also a
11:02:25 15 violation of the principle of legality?

16 MR JORDASH: If the Prosecution were to stop serving and
17 relying upon these supplemental statements then there might not
18 be an application. But, as I anticipate this will continue
19 through the Prosecution case, there will be a body of evidence
11:02:42 20 which is so substantial which was not known to this Defence at
21 the beginning of this trial that I will expect to be submitting
22 that the minimum guarantees have been breached.

23 JUDGE THOMPSON: In other words, do our rules preclude
24 continuing investigation in the sense which you are canvassing it
11:03:06 25 that may to amount to abuse of process?

26 MR JORDASH: I don't think they preclude continuous
27 investigation, but they do preclude, implicitly and explicitly,
28 continuous reliance upon new evidence discovered during your
29 investigations.

1 JUDGE THOMPSON: I want to be clear in my mind whether you
2 will be calling on the Court at the end of the day to say, "Don't
3 attach much weight or any weight at all to anything that comes
4 after a particular point in time", or calling upon the Court to
11:03:40 5 declare that anything that comes after a particular point in time
6 was legal, an abuse of process. For me the distinction is quite
7 important.

8 MR JORDASH: The timing will not be the absolute focus.
9 The absolute focus will be a mixture of the timing and the weight
11:04:04 10 of evidence served after the time set by Your Honours as the time
11 when the Prosecution case ought to have been known to the
12 Defence, which I think was, off the top of my head, 26
13 April 2004. There will come a time when Your Honours may look at
14 what we present on the one hand as evidence which we knew about
11:04:35 15 prior to that day, evidence which we have since learned about
16 through this process of proofing, and Your Honours may conclude
17 that, notwithstanding Your Honours' ruling on the permissibility
18 of supplemental statements, that the process has become such now
19 that it is unfair because of the late service and the weight of
11:05:00 20 that service.

21 JUDGE THOMPSON: It could not be dealt with under the
22 question of prejudicial evidence outweighing the probative value?
23 Would it come under that rubric if, as I see the way you are
24 proceeding, would that be part of your strategy?

11:05:19 25 MR JORDASH: Probably not, because the evidence is
26 probative.

27 JUDGE THOMPSON: Well, I mean, to declare evidence illegal
28 is one thing. Of course, we are not sure whether we in these
29 tribunals have said that evidence that is illegal is per se

1 inadmissible or unreliable in contrast to the American system,
2 where once you establish that evidence was illegal it is
3 immediately suppressible.

4 MR JORDASH: Well, I suppose we might be into that
11:05:48 5 argument, because we might be saying, "Well, this is a body of
6 evidence which is probative of much but the way in which it
7 was --

8 JUDGE THOMPSON: Obtained.

9 MR JORDASH: -- obtained, and the lateness of its
11:06:03 10 disclosure and the lateness of its reliance --

11 JUDGE THOMPSON: Amounts to violation of the principle of
12 legality.

13 MR JORDASH: Is so prejudicial to that principle.

14 JUDGE THOMPSON: Okay, thanks.

11:06:11 15 PRESIDING JUDGE: I am still concerned because the reason
16 why I intervened was I am concerned about this line of
17 questioning. If this is what you are pursuing, I think we should
18 know, and you should really spell it out. We have allowed
19 questions to be asked in cross-examination to establish how, and
11:06:27 20 what, and to what extent statements were made to show prior
21 inconsistencies. Now you are moving -- you say it is a two-fold,
22 in fact, it is a three-fold approach that you are pursuing. It
23 is goes beyond prior inconsistent statement type of approach. As
24 I said, yesterday when I asked you the question you were
11:06:47 25 saying -- you said in court that's what you were pursuing to try
26 to establish prior inconsistent statement between what the
27 witness said and what he may have said elsewhere. Now you are
28 trying to build something more out of that. It is the something
29 more I have a problem with as to whether or not this is properly

1 being done in this way. We overruled the objection on that
2 premise, that this is what you were doing. Now you are saying
3 you are doing more, and maybe try to prove illegality. That was
4 not the arguments that were put forward yesterday.

11:07:23 5 MR JORDASH: Firstly these are questions -- I don't think
6 have gone beyond questions I have asked before: What were the
7 Prosecution directing you to? Were they directing you to
8 previous statements or were they asking you new questions? I
9 have not gone beyond that. In fact, in order to do what Your
11:07:41 10 Honours' ruling today was about, I have to be able to ask, "Were
11 your taken through the previous statement?"

12 PRESIDING JUDGE: This is not the problem.

13 MR JORDASH: If the witness says "No", then the corollary
14 question is, "What then did you do? Were you then asked
11:08:00 15 different questions?" Two are the flip side of the same coin.
16 So, I haven't gone beyond that and I haven't in the past gone
17 beyond that. I wasn't going to go any further with this series
18 of questions. That was sufficient for my purposes; the witness
19 said he was asked new questions; that was what helped me to
11:08:13 20 establish what the process was. Secondly --

21 PRESIDING JUDGE: I mean, if he is asked new questions, how
22 does that serve to determine that these were prior inconsistent
23 statements? That's really why I was concerned about that. How
24 does that relate to prior inconsistent statements? That's my
11:08:28 25 question.

26 MR JORDASH: Because if the witness wasn't taken through
27 his previous statements then he might be able to say during
28 cross-examination, "Well, I haven't had an opportunity to check."

29 PRESIDING JUDGE: Not the taking through. You went a step

1 further. If I am not mistaken, they were now asking you a more
2 pointed question about the accused, about RUF trial and so on and
3 so on. It is more than just asking the witness if had been taken
4 through previous statements. I don't have any problem with that.
11:09:04 5 It is the added question about not knowing how, but what you are
6 asking at this particular moment, and you are asking now a
7 question about my client, you have asked a question about
8 incidents having to do with this accused and so on. So these are
9 the questions you were asking, which is somewhat different than
11:09:19 10 just taking the witness through prior statements.

11 MR JORDASH: Firstly, I did make my objective clear
12 yesterday, I thought, when I dealt with this issue. I did say
13 the way in which these supplemental statements have come into
14 being is a legitimate inquiry for the Court. That is what I am
11:09:42 15 doing: Questioning this witness as to find out how these
16 supplemental statements came into being.

17 JUDGE THOMPSON: You also questioned the alleged
18 proliferation of supplemental statements, not just the question
19 of the manner, but the very fact that probably allegedly that
11:10:00 20 these supplemental statements are escalating. Remember, you even
21 made a comparison between other tribunals and you and I had an
22 exchange on that. So that is why I thought that perhaps one is
23 leaving the realm of just a question of inconsistencies, or prior
24 inconsistent statements, and probably entering the realm of
11:10:26 25 illegality, that the whole process seems to be a process which
26 you think -- if it is violating fundamental fairness then you are
27 actually questioning the integrity of the entire manner in which
28 the evidence that has been collected was in fact collected.

29 MR JORDASH: Well, "integrity" is a big word.

1 JUDGE THOMPSON: Well, "integrity" in the sense that the
2 proceedings must conform to the basic values of the judicial
3 process. The chief of which would be principle of legality and
4 also the doctrine of fundamental fairness.

11:11:05 5 MR JORDASH: Yes. Well, I do say, and I can put my
6 preoccupation simply, that it must be right that we have learnt
7 from my questions that the Prosecution appear to have been asking
8 the witness new questions about the accused as late as October of
9 this year. So, in my respectful submission, how could that not
11:11:32 10 be relevant to the issue of fairness to these accused? The
11 Prosecution appears, if the witness is to be believed, to be
12 re-investigating and serving new evidence, which has been
13 obtained as a design and the --

14 PRESIDING JUDGE: If this is what you are trying to
11:11:54 15 establish and to prove, you should make an application in this
16 respect. The problem I have now is that we are mixing issues, as
17 such. If this is something that you say is happening and it is
18 unfair, file a motion, make an argument about it, and we will
19 dispose of it. But to try to mix that up all together is leading
11:12:14 20 to confusion, and I don't think this is the proper way of doing
21 it. You may have established some foundation. If that this
22 case, fine, make a motion, do whatever, make an application for
23 it and we will deal with that. You have made application in the
24 past about these statements being late and so on. We have made
11:12:26 25 rulings about that. If you feel that this is the way it is, and
26 now has gone even a step further, and your client's rights are
27 being infringed, make an application and we will deal with it.
28 Now we seem to be left in limbo while it is in part this, in part
29 that. We would like to know. That is why again I have said,

1 "What is it you are trying to pursue at this time?" You say,
2 "Well, I am trying to show this, but more." It is the "but more"
3 that I have problems with.

4 MR JORDASH: Every application we have made in which we
11:13:00 5 submit there has been a breach of Rule 66 or Rule 68, the
6 judgments have, in effect, always said that there is no prima
7 facie evidence of a breach. Now, how then are the Defence to
8 obtain a prima facie evidence of a breach? We now have one, I
9 would submit, in relation to this witness. Because I was
11:13:21 10 allowed, at least for a while, to ask the kind of questions which
11 would expose and shine a light into this procedure. Now, if I am
12 not allowed to, then every application will be met again with the
13 same response: There is no prima facie evidence. Well, I cannot
14 walk into the Prosecution camp and look at what they are doing.

11:13:43 15 What I can do, if I am being allowed to at least examine a
16 witness about the process, is to bring it out during
17 cross-examination. That is all the Defence can do, because there
18 is no other way in which we can obtain a prima facie evidence of
19 it, except if we overhear a conversation in which the Prosecution
11:13:58 20 are admitting to the process. It is not going to happen.

21 The only way we are going to find out is through
22 cross-examination of this kind. I am not asking to be allowed to
23 cross-examine on all the internal memorandum, internal meetings,
24 confidential strategies of the Prosecution. I am simply asking
11:14:16 25 the witness what it was he was asked to do. Was he asked about
26 his previous statement? Was he asked new questions? That is it.
27 In my submission, given the weight of the supplemental statements
28 and given the fact that Your Honours have frowned upon it in a
29 judgment, these are legitimate inquiries. I have not gone

1 further than is necessary to find out what they were doing. If
2 Your Honours don't find the answer of use that this witness has
3 been asked new questions, then I respectfully submit that that
4 approach is a wrong one. The right approach, I would submit, is
11:14:58 5 to know why it is these supplemental statements are coming into
6 being. Are they because the witness just remembers things or are
7 they because the Prosecution are refocusing, re-investigating to
8 find new evidence?

9 JUDGE THOMPSON: But this Chamber has made a distinction
11:15:14 10 between new allegations which, as it were, enhance the
11 incriminating quality of the evidence against the accused persons
12 and supplemental statements. We made that distinction between
13 the two; that you can have a statement which is supplemental but
14 does not in fact contain new allegations that enhance the
11:15:35 15 incriminating quality of the evidence against the accused
16 persons.

17 So the difficulty, of course, for me is whether if you have
18 two or three supplemental statements and they do not necessarily
19 contain new allegations enhancing the incriminating quality of
11:15:57 20 the evidence against the accused person, whether those
21 supplemental statements should not be admissible as evidence. I
22 think our decision has said that we don't necessarily rule
23 inadmissible evidence based on a supplemental statement as long
24 as it wasn't an entirely new allegation.

11:16:25 25 MR JORDASH: And Your Honours' ruling, with all due
26 respect, is a broad one. It is very difficult and we have tried
27 to understand what could possibly be new, because Your Honours
28 have ruled that a whole new allegation of the killing of a young
29 boy by Sesay personally, never before mentioned in any document

1 we have seen, never before mentioned by any witness, is not new.
2 So this is the only approach that we have got left to try to
3 counter the unfairness which we see arising from the supplemental
4 statements which do contain a wealth of evidence not before
11:17:03 5 mentioned.

6 JUGE THOMPSON: In other words, you are saying that the
7 supplemental statement machinery more or less can be abused to,
8 in a way, a veiled sense, bring in new allegations but being
9 characterised as supplemental. Because supplemental really means
11:17:24 10 that there was a controlling statement already made.

11 MR JORDASH: Yes.

12 JUGE THOMPSON: And what was being brought in here was
13 supplemental to it.

14 MR JORDASH: I can give an example from this witness. Late
11:17:39 15 in the day, October, the last meetings that this witness met the
16 Prosecution, suddenly we have an allegation that Boys, a
17 bodyguard for Sesay, was working in Tongo, in effect forcing
18 civilians to mine. Never before mentioned over the last two
19 years by this witness. On Your Honours' ruling that is not new.

11:18:01 20 But if we have, and we do have, from tens of witnesses those
21 types of supplemental statements containing that evidence which
22 Your Honours don't consider new, we still have at the end of the
23 day perhaps several hundred pieces of evidence not new on
24 Your Honours' ruling but which we have to deal with, which
11:18:25 25 massively increases the strength of the Prosecution case.

26 Yes, there was allegations of forced mining against Sesay.
27 Never before in Tongo has he been linked so directly by his own
28 bodyguard working there. This evidence, I accept from Your
29 Honours' ruling, is not new but it is evidence which nevertheless

1 has to be dealt with and which the Prosecution know perfectly
2 well strengthens their hand hugely, especially when we are
3 dealing, as we already are, with several hundred of them and by
4 the end of the Prosecution case I have no doubt we will be
11:19:00 5 approaching three, four, maybe even 500 pieces of evidence not
6 before mentioned. Not new, but still strengthening the
7 Prosecution's hand and that is my huge concern in this case
8 because it is wholly different to what it was a year ago. Wholly
9 different. I know that because I know the work which has to go
11:19:23 10 into dealing with these pieces of evidence, not new but never
11 before mentioned which are frankly -- I cannot imagine how I
12 cannot keep supplementing our team to deal with them. It is
13 impossible and, whilst they are not new, they are extremely,
14 extremely difficult to deal with. Just finally, that's the way
11:20:06 15 in which -- that's why I am asking these questions.

