



Case No. SCSL-2004-16-T
THE PROSECUTOR OF
THE SPECIAL COURT
V.
ALEX TAMBA BRIMA
BRIMA BAZZY KAMARA
SANTI GIE BORBOR KANU

FRIDAY, 22 SEPTEMBER 2006
9.15 A.M.
TRIAL

TRIAL CHAMBER II

Before the Judges:	Richard Lussick, Presiding Teresa Doherty
For Chambers:	Ms Carolyn Buff
For the Registry:	Ms Advera Kamuzora
For the Prosecution:	Mr Karim Agha Mr Charles Hardaway Mr Michael Brazao
For the accused Alex Tamba Brima:	Ms Glenna Thompson
For the accused Brima Bazy Kamara:	Mr Mohamed Pa-Momo Fofanah
For the accused Santi gie Borbor Kanuu:	Mr Geert-Jan Alexander Knoops

1 [AFRC2SEP06A - MD]

2 Friday, 22 September 2006

3 [Open session]

4 [The accused present]

09:14:54 5 [The witness entered court]

6 [Upon commencing at 9.15 a.m.]

7 PRESIDING JUDGE: All right. This gentleman in the witness
8 box is DBK-111; is that correct?

9 MR FOFANAH: Yes, Your Honour.

09:19:25 10 PRESIDING JUDGE: Thank you.

11 WITNESS: DBA-111 [Continued]

12 [The witness answered through interpreter]

13 PRESIDING JUDGE: Well, witness -- Mr Witness -- I will
14 remind you, when you came to Court a few days ago, you took an
09:19:57 15 oath to tell the truth and I am reminding you now that you are
16 still bound by that oath; is that clear?

17 THE WITNESS: I heard.

18 PRESIDING JUDGE: Yes, Mr Hardaway.

19 CROSS-EXAMINED BY MR HARDAWAY:

09:20:11 20 MR HARDAWAY: Thank you, Your Honour, good morning.

21 PRESIDING JUDGE: Good morning.

22 MR HARDAWAY:

23 Q. Mr Witness, good morning, sir.

24 A. Good morning, sir.

09:20:20 25 Q. I have a few questions that I want to ask you today. I
26 just want you to listen carefully to the question, answer the
27 question I ask you, and answer it truthfully. A lot of times the
28 answer can be yes, no, or I don't know; do you understand, sir?

29 A. I've heard.

1 Q. Thank you, sir. And also, again, just please answer the
2 question directly. If there is any further explanation I will
3 ask you; all right?

4 A. Okay, I've heard.

09