16 PRESIDING JUDGE: Well, this is why I asked you the
17 question; to understand where you are going.

18 JUDGE ITOE: My question goes to the Prosecution. If you
19 may clarify us because my worry is with the fact that this
11:20:33 20 witness has stated that he gave evidence in the AFRC trial on the
21 19th, 20th, 21st and 22nd July 2005 and after he had given the
22 evidence, given his testimony, he again saw the Prosecution on
23 13th, that is beyond July -- on 13th, 14th, 15th, 21st and 25th
24 October 2005 and that he at times spent five hours, three hours.
11:21:20 25 Why did it become necessary for that to happen? You mean that
26 the case for the RUF was not ready and you -- why was it
27 necessary for this to happen after he had given his testimony in
28 the other trial?

29 MR HARRISON: The testimony in the other trial was tailored

1 to the other trial and the transcript, if it was reviewed -- you
2 would see that the evidence was significantly designed for the
3 those accused.

4 JUDGE ITOE: The AFRC, yes, I see.

11:21:59 5 MR HARRISON: And all the preparation up to that time was
6 dealing with, largely, the evidence that was attempted to be led
7 before the Trial Chamber II. So, as a result of that, subsequent
8 interviews were done with the specific focus of evidence to be
9 led before Trial Chamber I and these accused.

11:22:24 10 JUDGE ITOE: Are you suggesting that you had not finished
11 the investigations into the RUF trial as far as this witness was
12 concerned?

13 MR HARRISON: No.

14 JUDGE THOMPSON: Even before he gave evidence in the AFRC?

11:22:37 15 MR HARRISON: No.

16 JUDGE ITOE: You hadn't finished?

17 MR HARRISON: No, I'm not suggesting that.

18 JUDGE ITOE: Yes, you are not suggesting that you hadn't
19 finished?

11:22:45 20 MR HARRISON: Sorry, there is a double negative. I agree
21 the investigation had finished.

22 JUDGE ITOE: It had finished.

23 MR HARRISON: The purpose of lawyers meeting with
24 witnesses --

11:23:01 25 JUDGE ITOE: Is to proof.

26 MR HARRISON: -- is to find out what the witness is going
27 to say in court and to make sure that the Defence knows in
28 advance if there is any information not previously disclosed.

29 JUDGE ITOE: Including new information.

1 MR HARRISON: And disclose it.

2 JUDGE ITOE: Including the new information.

3 MR HARRISON: If there is any, yes.

4 JUDGE ITOE: If there is any.

11:23:26 5 MR HARRISON: That is the obligation that --

6 JUDGE ITOE: And as far as you are concerned, it does not

7 matter at what time you obtain the new information. What

8 concerns you is that it is disclosed to the Defence once you

9 obtain it.

11:23:37 10 MR HARRISON: No. It is always the Prosecution's concern

11 to try to disclose and obtain that information at the earliest

12 possible date. And to disclose it at the earliest possible date.

13 JUDGE ITOE: Thank you.

14 PRESIDING JUDGE: Well, before we proceed further -- yes.

11:23:59 15 MR TAKU: Yes, Your Honours. Upon listening to the answers

16 given by the Prosecutor to the very pertinent questions posed by

17 His Honour Justice Itoe, I think there is a problem of fair

18 notice here.

19 PRESIDING JUDGE: There is what?

11:24:16 20 MR TAKU: A problem of fair notice to the accused to be

21 able to -- to enable them to prepare to meet his accuser in this

22 particular case. And I say so because this supplemental, after

23 the AFRC trials were conducted, after he had testified before a

24 Trial Chamber --

11:24:39 25 PRESIDING JUDGE: If you are making motion now, file a

26 motion. We are not prepared to hear -- we have disposed of

27 motions that have been filed, in fact, by the first accused on

28 many of these issues of supplemental. So if you are trying to

29 relitigate that, you put it in writing and we will dispose of it.

1 MR TAKU: Yes, Your Honour. But I think also have an
2 obligation at the earliest opportunity to draw your attention to
3 this. If I don't do so, I will forfeit my right to raise it
4 subsequently. It will be late. Now that this issue is being
11:25:14 5 raised at this point in time, I think it is in the interests of
6 my client to place my observation on record. To say that there
7 is lack of fair notice, it will have recourse to the answers that
8 the prosecutor has given. That the answers merely confirm that
9 there be lack of fair notice. That is what I would like to put
11:25:33 10 on record.

11 PRESIDING JUDGE: What do you mean by lack of fair notice?

12 MR TAKU: Fair notice, Your Honour, in the sense that the
13 indictment was issued a long time ago. I don't have the records
14 here.

11:25:41 15 PRESIDING JUDGE: Yes.

16 MR TAKU: The first statements were recorded in 2003. This
17 witness has had opportunity of testifying before a Trial Chamber
18 of this Court. The Prosecutor listened to the evidence, listened
19 to the answers in cross-examination, and thereafter he went to
11:26:02 20 the witness again over a long period to ask questions and obtain
21 answers, Your Honours. This was in October. It was filed in
22 July and this is in October. So I say that the lateness in these
23 disclosures amounts to lack of fair notice on my client so as to
24 enable us to meet our accuser.

11:26:30 25 I just want to put that on record, Your Honour. I know
26 that Your Honours --

27 PRESIDING JUDGE: What is it you are asking? You say lack
28 of fair notice. What does that mean? What are you asking?

29 MR TAKU: Your Honour, we are asking that -- ordinarily we

1 would not want to delay the proceedings, but we would have asked
2 if we had the appropriate -- we had these answers before, we
3 would have asked for this supplemental to be excluded,
4 Your Honour. I take from what Judge Thompson says correctly that
11:26:58 5 you ruled that supplementals can be accepted under set of
6 circumstances. But in this particular case it amounts to an
7 abuse of process.

8 PRESIDING JUDGE: Well, file a motion. If this is what you
9 are making, if you are making a motion for abuse of process, file
11:27:11 10 a motion and we will dispose of it. If this is what you mean, do
11 it. Are you making an objection on the motion that this is an
12 abuse of process? And if so, well, as you know we have said that
13 if you have motions of that nature you should put them in
14 writing. But if this is so exceptional this morning, we had
11:27:33 15 better hear you.

16 MR TAKU: Your Honour, we are saying that it is from the
17 answers that the learnt prosecutor has given to the questions
18 posed by the learned judge. It is from there that I now know,
19 for the first time, Your Honour, that the lack of fair notice, I
11:27:51 20 have a substantial jurisprudence on that by other tribunals. If
21 I am given an opportunity I will bring a motion.

22 JUDGE ITOE: But learned counsel, this precisely what the
23 Presiding Judge is saying. He says if you feel dissatisfied by
24 what is being adduced or by what the Prosecution is bringing
11:28:15 25 across, if you have a motion, you file it. We have entertained
26 motions here. You have been told, and we have given rulings
27 here. So why do we have to belabour the point? If you have a
28 motion, I don't think this is the sort of a motion I would
29 personally like to take orally. No, I would want it, you know,

1 to be done in writing, so that we address the issues which you
2 may raise and which the Prosecution would also be called upon to
3 reply. I mean, don't you think we should let the matter rest
4 there and see how we move from there.

11:28:46 5 MR TAKU: Thank you, Your Honours, we are advised to serve
6 a prepared motion. I just felt that it's my duty at the earliest
7 opportunity to put this on record, to receive directions from
8 Your Honours.

9 PRESIDING JUDGE: But to put what on record? This is my
11:29:04 10 concern. You say to put on record that we are notifying the
11 Court that this is unfair. This is my understanding of what you
12 are saying. If you are saying that these supplementals so-called
13 were disclosed too late and it may cause unfair prejudice to your
14 client, well, file a motion for the exclusion of this and we will
11:29:25 15 deal with it. You cannot have it both ways. We just want this
16 to be noted for the record; what does that mean?

17 MR TAKU: Your Honours, because elsewhere we have been told
18 that you ought to have informed the Court at the earliest
19 opportunity.

11:29:40 20 PRESIDING JUDGE: When were you served -- [Overlapping
21 speakers].

22 MR TAKU: [Overlapping speakers] opportunity before bring a
23 motion --

24 PRESIDING JUDGE: Mr Counsel, when were you served with the
11:29:46 25 supplemental?

26 MR TAKU: Well, I can't have the answer now. My complaint
27 is because of the answer that the Prosecutor has given to the
28 question posed by the Court, and that's why I rose to express my
29 views on this and to receive directions, Your Honour. But when I

1 file a motion I will answer this question.

2 PRESIDING JUDGE: Yes, but the observations and the
3 comments you make, Mr Taku, are leaving me with some
4 difficulties. Because you are saying, on the one hand, that this
11:30:14 5 is unfair and therefore these supplementals should not be used.
6 Well, we are now at a stage of cross-examination of this witness
7 who has already led evidence; whether it's based on these
8 supplementals, I don't know. Aren't you a bit late?

9 [RUF22NOV05B - CR]

11:30:32 10 MR TAKU: Exactly, Your Honour, that is the issue. We will
11 do the cross-examination, Your Honours. We wanted to put on
12 record that we're doing that under protest and, now, Your Honours
13 have directed --

14 PRESIDING JUDGE: Is that under protest? Tell me what you
11:30:44 15 mean by this. This is new language to me this morning.

16 MR TAKU: Your Honour, we're doing that with reservations,
17 if you may. There has been a lack of fair notice in this
18 particular case based on the answers given by the Prosecutor.

19 PRESIDING JUDGE: Then what I say to you, make an
11:31:07 20 objection, and we'll dispose of it. We don't want notice. We
21 want you to make an objection or not. If you are objecting to
22 this evidence, fine, tell us why and we'll ask the Prosecution to
23 respond and we'll deal with it.

24 MR TAKU: Your Honour, we cannot file a motion right away.

11:31:23 25 PRESIDING JUDGE: Well, make an oral one. We would prefer
26 a written one. But if you say this is important, we'll listen to
27 you.

28 MR TAKU: Your Honour, we got the answers only now, and
29 from these answers in which he says that this rather may contain

1 new allegations, it is for us to file a motion. If we're filing
2 a motion, Your Honour, we need to inform Your Honour that, based
3 on those observations, we have been unfairly prejudiced and we
4 will bring a motion to that effect. We cannot just do that at
11:31:51 5 this point in time in order to delay the proceedings. My case is
6 not to delay the proceedings. We'll cross-examine the witness,
7 Your Honour, but we just wanted to place on record, based on the
8 answers given by the Prosecutor, we feel that there has been
9 unfair notice on my client.

11:32:07 10 PRESIDING JUDGE: What are you asking us as a result of
11 that?

12 MR TAKU: Well, Your Honour, we'll file a motion.

13 PRESIDING JUDGE: To do what?

14 MR TAKU: To exclude, Your Honour. It doesn't matter.
11:32:16 15 Your Honour can receive the evidence and subsequently exclude it.
16 Your Honours will find that the prejudicial effect outweighs --
17 the prejudicial effect of the evidence is so overwhelming that it
18 would do us an injustice if the evidence was to be considered.

19 PRESIDING JUDGE: We'll adjourn. We need to do some
11:32:40 20 consultation and we'll come back. Thank you.

21 [Break taken at 11.33 a.m.]

22 [RUF22NOV05B-CR]

23 [Upon resuming at 12.03 a.m.]

24 PRESIDING JUDGE: So we are resuming. Before I go back to
12:04:14 25 you, Mr Jordash, I would like to speak to you and address your
26 issue, Mr Taku. I again would like to ask you if you are or not
27 making an objection. If you are making an objection and you need
28 time, we will give you the time to make your objection. But it
29 is important that we know what your position is, other than to

1 say you want the record to note. As I say, if it is time you
2 need, we'll give you the time to do it, but we want to know if
3 you are or not making an objection.

4 MR TAKU: Yes, Your Honour, we are making an objection. We
12:04:47 5 do not intend to delay the proceedings.

6 PRESIDING JUDGE: Fine.

7 MR TAKU: If that's the problem we will file ourselves.
8 The cross-examination can go on.

9 PRESIDING JUDGE: We are prepared to carry on with the
12:04:57 10 cross-examination of Mr Jordash, but before we come to you, we
11 would appreciate to hear your objection in greater detail and we
12 will not impose upon you to put it in writing at this time, but
13 maybe this afternoon or tomorrow morning we'll hear what you have
14 to say if you are objecting.

12:05:13 15 MR TAKU: Thank you, Your Honour. We'll advise ourselves
16 and I will address Your Honours tomorrow.

17 PRESIDING JUDGE: Very well. Mr Jordash, we're coming back
18 to you now, having heard extensive -- I'm not sure if it is
19 arguments or discussions. We take it, based on what you said,
12:05:36 20 that this was the last question in that particular domain. It is
21 obvious from what you have said and what we have heard, that this
22 is not the last time we are visiting this kind of issue. We will
23 wait for the next time to see if we want to push it further and
24 maybe at that time we will ask you as well to put a motion in
12:05:54 25 process, if need be. For this witness, at this time, we are
26 content to go on with where you are, accepting that that was the
27 last question you were to ask on that matter.

28 MR JORDASH: It was.

29 PRESIDING JUDGE: Am I right?

1 MR JORDASH: Yes.

2 PRESIDING JUDGE: Very well. So on that basis, we can
3 proceed and call this witness back.

4 [The witness entered Court]

12:08:47 5 PRESIDING JUDGE: Yes, Mr Jordash, you may proceed.

6 MR JORDASH: Thank you, Your Honour.

7 Q. Am I right, Mr Witness, that when you returned to Togo
8 in December XXX, XXXXX was no longer there?

9 A. No, he was no longer there.

12:09:25 10 PRESIDING JUDGE: You said XXXXX?

11 MR JORDASH: 1997, Your Honour.

12 Q. Thank you. What date did Issa Sesay promote you and --
13 well, let's stick with that: what date did he promote you?

14 JUDGE ITOE: To what rank?

12:10:07 15 MR JORDASH: I'm just finding my notes.

16 Q. When do you say Issa Sesay promoted you to
17 XXXXXXXX?

18 A. Well, it was the time -- it was in XXXXXXXX.

19 Q. Can you be more specific in terms of month?

12:10:38 20 A. Well, I've forgotten it now. It was the time after the
21 arrests of Pa Foday Sankoh in Freetown. By then I was inXXXXXX.
22 It was at that time that one of the battalions that was -- which
23 was the XXXXXXXX, which was under the XXXX, commanded
24 byXXXXXX, who was XXXXXX.

12:11:25 25 Q. Mr Witness, can I just stop you. How long after the arrest
26 of Foday Sankoh in Freetown was it?

27 A. Well, I can say two weeks after that.

28 Q. Was it not the case that Foday Sankoh was arrested in
29 Freetown in May of 2000?

1 A. Well, that was it, but really I have forgotten, but it was
2 around the time that Pa Foday Sankoh was arrested. It was the
3 time that XXXXXXXXXXXX in XXXXXXXX.
4 So I was promoted to XXXXXXXX as the XXXXXXXX
12:12:27 5 XXXXXXXX.
6 Q. Thank you. Were you going to say something? I didn't mean
7 to interrupt you.
8 PRESIDING JUDGE: Just a minute, please, Mr Witness. These
9 details may be a bit sensitive about the identity of the witness.
12:12:47 10 I just want to caution. I know it was not raised. But I know
11 you are aware of that, Mr Jordash. When we put times and ranks
12 and position together, so it may, just in case.
13 MR JORDASH: I agree. Yes, certainly.
14 Q. Mr Witness --
12:13:02 15 A. Yes, sir.
16 Q. Remember we are in open session, so don't say anything
17 which could identify you.
18 A. Okay, sir.
19 Q. I just want to ask you, if I can, about your first meeting
12:13:27 20 with the Prosecution and something which was noted in your first
21 statement.
22 MR JORDASH: Your Honours, page 12972. It is the statement
23 of 31 January 2003.
24 Q. The first four lines of that statement -- the third line,
12:14:30 25 sorry, says this:
26 "I was there when the RUF rebels attacked the area sometime
27 in 1994."
28 Was it the case that when you were first interviewed by the
29 Prosecution you claim to have been captured in XXXXXXXX?

1 A. Yes, I said it.

2 Q. Is it right, also, that you were interviewed in February of
3 2003 and you, again, said that you'd been captured in 1994?

4 A. Yes, that was the first meeting.

12:15:29 5 Q. But on the second meeting, do you remember saying the same
6 thing?

7 A. Yes, that is what I am saying, that it was the year 2003.
8 It was during that time.

9 Q. Sorry, could you repeat the answer, what you just said,
12:15:51 10 please?

11 A. I said yes, they met in 2003. The first and the second
12 meeting, it was the same thing that I said.

13 Q. Let me try to simplify my question. Am I right that for
14 the first two times you met the Prosecution you were telling them
12:16:20 15 that you were captured in 1994, not, as you now say, 1991?

16 A. Yes, I said it. I have told you that I said it, but I have
17 a reason for that.

18 Q. What was the reason for saying that?

19 A. Well, at that time, I just saw people who appeared before
12:16:49 20 me. There was a policeman among them, and they said they were
21 going to obtain statements. And they said that the Special Court
22 that has come to Sierra Leone, which we heard of, has come for
23 the XXXXXX and the XXXXX. So I was afraid. So exactly I
24 told them at that moment who I was and how I had been. So I had
12:17:21 25 no idea. I was really worried about my security at that time.

26 Q. Let me read on in your first statement. I'm going to miss
27 out the names, because they would identify you. The fourth line
28 down, 12972, it says: "I was captured together with XXXX
29 XXXXXX Did you tell the Prosecution at that stage you were

1 captured with XXXXXXX and several other people,
2 including women, men and children?

3 A. Yes.

4 Q. You told the Court that in fact you were also -- were they
12:18:45 5 the only XXXXX you were captured with from your family?

6 A. Yes. When I was captured, where we were in our village, I
7 was captured together with my XXXXXXX and other people from
8 my family. From my family, I and my XXXX were captured.
9 We were the ones that left there with them that day.

12:19:26 10 Q. Only last week you told this Court that you were also
11 captured with your father and your mother.

12 A. What I said was that we were all in our village, XXXXX,
13 XXXXX; the rebels captured all of us. But when we were
14 removed from the village to go, it was I together with XXXXX

12:19:58 15 XXXXXX from my village that left and went with them.

16 Q. Okay. I want to ask you something else in your first
17 statement.

18 MR JORDASH: Your Honours, page 12976.

19 Q. You told us a moment ago that you'd been made a
12:20:48 20 lieutenant-colonel around the time of Foday Sankoh's arrest. I
21 want to just read to you something that's said in your first
22 statement, about seven lines down page 12976.

23 PRESIDING JUDGE: That's the paragraph starting with
24 "civilians"?

12:21:20 25 MR JORDASH: Yes, Your Honour. So it's four lines into
26 that paragraph.

27 Q. It reads like this: "I was there" -- and it's referring to
28 Kenema. "I was there until the ECOMOG intervention in 1998.
29 Because people knew me as RUF lieutenant, I left Kenema and went

1 to XXXXX." Did you tell the Prosecution you were a XXXXX in
2 1998?

3 A. I'm really in doubt. Even if I had said it was 1998 that I
4 was a XXXXXX by then, 'XXXXX or the year 2000 -- 2003?

12:22:33 5 Q. Sorry, I didn't understand what you said at the end.

6 A. Do you think it was in 2003 when we first met?

7 Q. The question I'm asking is: Did you tell the Prosecution
8 you'd been a XXXXXXX in XXXX whilst you were residing in XXXX
9 and moving to Kenema?

12:23:04 10 A. Well, I said it, but I think there was some problem which
11 needs to be straightened, which is not straight properly. But
12 some of what you said was true, that I was in Kenema until the
13 intervention. I went toXXXXXX --

14 Q. Mr Witness --

12:23:32 15 A. That is true.

16 Q. -- I'm not interested in the route. I'm asking whether you
17 said that you were a XXXXX inXXXX. Did you say that?

18 A. Yes.

19 Q. Why did you promote yourself in the RUF, given the fear
12:23:54 20 that you'd expressed which had caused you to say you'd been
21 captured in XXXXX?

22 A. Well, I did not promote myself. As I have already told
23 you, I did not tell them any truth during the first meeting about
24 any of my promotions.

12:24:30 25 Q. But you claim to have lied about when you were captured
26 because you were concerned about being too high up the ranks in
27 the RUF. And yet in the same statement you're placing yourself
28 higher in the ranks than you now claim you were even in 1999.
29 The question is: Why would you say that you were higher in the

1 ranks than, in fact, you were?

2 A. Higher in rank in the sense I told you that when we heard
3 of this Court initially, as an RUF old commander, I was afraid.
4 So I did not tell them anything about the high command, but I
12:25:34 5 told them I was a XXXX. I said that. I have told you
6 this. I had that promotion within the RUF, which in fact I did
7 not promote myself.

8 Q. Why did you say XXXXXXXX?

9 A. Well, I had carried that rank within the RUF when XXXXXXXX
12:26:04 10 XXXXXXXX himself promoted me to the rank of XXXXX.

11 Q. When was that?

12 A. I became a XXXXXXX in 19XX at XXXXX Then I
13 became XXXXXXX XXXXXXX in 19XX at XXXXX.

14 Q. Okay, let's move on. Were you a XXXX in 19XX?

12:26:43 15 JUDGE ITOE: A XXXXX in what year?

16 PRESIDING JUDGE: 19XX.

17 JUDGE ITOE: 19XX?

18 THE WITNESS: 19XX, yes, sir.

19 JUDGE ITOE: XXXXX

12:26:55 20 THE WITNESS: XXXXXXX.

21 MR JORDASH:

22 Q. Okay, let's move on. Were you a XXXXX in 19XX?

23 I'm not interested in where, just whether you were a XXXX
24 XXXXXXX.

12:27:22 25 A. That was in 'XXXXX, yes.

26 Q. Now, you claim to have been promoted, am I right, by XXXX
27 XXXXX in 'XXX? Is that right?

28 A. XX, yes, a promotion came. By then he was in Nigeria.
29 XXXXXXX were promoted. Let me say he was in the Ivory Coast -

1 the Ivory coast, not Nigeria - when he was arrested.

2 Q. When did you leave Sierra Leone in 19XX? What month?

3 A. Go over the question again.

4 Q. What month did you leave Sierra Leone in 19XX?

12:28:46 5 A. What month I left Sierra Leone in 19XX?

6 Q. Exactly.

7 A. Well, I could not tell the right time, but it was the time

8 when XXXX.

9 Q. Were you out of the country for the majority of the year in

12:29:05 10 XXXX?

11 A. Go over it again.

12 Q. Were you out of the country for the majority of XXXX?

13 A. Yes, for some XXXXX I was out, out of Sierra Leone. It

14 was after the XXXXX.

12:29:41 15 Q. And you stayed out of Sierra Leone, effectively, as an

16 ordinary citizen?

17 A. Well, I was in Sierra Leone. I was out of Sierra Leone as

18 XXXXXXX. So I was in that

19 category. But later I became a XXXXX for myself.

12:30:16 20 Q. You XXXXX, is that right, with other XXXX?

21 A. Yes.

22 Q. Then remained, after being released, as an ordinary

23 citizen?

24 A. Yes. After we had crossed, where we XXXXXX, we were

12:30:51 25 there. We remained there for XXX to XXXXXX and then XXXXXand

26 myself found a way and left --

27 Q. Mr Witness, I'm trying to ask very specific questions. I

28 know that you've got a lot of information and I don't mean to be

29 rude in cutting you off, but just if we can try and focus on the

1 question. So you eventually met, as you say, XXXXX, and you then
2 travelled back to Sierra Leone around June; is that right? Is
3 that what you say?

4 A. No.

12:31:38 5 Q. What month was it when you came back with XXXX?

6 A. Well, it was in XXXXXX when the AFRC took over, when Tejan
7 Kabbah was overthrown.

8 Q. So inXXXX 19XX?

9 A. Yes, sir.

12:32:10 10 Q. We'll come back to these dates. At what stage then were
11 you promoted by XXXXX in XXX?

12 A. Well, in 19XX it was after -- in 'XX after we had
13 crossed --

14 Q. Mr Witness, 19XX is what we are dealing with. Please, when
12:32:48 15 were you promoted? When you returned to Sierra Leone?

16 A. It was not when I returned to Sierra Leone.

17 Q. When was it in 19XX in relation to the events we've just
18 discussed?

19 A. Well, it was in 'XX towards 'XX, the time when I metXXX
12:33:13 20 XXXXX, together with XXX, in XXXXX before he was
21 XXXXXX. That was the time.

22 Q. So in 19XX then, because isn't it right Foday Sankoh was
23 arrested in Nigeria in 1996?

24 A. Well, I cannot tell the real date in '97 or '96, but the
12:33:50 25 time, it was before he was arrested in Nigeria.

26 Q. Sorry, that's my fault. Foday Sankoh, I suggest, was
27 arrested in March of 1997 so it was before then.

28 A. Yes, before the arrest of Foday Sankoh in Nigeria.

29 Q. What were you XXXXX, do you know?

1 A. Yes, to XXXXX.

2 PRESIDING JUDGE: Was the question why or to what?

3 MR JORDASH: Why, but I'm happy with the answer.

4 Q. Why were you promoted, Mr Witness, at that stage?

12:34:56 5 A. Well, I was with him as a senior man, as a senior man when
6 we went, who is XXXXX. He recommended me to the Pa, Pa Sankoh,
7 and from there Pa Sankoh had some RUF soldiers in XXXX. Then
8 he sent me there to be with them as XXXXXX for the time being,
9 that he was trying to find ways and means to send XXXXXXXX
12:35:36 10 by XXXXXX, that I was to be among them. Therefore he
11 promoted me to rank of XXXXXX.

12 Q. Okay. If you can help this Court with some information.
13 In 1992, am I right that XXXXXXXX was XXXXX
14 commander of the RUF?

12:36:12 15 A. Well, in '92 we were not together. I was not together with
16 XXXXX. It was in XX that we met and 'XXXX he was a
17 XXX. He was a XXXX when we met.

18 Q. Isaac Mongor, was he battlefield commander in 1992 of the
19 RUF?

12:36:42 20 A. I cannot tell because all these people you are calling, it
21 XXXXXXXX. They were in Kailahun while I was in
22 XXXXX. From XXXX, we met at XXXX. That was the time,
23 really, when I knew them. So I could not tell you whether
24 Colonel Isaac was a field commander in 1992. I would not be able
12:37:14 25 to tell you anything from '92 until '94. It is only from '94
26 upwards that I can say something.

27 Q. Isaac Mongor in 1994, what was his assignment, do you know?

28 A. Well, the only thing I know, I only knew that he was a
29 senior man in the RUF as a Vanguard. Then he was in the Northern

1 Jungle as the overall there.

2 Q. Isaac Mongor -- sorry, could you repeat your answer,

3 Mr Witness. My fault completely.

4 A. I said it was the time when we met later that he was a
12:38:10 5 senior man, a senior commander in the RUF as a Vanguard. Then
6 later he was in the Northern Jungle as a commander.

7 Q. So he was the overall commander in the Northern Jungle in
8 1994?

9 PRESIDING JUDGE: No, subsequent to 1994.

12:38:35 10 MR JORDASH: Subsequent to 1994.

11 Q. And am I right that Mohamed Tarawallie was the field
12 commander in 1994?

13 A. Yes, he was the field commander.

14 Q. And Sam Bockarie was the man who was third in the RUF
12:38:56 15 command structure at that time, as battle group commander?

16 A. Yes, '94 he was battlefield commander, Sam Bockarie.

17 PRESIDING JUDGE: Battlefield or battle group?

18 MR JORDASH: Battle group.

19 THE WITNESS: Battle group. Mohamed Tarawallie was the
12:39:20 20 battlefield commander. Mosquito was the battle group commander
21 in 1994.

22 MR JORDASH:

23 Q. Now, just taking you back for a moment to 1991 when
24 Foday Sankoh is present in Pujehun; am I right?

12:39:43 25 A. Yes, sir.

26 Q. And was in control of the RUF; is that right?

27 A. Yes, sir.

28 Q. And would - am I right - directly order various commanders?

29 A. Yes, the command is to come from Pa Sankoh from XXXXuntil

1 the time XXXX.

2 Q. I just want to be clear about this. He would contact
3 individual commanders directly?

4 A. Well, that was what I saw him doing.

12:40:46 5 Q. And they would contact him directly?

6 A. Yes.

7 Q. Thank you. Now, in 1994, am I right that there were
8 various field commanders in the RUF? There were a number of
9 them?

12:41:39 10 A. Well, the only field commander that I knew for the RUF was
11 Mohamed Tarawallie.

12 Q. Sorry, my mistake. A number of area commanders in 1994.

13 A. Yes, we had area commanders. There were many, yes.

14 Q. There was, can you confirm, Augustine Kargbo, who was area
12:42:12 15 commander for Bo Highway?

16 A. Augustine Kargbo, yes.

17 Q. There was Superman, Denis Mingo, northern area commander?

18 A. Yes.

19 Q. Issa Sesay who was, for a while, area commander for
12:42:37 20 Kailahun?

21 A. Yes.

22 Q. Could it be that Isaac Mongor was the area commander then
23 for the Northern Jungle? Could it have been as early as 1994?

24 A. Yes, it could be so, because he was there as a commander.

12:43:02 25 Q. I think I may have made a mistake when I put to you that
26 Superman was the area commander for the northern region. Was it
27 the case, in fact, he was area commander for the Western Area?

28 A. Yes, Western Area, that was his own area. There Superman
29 was.

1 Q. Was there also a man called Papa who was area commander for
2 the Peyama jungle?
3 A. Peyama.
4 Q. Peyama, sorry, my pronunciation.
12:43:44 5 A. Yes.
6 Q. Okay, thank you. When did you first meet Issa Sesay?
7 A. Issa Sesay, I think, if I do not forget, it was in 'XX when
8 he came to XXXX.
9 Q. Until that time, had you heard anything about him?
12:44:33 10 A. Yes.
11 Q. That he was area commander for Kailahun; had you heard
12 that?
13 A. Yes, they said that he was the senior commander in charge
14 of Kailahun.
12:44:52 15 Q. Could I suggest you didn't meet him in XXXXX in 19XX.
16 Could I that be right, that he didn't come to XXXXXX?
17 A. I did not meet him, it was XX who met XXX later.
18 Q. Later than 'XX?
19 A. Yes.
12:45:41 20 Q. In 19XX?
21 A. Yes, around that.
22 Q. Can I just ask this: In 1994 was Foday Sankoh still giving
23 direct instructions to various commanders?
24 A. Yes.
12:46:06 25 Q. Was Foday Sankoh based at XXXXX then?
26 A. 'XX, yes.
27 Q. Until 1996?
28 PRESIDING JUDGE: Until 1996?
29 MR JORDASH: Your Honour, yes.

1 THE WITNESS: Yes, sir, when they signed the Yamoussoukro
2 Peace Accord. In 'XX he was still at XX.

3 MR JORDASH:

4 Q. Were you aware of an investigation into Issa Sesay in 1996?
12:46:58 5 An investigation into some money which had gone missing?

6 A. Yes. It was the time I understood him -- as a result of
7 that problem, when Pa Sankoh sent for him alongside other
8 commanders. It was that time that I knew him.

9 Q. That was when Issa Sesay came to XXXX?

12:47:23 10 A. Yes.

11 Q. Issa Sesay was investigated and -- can you confirm he was
12 investigated, first of all?

13 A. Well, they said he was to undergo an inquiry for that
14 money. He was investigated.

12:47:58 15 Q. Can you confirm he was demoted as a result of that
16 investigation?

17 A. Yes, later he was promoted after investigations. Pa Sankoh
18 promoted him.

19 Q. The question I'm asking is: After the investigation, was
12:48:22 20 he demoted, demoted to captain?

21 A. Well, I heard about that, but I didn't see it. I did not
22 see where he was demoted to captain.

23 Q. Are you aware that he was demoted and sent to Kailahun
24 without assignment in October of 1996 -- September 1996, I beg
12:49:06 25 your pardon?

26 A. Yes, he was sent to Kailahun again; he went there.

27 Q. Can you confirm that Sam Bockarie was in charge of Kailahun
28 at that time?

29 A. I cannot confirm because during that time Sam Bockarie --

1 it was later that he went there, after XXXXX. Issa Sesay
2 was still in Kailahun during that time as commander, before '96,
3 before Mosquito went and took over finally.

4 Q. Can I suggest, in fact, that Sesay was atXXXXXX for
12:50:11 5 several months and during that time Peter Vandí was in charge of
6 Kailahun? Could that be right?

7 A. Yes. I think when he involved in that money affair and he
8 was sent for, if a commander leaves a place, a commander has to
9 replace him. He came for the investigation, so he was replaced.

12:50:40 10 PRESIDING JUDGE: Was he replaced by Vandí?

11 THE WITNESS: Yes, Peter Vandí.

12 MR JORDASH:

13 Q. Are you aware of Sesay -- I will withdraw that question and
14 move on. Did Zogoda fall around October 1996?

12:51:19 15 A. Yes.

16 Q. That was when you say Sam Bockarie came to Kailahun and
17 became the top man there?

18 A. Yes.

19 Q. It was still the case, wasn't it, that Superman was the top
12:51:43 20 man in the Western Area at that point?

21 A. Yes, he was still in the Western Area.

22 Q. As the top man?

23 A. Yes, sir.

24 Q. And Isaac Mongor in the northern area as top man at that
12:52:03 25 point?

26 A. Yes, sir.

27 Q. Was Foday Sankoh, from what you saw, serious about his
28 intentions when going to Abidjan for the peace talks, from what
29 you saw?

1 A. Yes, I saw him. He was serious. If he were not serious,
2 he should have remained in Zogoda and said he will not go
3 anywhere. Some people advised him not to go. All that happened
4 to him, they informed him before he went, but he said that he did
12:52:59 5 not go, they will not -- peace will not take place, it will not
6 be.

7 Q. Thank you. Now, I want to just ask you about XXXX.

8 A. Yes.

9 Q. XXXXX was known to all the Vanguard; am I right?

12:53:40 10 A. Yes.

11 Q. They knew him from Camp Naama; am I right?

12 A. That was what they said; that was what I heard myself.

13 Q. He, XXXXXX, was a close --

14 MR JORDASH: I'm slightly concerned about this questioning,
12:54:25 15 just because it does place him. Perhaps I could discuss it with
16 the Prosecution over lunch. I want to go into a whole area of
17 Mr A's history. I'm concerned that that might identify the
18 witness. I will discuss it, if I may, with the Prosecution over
19 the lunch.

12:55:00 20 PRESIDING JUDGE: As you know, we were in closed session in
21 relation to matters related to that, protecting the witness's
22 identity, especially his relationship to XXXXX and whatever XXX
23 was doing. If you are going to embark on that, I can only
24 suggest we repeat it with this. I don't know how far you want to
12:55:18 25 go.

26 MR JORDASH: It is lest the witness is --

27 PRESIDING JUDGE: The more we know about XXXX, the more we
28 are able to make the relationship, presumably.

29 MR JORDASH: I certainly think it would be safer to go into

1 a closed session.

2 PRESIDING JUDGE: Would it be possible, then, Mr Jordash to
3 keep that for later on, if it is not too confusing for your
4 cross-examination? May I put it this way: Are you intending to
12:55:59 5 go into some closed session as well for other parts of his
6 evidence, or that is basically it as far as you are concerned?

7 MR JORDASH: That would be it. It is important, I would
8 submit, for it to be heard at this stage. His history, I would
9 submit, makes him a certain person which gives him a certain
12:56:23 10 authority, which I would seek to suggest will run through the
11 cross-examination.

12 PRESIDING JUDGE: Then it might be best that we go into
13 closed session. May I ask you, if we do, how long do you expect
14 that part of your cross-examination to be?

12:56:49 15 MR JORDASH: 45 minutes.

16 PRESIDING JUDGE: Well, given that it is almost 1.00, we
17 may as well break for lunch and come back. When we come back,
18 presumably you -- so can I just ask you to make the application.
19 This is an application based presumably on exactly the same basis
12:57:13 20 as the Prosecution made his application yesterday?

21 MR JORDASH: Yes, exactly the same.

22 PRESIDING JUDGE: Yesterday and the day before.

23 MR JORDASH: Everything I will seek to elicit about Mr A
24 would, I submit, reveal his identity, or certainly allow one to
12:57:37 25 guess quite accurately.

26 PRESIDING JUDGE: We'll go into a closed session to hear
27 that. Just for the members of the public, you have heard this
28 may take about 45 minutes. We will hear this application and, if
29 need be, go into a closed session for maybe up to an hour. So we

1 are resuming at 2.30. We should be back in the public session by
2 3.30 this afternoon.

3 MR JORDASH: I'm very grateful.

4 PRESIDING JUDGE: Maybe we can ask before we break for
12:58:07 5 lunch, Mr Jordash, it might be for the record, we'll go into
6 closed session now, reiterate whatever it is and we'll come back
7 straight after lunch.

8 MR JORDASH: Certainly.

9 THE WITNESS: I want to urinate.

12:59:04 10 PRESIDING JUDGE: This will take less than a few minutes.
11 Be patient.

12 THE WITNESS: Yes, sir.

13 [At this point in the proceedings, a portion of the
14 transcript, pages 45 to 56, was extracted and sealed under
12:59:11 15 separate cover, as the session was heard in camera.]

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1 [Open session]

2 PRESIDING JUDGE: Thank you. Mr Jordash, just one minute.

3 As we are back in open session, we have to give the decision in
4 open session, as you know.

15:24:00 5 JUDGE THOMPSON: This is a brief ruling for the purposes of
6 the resumption of open session. Consistent with the general
7 requirement that criminal proceedings are to be held in public,
8 as provided for by Rule 78 of the Rules of Procedure of the
9 Special Court for Sierra Leone, but that exceptionally, as
15:24:23 10 authorised by Rule 79(A)(ii) of the aforesaid rules, and having
11 regard to the need to protect witnesses in accordance with
12 Rule 75 of the aforementioned rules, this Chamber, in response to
13 the application by counsel for the first accused for certain
14 portions of the cross-examination of TF1-045 to be heard in
15:24:52 15 closed session, did, by way of an exceptional procedure, grant
16 the said application.

17 Mr Jordash.

18 MR JORDASH: Thank you, Your Honour.

19 Q. When you were in Freetown in 1997, Mr Witness, did you hear
15:25:13 20 that Superman had killed two of Mohamed Tarawallie's bodyguards
21 just before the junta period?

22 A. Yes, I heard about that.

23 PRESIDING JUDGE: What is the date you used; 1998, did you
24 say?

15:25:44 25 MR JORDASH: 1997, when the witness was in --

26 Q. Did you hear that he was to be arrested by Sam Bockarie but
27 the junta, the AFRC, overthrew the government which prevented
28 that from taking place?

29 A. That was what I was made to understand; that is what I

1 heard.

2 Q. Did you understand, and was it your experience of Superman
3 in Freetown, that he was refusing to take orders from Sam
4 Bockarie?

15:26:34 5 A. Well, I used to hear about that, but I did not see him
6 going to him or even -- when Issa Sesay was here I did not see
7 them close. I did not see that.

8 Q. Superman had his own men in Freetown who were loyal to him;
9 did you see that?

15:26:57 10 A. Yes.

11 Q. Now, did you know that SAJ Musa was the secretary of
12 mineral resources during the junta period?

13 A. No, I did not understand that.

14 Q. Did you know that SAJ Musa had been called from abroad to
15:27:42 15 come and join Johnny Paul Koroma; did you know that or did you
16 hear that?

17 A. Yes, I heard about it.

18 Q. Did you also hear that the coup leaders had released Johnny
19 Paul Koroma from Pademba Road so he could be their leader?

15:28:41 20 A. Yes.

21 Q. Were the coup leaders Gullit, for one?

22 A. Repeat, I don't get you. Repeat that.

23 Q. Was Gullit one of the coup leaders?

24 A. Yes.

15:29:16 25 Q. Was Bazzy Kamara one of the coup leaders?

26 A. Yes.

27 Q. Was Abu Zagalo one of the coup leaders?

28 A. Yes.

29 Q. Was the Chief of Defence Staff a relative of Johnny Paul

1 Koroma; his brother-in-law?

2 A. Yes. They said he was his elder brother.

3 Q. I was wrong.

4 JUDGE ITOE: [Microphone not activated]

15:29:57 5 MR JORDASH: Yes.

6 PRESIDING JUDGE: [Microphone not activated] was the elder

7 brother.

8 THE INTERPRETER: Your Honour's mic is not on.

9 JUDGE ITOE: Thank you. It is on now. I am through, it is

15:30:08 10 okay.

11 MR JORDASH:

12 Q. Did you hear that SAJ Musa became, in effect,

13 vice-president to Johnny Paul Koroma?

14 A. Well, he was with him. But when the AFRC took over, what I

15:30:37 15 knew and what they said was that -- they said Pa Sankoh was the

16 vice-chairman. If he was assigned by Johnny Paul, I did not know

17 about that.

18 Q. Did you hear of a man called AK Sesay, who was the

19 secretary-general of the AFRC?

15:31:09 20 A. Yes.

21 Q. He was - is this correct? - a former SLA?

22 A. Yes.

23 Q. Did you hear of a man call AB Kamara, who was a former SLA?

24 A. I used hear about this name, but I did not see him.

15:31:50 25 Q. Did you hear that he was the deputy Defence Minister?

26 A. No.

27 Q. Is that no, you just didn't hear, or you disagree that he

28 was?

29 A. Well, if he had that, well, I did not know because it was

1 power-sharing. What I knew was that it was Mosquito that was
2 supposed to be deputy defence. So if he was put in that position
3 I did not know.

4 Q. But Sam Bockarie was in Kenema, was he not, for the
15:32:48 5 majority of the time of the junta period; you knew that?

6 A. Yes.

7 Q. Thank you.

8 MR JORDASH: I am sorry. Could I just take very brief
9 instructions, please? Thank you.

15:33:59 10 Q. Can I just try a different name for you, Mr Witness,
11 whether you have heard this name? It is Avivavo, was he the
12 deputy defence minister, from what you heard?

13 A. Avivavo, I never heard that name.

14 Q. Am I right, Mr Witness, that there were three PLOs in the
15:34:38 15 junta period; did you hear that?

16 A. Yes, but I knew about two.

17 Q. Did you hear that the PLOs controlled the ministries?

18 A. Which ministries, because there are a lot of ministries,
19 like which?

15:35:13 20 Q. All of them. All of the ministries were controlled
21 directly by the PLOs; did you hear that?

22 A. Well, I do not understand about the government. What I
23 knew was the assignment. All I knew that some were PLOs and they
24 used to send them to Tongo. But I did not know that they were
15:35:43 25 the ones that were responsible for the administration of all the
26 ministries.

27 Q. Didn't you hear this in these meetings you say you attended
28 with XXXXX?

29 A. Well, I used to hear that the PLOs were Gullit and the

1 other one that was in Tongo who died. I used to see them mostly
2 in mining issues and they had the direct administration. But in
3 Freetown here, I do not understand much about that.

4 Q. So you can't assist us then on any detail of structure
15:36:27 5 beyond what you have already told us?

6 A. Well, I used to see them and they told me that they were
7 PLOs and they were public liaison officers. I did not ask them
8 to tell me their job. They did not explain to me in detail about
9 their job.

10 Q. Okay, but they were the original coup makers, weren't they,
11 the PLOs?

12 A. Yes.

13 Q. Can you confirm this, that there were over 20 ministries,
14 only five were proposed --

15:37:22 15 MR JORDASH: I beg your pardon, sorry. I will take
16 instructions.

17 PRESIDING JUDGE: Yes, Mr Jordash.

18 MR JORDASH: I am sorry.

19 Q. I have been reading a piece of paper badly, Mr Witness.
15:38:23 20 Three ministers were proposed for the RUF as compared to over 20
21 altogether. Can you assist us with that?

22 A. Help in what way?

23 Q. Can you confirm that there were over 20 ministers in
24 the AFRC junta period. If you don't know, you don't know.

15:38:57 25 A. Yes, most of the commanders in the AFRC, most of the
26 ministries, only few ministries were held by the RUF, but most of
27 the ministries were held by the AFRC.

28 Q. Can you assist with this: Were there only three ministries
29 which were to belong to the RUF compared to those which belonged

1 to the AFRC/SLA group?

2 A. Yes.

3 Q. Thank you. Am I right that there was throughout most of
4 the time of the junta period, a power struggle between the AFRC

15:40:15 5 command and troops and the RUF command and troops?

6 A. Throughout, since the time that we were in Freetown here.
7 When we were repelled by the ECOMOG until we went to the bush,
8 there was that struggle for power.

9 Q. There was -- everybody was supposed to honour JPK as
15:40:57 10 President; was that right?

11 A. Yes.

12 Q. But in fact Johnny Paul Koroma had meetings, or a meeting,
13 about the fact that even members of his own AFRC group did not
14 respect him as President?

15:41:28 15 A. Yes.

16 Q. Did Sam Bockarie leave Freetown after only being there for
17 about two or three weeks?

18 A. Yes, I -- when he, Sam Bockarie, came to Freetown, or you
19 are talking about me? Which are you talking about?

15:42:10 20 Q. I am talking about Sam Bockarie. Did he leave Freetown
21 after being there for only about two to three weeks?

22 A. Yes.

23 Q. Because he did not feel safe in Freetown?

24 A. Yes, that is what he said.

15:42:32 25 Q. And because he did not feel his position in the RUF was
26 recognised in the AFRC junta?

27 A. At all.

28 Q. And he felt disrespected by the coup makers?

29 A. Yes.

1 Q. Did you hear of an incident where Sam Bockarie was ordered
2 out of Johnny Paul Koroma's office so that Johnny Paul Koroma
3 could have private conversations?

4 A. Repeat that question.

15:43:20 5 [RUF22NOV05D - SV]

6 Q. Did you hear from anybody such as commander -- sorry, such
7 as Mr A that Sam Bockarie had been ordered out of Johnny Paul
8 Koroma's office during the first few weeks he was in Freetown?

9 A. Well, I heard about that but -- yes, I heard about that,
15:44:04 10 yes.

11 Q. Did you hear or was this an order Sam Bockarie made to XXX
12 that he should not - XXXXX, this is - use the office that
13 Sam Bockarie had been given by Johnny Paul Koroma?

14 A. Yes.

15:44:40 15 Q. And Sam Bockarie threatened XXX and other commanders not
16 to put themselves in his position in Freetown. Did you hear
17 that?

18 A. From whom?

19 Q. XXXXXXXX, for example.

15:45:09 20 A. That?

21 Q. Sam Bockarie ordered RUF not to take up their posts as
22 ministers. Did you hear that?

23 A. Yes, he spoke about it.

24 Q. And ordered them not to become involved in politics?

15:45:44 25 A. Yes, that was what I heard, that they should not take over
26 any responsibilities.

27 Q. Thank you. I just want to ask you a little about what you
28 know about Gibril Massaquoi. I'm just going to jump back a
29 little. Well, a lot. Was Gibril Massaquoi, from what you saw or

1 heard, involved in killing 27 Vanguard in the Pujehun District
2 in 1992?
3 A. Yes.
4 Q. Was Gibril Massaquoi a --
15:47:20 5 JUDGE ITOE: How many? 20?
6 MR JORDASH: 27.
7 Q. Was he a target commander in the Pujehun District in 1992?
8 PRESIDING JUDGE: What's the question? If he was?
9 MR JORDASH: Was Gibril Massaquoi a target commander --
15:47:41 10 PRESIDING JUDGE: Target commander.
11 MR JORDASH: -- in 1992.
12 THE WITNESS: Yes, he was one of the target commanders.
13 MR JORDASH:
14 Q. Was he appointed by Foday Sankoh as a battalion commander
15:48:09 15 in 1994?
16 A. Yes.
17 Q. Did Gibril Massaquoi become the deputy area commander to
18 Superman in the Western Area in 1995 to 1996?
19 THE INTERPRETER: My Lord, let counsel repeat his question
15:48:38 20 back.
21 THE WITNESS: Superman was in the Western Area.
22 MR JORDASH:
23 Q. Did Gibril Massaquoi become the deputy area commander to
24 Superman in the Western Area in 1995 until --
15:49:02 25 A. Yes, yes.
26 Q. Did Gibril Massaquoi travel from Zogoda to Kailahun in
27 order to join Foday Sankoh in Abidjan in 1996?
28 A. Yes.
29 Q. Was this because Foday Sankoh called for Gibril Massaquoi?

1 A. Yes.

2 Q. Did Gibril Massaquoi appear in Freetown, do you know,
3 during the junta period claiming to have been promoted by Foday
4 Sankoh? Do you know about that?

15:50:05 5 A. Yes, he came to Freetown and he himself was there, that he
6 had been promoted to colonel.

7 Q. Thank you. Did you see Gibril Massaquoi during your time
8 in Freetown?

9 A. Yes, he was in Freetown here around the Murray Town area.

15:50:38 10 Q. Did you ever hear him claim to be close to Foday Sankoh?

11 A. Yes, he used to say so. He said he was close to Foday
12 Sankoh.

13 Q. Do you know if Gibril Massaquoi regarded himself as
14 superior to Superman in the RUF command structure during 1997 in
15:51:31 15 Freetown?

16 A. Well, perhaps if it was in his heart because he was a man.
17 He had no respect for anybody. So if somebody were to say that
18 he was close to Foday Sankoh, he had been comparing himself to
19 the Vanguard. So I knew about that.

15:52:06 20 PRESIDING JUDGE: [Microphone not activated] Gibril
21 Massaquoi?

22 THE WITNESS: Yes, Gibril Massaquoi. He did not have any
23 respect for most of the Vanguard who were -- who trained him.

24 So if he made any comparison, saying that he was superior to

15:52:21 25 Superman, I wouldn't be surprised. He did not say it to me, but
26 I wouldn't be surprised.

27 MR JORDASH:

28 Q. What do you mean he had no respect for the Vanguard?

29 A. He compared himself to them and until the time he met them,

1 he would give the impression that all of them were equal. So
2 really he was so audacious to do so.

3 Q. Did that include Issa Sesay?

4 A. Yes.

15:52:59 5 Q. Did he have any respect for Issa Sesay from what you saw or
6 heard?

7 A. Yes, he used to pretend. But at times you would hear that
8 they had a fracas. So it wasn't full respect because if you
9 respect somebody fully you will -- both of you will not have any
15:53:26 10 fracas.

11 Q. So he didn't respect Sesay as his superior, did he, in
12 Freetown?

13 A. Not at all, '97. I did not see that with my eyes.

14 JUDGE ITOE: What did he not see with his eyes?

15:53:55 15 THE WITNESS: That he used to respect -- the question that
16 he used to respect Issa.

17 JUDGE ITOE: Are you saying that he never respected Issa?

18 THE WITNESS: Well, he used to respect him.

19 JUDGE ITOE: [Microphone not activated] but not fully, they
15:54:13 20 had fracas?

21 THE WITNESS: Yes.

22 JUDGE ITOE: [Microphone not activated] if you respect
23 somebody you should not be having disagreements with him.

24 THE WITNESS: Not at all. It's true. When you respect
15:54:33 25 somebody there should be no disagreement between you and him.
26 But if there is no respect, then there will be.

27 JUDGE ITOE: [Microphone not activated] the last question
28 which you put to him. Is he saying that Massaquoi never
29 respected Sesay in Freetown?

1 PRESIDING JUDGE: As his superior in '97.

2 JUDGE ITOE: As his superior in '97, yes.

3 PRESIDING JUDGE: That was the question. What's the
4 answer?

15:55:04 5 THE WITNESS: Yes, there was no cordial relationship
6 between them in Freetown when I was here.

7 JUDGE ITOE: [Microphone not activated] did not respect
8 him.

9 THE INTERPRETER: Your Honour's microphone.

15:55:14 10 JUDGE ITOE: Sorry. The microphone is on.

11 THE INTERPRETER: Thank you, Your Honour.

12 PRESIDING JUDGE: Can you please give the answer again to
13 that question, Mr Witness?

14 THE WITNESS: I said yes. The answer was yes.

15:55:47 15 MR JORDASH:

16 Q. Did Gibril Massaquoi at one stage try to bring a plan to
17 overthrow Johnny Paul Koroma?

18 A. Yes, he with Steve Bio. They made that plan.

19 Q. Did you hear that --

15:56:19 20 JUDGE ITOE: Mr Jordash, please, please.

21 MR JORDASH: Sorry, Your Honour.

22 Q. Did you hear that one of the reasons it did not succeed was
23 because Issa reported him to Sam Bockarie?

24 A. Yes, there was no cordial relationship because if there was
15:56:52 25 a cordial relationship and they had agreed to the senior and if
26 they had agreed perhaps they would have succeeded. But he and
27 Issa were not in a cordial relationship. He and Mosquito were
28 not in a good relationship. So if they planned anything within
29 the RUF at that time, it wouldn't succeed.

1 Q. As a result of Johnny Paul Koroma finding out about the
2 plan, Gibril Massaquoi was imprisoned at Pademba Road; is that
3 right?
4 A. Yes.
15:57:45 5 Q. With Steve Bio?
6 A. Yes, both of them.
7 Q. And released in January 1999. Did you hear that?
8 A. Yes. Yes, during the January invasion in Freetown, that
9 was the time that they were freed. He with Steve Bio.
15:58:25 10 Q. Okay. I want to read you something from what you said in
11 the AFRC trial.
12 MR JORDASH: I'm very sorry, I've just had a number of
13 looks from the bottom bench. It's 21st July, page 27.
14 PRESIDING JUDGE: So what will be the page?
15:59:29 15 MR JORDASH: Page 13395 and the next page 13396, if
16 necessary.
17 PRESIDING JUDGE: So it's of the transcript?
18 MR JORDASH: It's the AFRC transcript, Your Honour. Sorry,
19 I've just given you the wrong page numbers. It's 13395.
15:59:56 20 PRESIDING JUDGE: Yes, that's what you had given.
21 MR JORDASH: Is that what I said? Okay.
22 PRESIDING JUDGE: And then 133 --
23 JUDGE ITOE: 96.
24 MR JORDASH: 96. Perhaps I can give your learned legal
16:00:37 25 officers a fair warning for the next few pages.
26 JUDGE THOMPSON: Fair notice, perhaps.
27 MR JORDASH: Yes.
28 JUDGE ITOE: To quote Mr Taku.
29 MR JORDASH: Do I have to? I will be referring to pages

1 13444 through to 13449, and also perhaps 13423.

2 PRESIDING JUDGE: So now you're going to be dealing with
3 395 to 396, and later on 444 through to 449 and then 423?

4 MR JORDASH: Your Honour, yes.

16:03:01 5 PRESIDING JUDGE: So we have 995.

6 MR JORDASH:

7 Q. And I want to just refer you, Mr Witness, to something you
8 said about the RUF and the AFRC. It's line 23. You're being
9 asked about the respect that existed between the RUF and the AFRC

16:03:38 10 or, rather, the lack of respect. You answer:

11 "Yes, sir, the respect that was not -- after the RUF and
12 AFRC have come together, the soldiers said they were
13 trained soldiers. They were in charge of some ammunition
14 and they had international recommendation, so RUF were just
16:04:10 15 like civilians."

16 Can I ask you this, Mr Witness: Is it true that the AFRC
17 regarded the RUF as inferior bush rebels?

18 A. Yes, mostly that was what they thought of us, yes, and
19 that was what they were saying.

16:04:43 20 Q. Am I right that this was the view from low in the command
21 structures of both, all the way, from what you observed, to the
22 top?

23 A. Yes. Because Johnny Paul, too, when he was chairman all
24 RUF respected him as high command in the absence of Pa Sankoh.

16:05:23 25 In fact, both of them were not in good terms.

26 Q. Both of who? Both of who, Mr Witness?

27 A. I said it is -- it was something even Johnny Paul who was
28 the chairman and Mosquito whom -- and all RUFs relied on as
29 commander in the absence of Pa Sankoh. Himself, Mosquito and

1 Johnny Paul were not in good terms. So it was something that
2 started from above.

3 Q. And went down through the ranks?

4 A. Yes.

16:06:24 5 Q. Thank you.

6 PRESIDING JUDGE: Mr Jordash, may I ask you why you are
7 making reference to these pages? I thought you were using that
8 to sort of contradict, but he does not appear to -- he appears to
9 accept that fully and completely what you're saying.

16:06:39 10 MR JORDASH: I know. I wanted to make sure he did.

11 PRESIDING JUDGE: I thought you were going to ask the
12 question and if he says no or something or it's not clear then
13 you could support that. But I find that -- maybe it's a new way
14 to prompt the memory of the witness. I don't know what you're
16:06:55 15 attempting to do now but I'm just trying to follow.

16 MR JORDASH: The bit I'm particularly interested in is when
17 the witness said, and this is -- I hope this becomes clear.

18 Q. When you said in the AFRC trial, Mr Witness, that the AFRC
19 were in charge of some ammunition, what did you mean?

16:07:26 20 A. Well, they were -- they made the coup and Freetown was in
21 their -- under their control, all the military areas were under
22 their control. All that had been with the military, like
23 ammunition, was in their care. We came from the bush. We hadn't
24 all those facilities. They were in control of everything.

16:07:59 25 Q. And they would choose whether to distribute weapons and
26 ammunition to the RUF; is that right?

27 A. Well, that was what we expected. When you called somebody,
28 what you have, you should share with him.

29 Q. But it didn't quite work like that, did it, because they

1 didn't share; it wasn't equal?

2 A. Well, I didn't see that.

3 Q. And, as a result of that, slowly the RUF withdrew
4 co-operation from the AFRC, from what you saw?

16:08:49 5 A. Yes. Things were going on beyond control.

6 Q. Thank you. And the person who was assigned to control --
7 sorry, let me start that again. The person who Johnny Paul
8 assigned to organise the ammunition and weapons being brought to
9 Magburaka was an AFRC man; is that right?

16:09:37 10 A. Yes.

11 Q. Was that, amongst other AFRC men, Dumbuya?

12 A. Yes, it was Major Dumbuya by then.

13 Q. Was he close to Johnny Paul Koroma from --

14 A. Yes.

16:10:06 15 Q. Did the weapons, do you know, and the ammunition -- was it
16 taken to Johnny Paul Koroma's house after the delivery at
17 Magburaka?

18 PRESIDING JUDGE: It was to bring ammunition from Magburaka
19 to --

16:10:27 20 MR JORDASH: I can try and clarify that, Your Honour.

21 PRESIDING JUDGE: Because I heard your question to be to
22 bring ammunition to Magburaka. It's the other way round.

23 MR JORDASH: It is the other way round.

24 Q. What we're talking about, is this right, Mr Witness, is an
16:10:43 25 aeroplane bringing weapons to Magburaka during the junta period?

26 A. Well, I heard that but I didn't see it. I heard that.
27 They said it.

28 Q. But the person who was put in control of that delivery was
29 this man called Dumbuya; is that what you would say?

1 A. Yes, he was to receive it. That was what they told me,
2 that I heard in a meeting.

3 Q. Thank you. Do you know if those weapons -- well, do you
4 know if the main store of weapons and ammunition for the AFRC was
16:11:35 5 at Johnny Paul Koroma's house?

6 A. Clearly repeat your question.

7 Q. Do you know if the main supply -- the main store, I beg
8 your pardon -- the main store of ammunitions and weapons was at
9 Johnny Paul Koroma's house?

16:12:08 10 A. Well, I knew not much about that. I only saw securities,
11 arms. They said there we have ammunitions, but I never knew
12 whether there they had the ammunition for AFRC.

13 Q. Thank you, Mr Witness. You talked of a meeting that you
14 attended at Wilberforce. Do you recall that evidence?

16:12:55 15 A. Yes.

16 Q. Are you suggesting you were in the meeting, Mr Witness?

17 A. Yes, I was there.

18 Q. Were you inside the actual --

19 A. I was -- I was inside like we are in this Court.

16:13:30 20 Q. What language was this chart that you say you saw?

21 A. It was the English language.

22 Q. Do you read English?

23 A. Yes, XXXXXXX.

24 Q. Can you try to give us a description of this chart? How
16:14:15 25 was it arranged? Do you understand my question? There are a
26 number of ways in which a chart can be drawn. How was it drawn?

27 A. It is something -- it was not drawn on the wall. It was
28 made -- it was prepared on a piece of paper and then placed on
29 the wall.

1 Q. But was it in writing -- let me try to describe. Was it a
2 list of names one after the other, was it names which followed
3 each other on a line? How was the chart drawn? Would you be
4 able to demonstrate?

16:15:20 5 A. Yes. I saw a chart which was AFRC leadership structure.
6 It was there. Then I saw names that followed one after the other
7 then. So I was concerned about some, not all of them. I had
8 only wanted to know the main people that were in control, that
9 were in control of the government. I saw their names, those that
16:15:55 10 I was concerned about.

11 Q. So were the honourables on that chart?

12 A. Well, there were no honourables. But it was on the side
13 of -- it was those that had to do with the military, not the
14 political issue.

16:16:20 15 Q. All right. So how the military structures fitted in with
16 the political structures you could not tell from that chart?

17 A. Repeat.

18 Q. There was no indication on the chart of how the military
19 structure fitted with the political structure in Freetown during
16:16:59 20 the junta period?

21 A. Well, I was not so much concerned about that. I only saw
22 some people, they said they were ministers. But to say on that
23 chart I saw their names, all of them -- there were a few that had
24 their names there.

16:17:29 25 Q. Could I suggest, Mr Witness, that you did not go to a
26 meeting in September in Freetown?

27 A. I went there; I attended the meeting.

28 Q. Could I suggest, Mr Witness, that you weren't in Freetown
29 in September 1997?

1 A. I was there.

2 Q. Well, I want to refer you to evidence you gave in the AFRC
3 trial. Before I do, do you suggest that this meeting was at the
4 beginning of September?

16:18:45 5 A. No, it was late September; late in September.

6 Q. Well, are you sure about that because that's not what you
7 told us only a few days ago, and I'll quote what you did say.

8 MR JORDASH: I'm looking at a transcript for 18th November.
9 We should have copies here. There should be a copy for Your
16:19:36 10 Honours and one other copy. 18th November, page 81, and it's
11 line 21.

12 Q. You were asked:
13 "Q. Did anything happen after you arrived Freetown?"
14 Your answer, Mr Witness, and listen carefully, was:
16:20:40 15 "A. Yes, within in a week in XXXXXX when I arrived in
16 19XX there was a first meeting that was summoned at the
17 Wilberforce Barracks at the officers' mess."

18 A. Yes, I said that. I said the first week in XXXX was
19 the time I came here. In fact, I said the first meeting again
16:21:08 20 was in XXXX. I didn't say when I arrived there it was
21 during that period we had the meeting. I did say I arrived here
22 early in September, and in that very XXXXXXXX we held our first
23 meeting at the Wilberforce Barracks in the officers' mess.

24 Q. Well, it reads, Mr Witness, from what you said a few days
16:21:39 25 ago, that the meeting was within the first week of XXXXXXXX.
26 But you say that's not true, it was later now?

27 A. Yes, it was in September. I didn't say it was in the first
28 week. I arrived here in the first week in XXXXXX and then the
29 first meeting was in September, but it was later in September.

1 Q. Well, when? When do you say it was?

2 A. Well, I didn't analyse it like you've read it. I did say I
3 arrived here in XXXX, and in that very XXXXXXXX we held a
4 meeting.

16:22:38 5 Q. In fact, what you said a few days ago, on 18th November,
6 was that the second meeting was at the end of September.

7 MR JORDASH: And I'm looking at, Your Honours, page 87.

8 Q. The meeting which you describe being at Youyi building, you
9 said was at the end of September, the second meeting?

16:23:05 10 A. Yes, close to the end of September. Even the first meeting
11 was held late in September. The meetings were close to each
12 other. It was not like when you hold one meeting then it takes
13 some time before you have another.

14 Q. Could I suggest that you moved the first meeting back
16:23:30 15 because you know that the timings don't quite work for you?

16 A. No, no. It works. It was in September that we held the
17 meeting. I am still saying we held a meeting in September.

18 Q. Okay. Well, I want to refer you to --

19 MR JORDASH: Your Honours, page 13444, which I hope was the
16:24:50 20 page I gave you before.

21 PRESIDING JUDGE: Yes, 444, you had. Mr Jordash, we don't
22 have these pages, but as it almost 4.30. We're going to break,
23 and hopefully we'll make sure you inform our legal officers of
24 the pages you intend to refer to so we could print that and we
16:25:28 25 have that when we come back so we will be able to follow you. We
26 don't have them at this time.

27 MR JORDASH: Certainly, sorry.

28 [Break taken at 4.25 p.m.]

29 [Upon resuming at 5.02 p.m.]

1 PRESIDING JUDGE: So we have now been provided with many
2 pages of transcript and hopefully that will suffice to end the
3 day today.

4 MR JORDASH: I'm fairly sure it will.

17:03:33 5 PRESIDING JUDGE: You are ready to proceed now, Mr Jordash?

6 MR JORDASH: Yes, Your Honour.

7 PRESIDING JUDGE: Please do so.

8 MR JORDASH:

9 Q. Can I just refer you, Mr Witness, to the meetings you had
17:03:51 10 with the Prosecution in April and May of this year?

11 MR JORDASH: Your Honours, page 13185.

12 JUDGE ITOE: Mr Jordash, what page, please?

13 MR JORDASH: 13185, Your Honour, paragraph 13.

14 Q. Paragraph 13, the first three lines read like this,
17:05:42 15 Mr Witness:

16 "I recall four meetings in Freetown. The first meeting
17 took place around mid September 1997 at Wilberforce
18 Barracks."

19 Did you tell the Prosecution the first meeting took place
17:05:57 20 in mid September?

21 A. Yes, it was around that.

22 Q. Okay. So now I want to refer you to what you said in the
23 AFRC trial.

24 MR JORDASH: Your Honours, page 13444.

17:06:44 25 PRESIDING JUDGE: 21 July?

26 MR JORDASH: 21 July 2005 transcript.

27 Q. Now before I do, Mr Witness, you say you were in XXXXX
28 when you heard about the coup; is that right?

29 A. Yes.

1 Q. Am I right then it took - this is what you say - two weeks
2 before XXX joined you?
3 A. Yes, within two XXXX time.
4 Q. So did you hear about the -- when did you hear about the
17:07:40 5 coup? How long was it after the coup took place did you hear
6 about it?
7 A. The very day that they staged the coup in Freetown here
8 when they overthrew Tejan Kabbah. I heard that on the BBC.
9 Q. Okay. So the coup took place on 27th May 1997, didn't it?
17:08:21 10 25th May 1997?
11 A. Yes.
12 Q. And so it took about two weeks before XXXXX joined you,
13 which would take us to --
14 A. It was within two weeks.
17:08:39 15 Q. Well, what roughly? What's within two weeks? The two
16 weeks --
17 A. Roughly two weeks.
18 Q. So that takes us to roughly the end of the first week of
19 June; am I right?
17:09:08 20 A. Yes, around that.
21 Q. Around that. And then it took you another three weeks - is
22 this right - before you arrived in Sierra Leone?
23 A. No, it was within that two weeks before we came because
24 during that first week as XXXXXX met me, it was not even up to
17:09:48 25 one week from Monrovia all the way to come to Freetown here.
26 Q. Well, can I suggest, Mr Witness, that you, because of
27 cross-examination in the AFRC trial, know what I'm going to
28 suggest and you've changed the timing to ensure you arrive in
29 Freetown somewhat earlier than you actually did?

1 A. Yes, I am in doubt because when you said that it was within
2 two weeks after Issa had met me and we took some other three
3 weeks, I said no. I did not say so.

4 Q. Well, let's have a look at what you did say then.

17:10:41 5 MR JORDASH: Your Honours, page 13445, line 17.

6 Q. Your answer, Mr Witness:
7 "I told you that after the coup, Commander B came and met
8 me in two weeks' time. Altogether we took three weeks in
9 XXXXXX before coming to Sierra Leone."

17:11:16 10 A. No.

11 Q. Well, this is what you said on 21st July 2005.
12 "Because" --

13 A. Yes, I am in doubt because -- I am in doubt about that.

14 Q. Okay. Let me read on so you get the full sentence.

17:11:41 15 "Because we -- I took two weeks, XXXXXX came there and
16 met me. We were there up to a week before we entered
17 Sierra Leone."
18 And reading on, this is the question:
19 "Q. So, I am right in saying that it was in the third week
17:11:55 20 of June that you left XXXXXX for Sierra Leone, because
21 you are now saying you only took one week after XXXXXX
22 joined you in XXXXXXXX
23 "A. Yes.
24 "Q. That was in the third week of June 1997?
17:12:12 25 "A. Yes.
26 "Q. And when you left XXXXXX you came to a village
27 called Keita; not so?
28 "A. Yes."
29 And let me take you over the page so you get the full

1 picture.

2 MR JORDASH: Your Honours, page 13447, line 24.

3 Q. "Yes, the very day we arrived, XXXXXX came down to

4 Freetown and he left me there together with Mosquito."

17:13:18 5 Do you recall that evidence about you and XXXXX coming --

6 XXXX leaving you in Kenema with Mosquito? Do you recall that?

7 A. Yes.

8 Q. "Q. At the beginning of the fourth week you went to XXXXX

9 to XXXXXX; not so?

17:13:45 10 "A. Yes."

11 You remember that?

12 A. Yes.

13 Q. Then the question was on 13448:

14 "Q. Will you agree with me, looking at the calculations,

17:14:04 15 you came to Kenema around the end of the third week of June

16 and you spent three weeks in Kenema and you left at the

17 beginning of the fourth week. Will you agree with me if I

18 say that you in fact left Kenema in the third week of July

19 1997?

17:14:27 20 "A. Well, it may be so, but because I didn't take note of

21 the time, I only knew of the year. The month I cannot

22 determine."

23 And then over the page, 13449, when we get the question at

24 the top:

17:15:04 25 "Two to three weeks in Kenema.

26 "Q. So that still brings us to sometime mid July 1997; not

27 so?

28 "A. Yes."

29 So were you agreeing, Mr Witness, in that trial that you

1 were in XXXXX until mid July 1997?

2 A. Yes, in XXXXX Town.

3 Q. And then further down the page when the question is

4 concerning how long you stayed inXXXXXX:

17:15:44 5 "Q. What is it? Is it XXXXXX or up to three XXXX?

6 "A. Well, it is the XXXXXXX because I was there. I

7 cannot say exactly, yes, it was XXXXXXX. So I took

8 it."

9 Weren't you saying at that stage that you'd been in XXXXX

17:16:06 10 for about three months?

11 A. Yes, I said so. I said that I was there around three

12 months.

13 Q. So wouldn't these calculations mean that you arrive in

14 Freetown mid October 1997 if what you say is true?

17:16:40 15 A. Yes, it was in September that I came here, in Freetown

16 here.

17 Q. No, wouldn't the calculations you were appearing to agree

18 with in the AFRC trial take you to mid October arriving in

19 Freetown?

17:17:15 20 A. No, it was the September that I came here, '97.

21 Q. Well, can I suggest, Mr Witness, that you arrived in

22 Freetown in October and you arrived in Freetown in October with a

23 number of other RUF who had been based in Monrovia having

24 surrendered to ULIMO in 1996?

17:18:14 25 A. Repeat that.

26 Q. I'll be specific. I suggest you arrived in Freetown in

27 October with XXXX, XXXXX and a number of other

28 RUF who were answering the call to come to Freetown?

29 A. No, I came ahead of these people. I came ahead of XXXXX,

1 XXX, XXXXXX, all those ones, we left them in
2 XXXXXX. I and XXXX, we crossed and they came later. Even when
3 they came in Freetown here, at that time I was in XXXX, I was
4 not in Freetown again.

17:19:01 5 JUDGE THOMPSON: Mr Jordash, what he seems to be saying is
6 that he is not mistaken at all about the September/October thing.

7 MR JORDASH: Yes.

8 JUDGE THOMPSON: That's what I gather seems to be --

9 MR JORDASH: Well, he appears to accept that he --

17:19:22 10 JUDGE THOMPSON: He is not mistaken.

11 MR JORDASH: Well, he appears to accept his calculations
12 would take him to October but --

13 JUDGE THOMPSON: But his final answer seems to be that he's
14 not mistaken.

17:19:31 15 MR JORDASH: Yes, but I'm happy to move on. The record
16 reflects as it does.

17 [RUF22NOV05E - EKD]

18 Q. Who was the first meeting chaired by, Mr Witness? First
19 meeting, Wilberforce in Freetown which you say you attended.

17:20:01 20 A. Army chief of staff, Kowas.

21 Q. You've told us that Mr A, Issa Sesay, Morris Kallon,
22 Eldred Collins, Gibril Massaquoi, Steve Bio, Colonel Isaac,
23 Kowas, XXXXXX were present, as was XXXXXXXX and Rambo.
24 Do you recall that?

17:20:59 25 A. Yes, that was the first meeting at Wilberforce. You
26 mentioned one name, and that individual was not there. He was
27 Steve Bio at Wilberforce Barracks during the first meeting. I am
28 surprised that I saw his name in the first meeting at
29 Wilberforce.

1 Q. Why? Why are you surprised?

2 A. I said he was not there. Steve Bio was not there, but the
3 rest of the people that you called, they were all there.

4 Q. Okay. Anybody else there of significance?

17:21:40 5 A. Well, you showed most of them, majority of the people that
6 I showed. It was only Steve Bio that was not there in the first
7 meeting at Wilberforce.

8 Q. Anybody else of any significance in the command structures
9 do you recall being there at any stage in this meeting, besides
17:21:57 10 the names we have just gone through?

11 A. I cannot recall. Those that I recall were the ones whose
12 names I had shown.

13 Q. Johnny Paul Koroma, was he there?

14 A. He was not there.

17:22:31 15 Q. Mosquito, was he there?

16 A. No, Mosquito was not there.

17 Q. Well, let me refer you to something you told the
18 Prosecution before.

19 MR JORDASH: Your Honours, page 13047. This is the
17:22:53 20 interview of 26 February 2003. 13047.

21 Q. "Q. Okay, and who ran the meeting? Who was the biggest
22 man?

23 "A. Well, the first biggest man who entered there was
24 [sic] army chief of staff, Kowas; then from there, Issa was
17:24:02 25 there; Mike Lamin was there; then 'Mosquito' was there;
26 then later Johnny Paul came [sic] there."

27 Did you tell the Prosecution Johnny Paul and Mosquito were
28 at that meeting?

29 A. No, I did not state their names. I'm really surprised to

1 hear that.

2 Q. I'm suggesting these are your words because this, what I am
3 looking at, as I understand it, is a word-for-word document of
4 what you said. I am suggesting that you have invented attending
17:24:51 5 this meeting.

6 A. Yes, I attended the meeting. But during that time Mosquito
7 was not there, Johnny Paul Koroma was not there. So I am
8 surprised to see their names and to hear from you that I was the
9 one that called them.

17:25:14 10 Q. What was the point of the chart at that meeting,
11 Mr Witness?

12 A. Well, that one did not concern that meeting.

13 THE INTERPRETER: Your Honours, would the witness go a
14 little bit slower?

17:25:37 15 MR JORDASH:

16 Q. Could you just go over that a bit slower, Mr Witness?

17 A. I said that one had nothing to do with that meeting. It
18 was only there -- when you enter, you see it. If you are
19 interested, you would look at it and go right. You would read
17:25:55 20 it.

21 Q. You see, I suggest that you invented that chart as well,
22 just to implicate Mr Sesay.

23 A. May God forbid. How can I make an AFRC chart? I could
24 read but I couldn't make it. That was not to implicate Mr Sesay,
17:26:28 25 but I was saying the truth.

26 JUDGE THOMPSON: [Microphone not activated]

27 MR JORDASH: I agree.

28 Q. I am not saying you made the chart. I am saying that you
29 didn't attend the meeting and you couldn't, therefore, have seen

1 a chart.

2 A. No, I attended the meeting.

3 Q. You see, this was September, if what you say is right, and
4 wouldn't it be the case from what you've told us that any command
17:27:02 5 structure was already set up before in the early days of the
6 coup?

7 A. Yes, it's something that I had met. They had already
8 written on it.

9 Q. Everyone at the meeting would have known about any proposed
17:27:29 10 command structure, wouldn't they?

11 A. Yes, they should know.

12 Q. They didn't need a chart.

13 PRESIDING JUDGE: I didn't hear what you just said,
14 Mr Jordash.

17:27:45 15 MR JORDASH: They didn't need a chart.

16 THE WITNESS: Did not need it because people like
17 Issa Sesay, Kanu, they were there before. In fact, when they
18 took over initially, so in fact they were the ones that
19 programmed it. So there was no need for them, you know, to
17:28:01 20 concentrate on it again. But I that came, I knew. So I saw it
21 so I had interest in it so as to know, so as to get some ideas.

22 MR JORDASH:

23 Q. How was it, do you know, that -- no, I will wait for that.
24 The meeting discussed, as you've told us, the problem of
17:28:33 25 harassment of civilians; yes?

26 A. Yes, yes, that was one of the items on the agenda.

27 Q. It was noted that some commanders were not keeping command
28 and control of their men; is that right?

29 A. Not at all, yes.

1 Q. And the discussions, from what you have told us, were
2 discussions about what to do about commanders who did not keep
3 control of their men; is that right, in part at least?

4 A. Well, they get piece of advice for those commanders who had
17:29:42 5 been harassing people, who had armed men under their control so
6 as to make them stop doing these bad things. They give piece of
7 advice on that strictly.

8 Q. Was there a discussion about setting up a security patrol?

9 A. Yes.

17:30:12 10 Q. Was a security patrol set up in Freetown around this time,
11 headed by AFRC Captain Mandali [phon]?

12 MR JORDASH: My pronunciation again, excuse me.

13 THE WITNESS: I did not know the name of the commander, a
14 name like that. I heard that they formed, they asked security to
17:30:41 15 patrol at night in Freetown here.

16 MR JORDASH:

17 Q. Was that security patrol headed by an SLA loyal to
18 Johnny Paul Koroma, do you know?

19 A. Yes, I said that was what I heard and it was an SLA that
17:31:12 20 was leading it.

21 Q. That patrol was supposed to --

22 A. To stop and to take care. To handle those that had been
23 looting and harassing people at night so there are some strategic
24 points where they should keep checking, where they should guard
17:31:36 25 so that there would be no destruction, like looting and other
26 things not to go on.

27 Q. Do you know if at that meeting or any other meeting it was
28 decided that looters would be shot on sight?

29 A. What do you mean?

1 Q. Was one of the penalties decided at any meeting? Was any
2 penalty for looting decided? Was it supposed to be being shot on
3 sight? When seen they would be shot?

4 A. Well, at that meeting they did not state that
17:32:35 5 categorically. But when they formed the security, perhaps they
6 might have instructed them to do so. But they told them that
7 that security that they had formed, whosoever went on looting or
8 harassing other people, they will handle you. But if they told
9 them that if you handle somebody that did these things, they
17:32:57 10 should kill him. Well, they did not say that to me when I was
11 there in the meeting.

12 Q. Now, at the second meeting in Freetown was the same subject
13 discussed concerning what practical measures to take to stop
14 crimes against civilians?

17:33:29 15 A. Well, they only gave us piece of advice about that. I did
16 not see any other action that they took which was separate
17 from -- apart from those piece of advice that they gave.

18 Q. Okay. Was Superman at the first and second meeting?

19 A. He was there.

17:34:09 20 Q. Was it left up to individual commanders to keep their own
21 troops in order?

22 A. Yes, sir, that was one of the piece of advice that he gave.
23 He said whosoever had somebody, his subordinate, he should be
24 able to control them, and to make sure that they should stop all
17:34:34 25 these bad things, such as looting or raping and other things that
26 had been going on.

27 Q. And did all the individual RUF commanders present at these
28 meetings agree to keep their own subordinates under control?

29 A. Yes.

1 Q. Did Steve Bio, in that second meeting, appear to act as if
2 he represented the RUF?
3 A. That was what he said.
4 Q. Is he the only member of the RUF you recall speaking at
17:35:34 5 that meeting at the Youyi building?
6 A. Yes, mostly. He was the one that I was concerned about.
7 Q. Thank you. Now, were you inside the second meeting, the
8 Youyi building meeting?
9 A. Yes.
17:36:14 10 Q. Why were you allowed inside a meeting with the top
11 commanders?
12 A. At that time I was XXXXXXX and an XXXXXXX was an
13 XXXXX. So when they entered, they also had a right not to
14 enter.
17:36:40 15 Q. But you didn't go in the third or fourth meeting, did you?
16 A. Yes, that one is a little bit different because it was in
17 the President's house. The one that was concerned, who had to
18 attend a meeting, was supposed to go there but you cannot compare
19 it with the one at the officer's mess.
17:37:06 20 Q. Why not? If you're an XXXXXXX why couldn't you go there?
21 A. Well, my commander XXXXX had gone there. So I am a
22 subordinate to him. There it was the chairman who called a
23 meeting. So he did not say, "[By direction of the Court, this
24 name has been redacted], come".
17:37:30 25 Q. [Microphone not activated]
26 MR HARRISON: I'm sorry to interrupt. If I could just ask
27 that the witness try to remember that we are in an open session
28 and I am also asking the Court, if it is necessary, for any
29 redactions to be made at the appropriate time.

1 MR JORDASH: Sorry, I really didn't hear that last sentence
2 so I was going to ask him to repeat it.
3 PRESIDING JUDGE: He just gave his first name.
4 MR JORDASH:
17:38:01 5 Q. Let me try to understand this. Mr Witness, be careful with
6 names. Okay?
7 A. Yes.
8 Q. Weren't you at the meeting at Wilberforce and Youyi
9 basically because Mr A was at the meeting? You went there as his
17:38:17 10 XXXXX, did you not?
11 A. Yes, sir.
12 Q. So what was the difference, then, with the third and fourth
13 meeting where you say you couldn't go inside? Or didn't go
14 inside?
17:38:40 15 A. Well, the first meeting and the second meeting, they said
16 officers, but the third and the fourth they said it was meant for
17 the executive, the Supreme Council members; the big men. And
18 during that time I was not a Supreme Council member, I was just
19 an XXXXXXX. If they had said all XXXXXX, I myself
17:39:03 20 would have gone there, but there was a distinction.
21 Q. So, in 19XX you were aXXXX; is that right?
22 A. No. I was a XXXXXXXX.
23 Q. So a number of XXXXXX then were at those first two
24 meetings. Which other XXXXXX were there?
17:39:53 25 A. I was concerned about myself. There were captains whom
26 they had been introducing, but I did not know their names. And
27 the more so there were AFRC soldiers, so I cannot recall their
28 names.
29 Q. Well, there must have been other RUF captains around that

1 time in Freetown, wasn't there?

2 A. Yes, but the ones that went there, those that I knew were
3 not a captain. It was from major and colonel from the RUF.
4 These were the ones that were there mostly and they were the ones
17:40:44 5 that attended that meeting.

6 Q. Okay. Could I suggest that Issa Sesay was not at a meeting
7 at either Wilberforce or Youyi building.

8 A. He was there.

9 Q. And, in fact, the only meetings Mr Sesay attended was at
17:41:45 10 Cockerill and one at JPK's lodge. So he wasn't there, I suggest.

11 A. I don't think so.

12 Q. Could I ask you about -- is it possible, Mr Witness, that
13 with the passage of time you have made a mistake about the people
14 who were at the meetings, if at all you were associated with
17:42:41 15 them?

16 A. You may be correct for a few people, but there is some that
17 I could still recall, although it has taken a long time.

18 Q. Am I right that --

19 MR JORDASH: Referring to Your Honours page 12976, which is
17:43:08 20 the very first interview this witness gave in January 2003?

21 PRESIDING JUDGE: 976?

22 MR JORDASH: 12976, Your Honour.

23 Q. You accept, don't you, Mr Witness, that when you went to
24 meet the convoy at XXXXXXXX, XXXXXXXX, Gullit wasn't with
17:43:46 25 Johnny Paul Koroma? You accept that, don't you?

26 A. Yes, he wasn't there.

27 Q. And you accept that Five-Five wasn't there as well, don't
28 you?

29 PRESIDING JUDGE: What are we talking about now?

1 MR JORDASH: The meeting to XXXXXX to meet
2 Johnny Paul KoromaXXXXXX and Issa Sesay in February 19XX
from 3 Kailahun.
4 PRESIDING JUDGE: Thank you.
17:44:17 5 MR JORDASH: I am sorry to jump, but there is a point.
6 There is a difference between Gandorhun and Gandorhun Gbane.
7 They are two different places.
8 PRESIDING JUDGE: But was there a meeting at both places?
9 MR HARRISON: No, it's Gandorhun Gbane.
17:44:38 10 PRESIDING JUDGE: In February 1998, is that what you are
11 suggesting, Mr Harrison?
12 MR JORDASH: There seems to be agreement from Mr Sesay, so
13 that would be a rare thing, I suspect.
14 Q. At Gandorhun Gbane you accept that you didn't meet Gullit
17:44:55 15 or Five-Five there in 1998?
16 A. If, like Gullit, I understand very well he wasn't there.
17 If Five-Five was there, I did not see him. I did not see him, he
18 himself.
19 Q. He wasn't in Gandorhun or Gandorhun Gbane, neither place,
17:45:22 20 was he not, when you were?
21 A. He was not at Gandorhun Gbane.
22 Q. Can I just read to you what your statement says from
23 January 2003?
24 MR JORDASH: Your Honours, page 1296.
17:45:43 25 Q. "Among the convoy were Johnny Paul Koroma's wife and three
26 children, boys, his security, Rambo, Gullit, Five-Five and
27 others."
28 Did you tell the Prosecution that Gullit had been present?
29 A. No, I did not talk about Gullit's presence. Because

1 Gullit, I left him in Kailahun before I went ahead of Issa Sesay.
2 So I did not say that he was there. I said so.
3 Q. You didn't tell the prosecutor that he was there?
4 A. Not at all. I talked about Gullit, but I did not say that
17:46:29 5 he was there.

6 Q. Right. Well, let's move on.
7 MR JORDASH: I'm afraid I have messed up and not given your
8 learned legal officers all the pages I wanted to refer to. In
9 fact, I haven't. Sorry. Can I refer Your Honours to page 13084,
17:46:56 10 which is the interview of 26th February 2003?

11 Q. These are your words, Mr Witness. I don't think there is
12 any dispute that this is what you said.
13 "A. Yes, as security now, because all Johnny Paul -- they
14 came, they go around with Mike Lamin, Mike Lamin was
17:47:50 15 with them."

16 "A. With Johnny Paul, Mike Lamin, Issa Sesay, Denis Mingo,
17 Morris Kallon; they were all together.

18 "A. Gullit, Five-Five, Rambo were now the security; all of
19 them were together. So they told us to go and receive them
17:48:16 20 in Kono. But unfortunately we never receive [sic] -- but
21 unfortunately we never reached Kono. Kono only to us by
22 Kailahun, one village Kailahun, and there we stayed. Then
23 the next morning they bring Johnny Paul and others.

24 "Q. Who is the others?
17:48:43 25 "A. Johnny Paul; I see "Gullit"; I see "Rambo";" et
26 cetera.

27 So you did say in February 2003 you'd seen Gullit, didn't
28 you, on that trip, to meet Johnny Paul Koroma?

29 A. Yes, I said before we went to meet Johnny Paul and

1 Issa Sesay. I said Gullit had already gone to Kailahun from
2 Kono. That was what I said. He had already come to Kailahun
3 from Kono before we went to receive JPK with Issa Sesay at
4 Gandorhun Gbane.

17:49:29 5 Q. Mr Witness --

6 A. No.

7 Q. -- I am suggesting you told the Prosecution you met Gullit
8 on that trip. Did you?

9 A. I am surprised about that. That especially for Gullit,
17:49:54 10 because I had seen him first up to two days before I moved to go
11 to Johnny Paul. So if later I said -- I talked about it, but the
12 way it was recorded, I am surprised, that he was with
13 Johnny Paul.

14 Q. Okay. You see, Mr Witness, I am suggesting you shouldn't
17:50:16 15 be surprised because it is a long time ago and you can't remember
16 everything, can you?

17 A. Yes.

18 Q. Just so we are clear about where Gullit was, at the time of
19 the Freetown intervention Gullit was in the Kono area and he
17:50:42 20 moved --

21 A. Yes.

22 Q. So when you arrived in Kailahun, Gullit arrives separately
23 from any of the other troops who had left Freetown as part of the
24 intervention?

17:50:59 25 A. Yes, Gullit first arrived with Moriba who was an RUF, from
26 Kono to Kailahun.

27 Q. At the time when the RUF/AFRC are leaving Freetown going to
28 Masiaka, Makeni, from what you have told us from what you know,
29 Gullit wasn't there, because he was in Kono and then moved to

1 Kailahun quite separately?

2 A. Yes. Gullit was in Kono when he had heard that Freetown
3 had fallen. I think Moriba convinced him, both of them came to
4 Kailahun first. Before ever Johnny Paul reached Kono, Mosquito
17:51:57 5 told me that Major Gweh, that we should go ahead of them.

6 Q. So, from what you know, Gullit didn't travel with either
7 Issa Sesay, Superman, Johnny Paul from Freetown to Kono to
8 Kailahun?

9 A. Yes, that is my own understanding.

17:52:24 10 Q. Did you get that from Gullit? Did you hear that from
11 Gullit?

12 A. Yes, because I saw Gullit first, before those people --
13 people in Freetown went to the Kono area, and I knew that he was
14 from Kono and the person with whom he was, who was an RUF, who
17:52:48 15 was Moriba, he himself was in Kono. He and Gullit reached
16 Kailahun before those from Freetown reached Kono. They were the
17 first people that reached there.

18 Q. Because Gullit had been PLO in charge of Kono at the time
19 of the intervention?

17:53:11 20 A. Yes.

21 Q. I want to, just for completeness' sake and not to in any
22 way embarrass you, Mr Witness -- but looking over the page to
23 what else you said about Gullit.

24 MR JORDASH: Your Honours, page 13087.

17:53:39 25 Q. You talk here about the meeting at Gandorhun. You were
26 asked:

27 "Do you remember meeting there?"

28 Your answer is:

29 "The only meeting is -- after the arrival from Kono, when

1 we are waiting for them in Gandorhun, after they move from
2 Kono, the next morning they get in Gandorhun. They called
3 up the formations; they show Johnny Paul to us, to the
4 other army there who went along with us to go and receive
17:54:19 5 him. They told us, they said this is the chairman, then
6 this is his wife -- this is his wife, then his childrens,
7 then Gullit's PLO 1, the introductions go on."

8 So in February 2003 you recalled a meeting in Gandorhun in
9 which Gullit had been introduced; am I right?

17:54:55 10 A. No, sir. Gullit, his own business, the way it was recorded
11 in that document, that was not what I said about him. I knew
12 that Gullit was in Kailahun. If I had not known Gullit or if I
13 had not known that he was in Kailahun, if I had put -- if I had
14 asked them to record that, then I would have answered. But I
17:55:16 15 talked about Gullit but I don't say that he was together with
16 Johnny Paul at Gandorhun Gbane.

17 Q. I think it is only fair to tell you, Mr Witness, that what
18 I am looking at is a word for word document of what you said at
19 the time. So what you said was recorded word for word?

17:55:39 20 A. Yes, but if they read it as you are reading it to me, after
21 when they had recorded, then I should have made some corrections.
22 But now they did not do that. So that's why I am making
23 corrections now.

24 Q. Okay. Well, let's have a look further on, 13159. Again
17:56:21 25 your words, Mr Witness. You're asked about how you knew that
26 Gullit was in Kono and you say, "I see him. Then after from
27 there we went and received them", "We brought them on the base",
28 "Yes, I see him", "Gandorhun, Gandorhun Kpaneh."

29 PRESIDING JUDGE: What's the page?

1 MR JORDASH: I'm sorry, Your Honour, 13159. I hadn't
2 appreciated you hadn't found it. It is the interview of 1st
3 March 2003.

4 PRESIDING JUDGE: Okay, it's in the middle of the page.
17:57:16 5 That's all right.

6 MR JORDASH: Yes.

7 Q. Mr Witness, so you understand, I say on behalf of Mr Sesay
8 that you're right now, that Gullit wasn't on that trip and he
9 wasn't in Freetown. He was in Kono and came to Kailahun. I am
17:57:31 10 putting this to you just to suggest that you have made mistakes
11 about names in the past. Do you understand my point?

12 A. Make it clear so that I can understand.

13 Q. On three occasions you have made a mistake about -- sorry,
14 four occasions you made a mistake about Gullit's presence in
17:58:06 15 Gandorhun, I suggest. And I suggest that you made a mistake
16 about Sesay being present at two -- at Youyi building and present
17 at Wilberforce at those meetings. Is that possible?

18 A. It was not a mistake. What I said is what I'm saying now.
19 I saw Issa Sesay in that meeting at Gandorhun Gbane. I saw
17:58:41 20 Gullit when he was in Kono and Kailahun, before I went ahead of
21 Johnny Paul. I did not say that when I went to Gandorhun Gbane
22 or about Issa, I did not say that Gullit was there, no. Gullit
23 was in Gandorhun before ever we went to Gandorhun Gbane.

24 Q. Did Gullit report to Johnny Paul Koroma during the junta
17:59:08 25 period, Mr Witness?

26 A. Yes, because even during the time that I knew him in
27 Freetown, I knew him in Johnny Paul's -- Johnny Paul Koroma's
28 compound and they told me that he was the PLO-1.

29 Q. And JPK appointed Gullit as head commander in Kono during

1 the junta period. Was that your understanding?

2 A. Yes, yes.

3 Q. Did Gullit also report to SAJ Musa - do you know? - during
4 the junta period?

18:00:00 5 A. Yes. I did not see that, but I heard of that. I heard
6 about that.

7 Q. Was the relationship between Sam Bockarie and SAJ Musa
8 very, very poor?

9 PRESIDING JUDGE: Mr Jordash, we are moving into different
18:00:17 10 areas now? It is 6 o'clock.

11 MR JORDASH: It is the last question of this very brief
12 area of Kono.

13 Q. Was the relationship between SAJ Musa and Sam Bockarie
14 very, very poor during the junta period?

18:00:37 15 A. Yes, it was not good at all. It was not good.

16 Q. Did that continue after the junta period, as far as you
17 were aware?

18 A. 'Til we went to the bush. The relationship was not
19 cordial.

18:01:07 20 PRESIDING JUDGE: Very well, court will adjourn to 9.30
21 tomorrow morning. Mr Taku, we have not forgotten about you. We
22 will wait until we have finished with the cross-examination and
23 then it will be your turn, before you proceed with your
24 cross-examination.

18:01:20 25 MR TAKU: Thank you very much, Your Honour.

26 PRESIDING JUDGE: Thanks.

27 [Whereupon the hearing adjourned at 6.00 p.m.,
28 to be reconvened on Wednesday, the 23rd day of
29 November 2005, at 9.30 a.m.]

WITNESSES FOR THE PROSECUTION:

WITNESS: TF1-045 3

CROSS-EXAMINED BY MR JORDASH 3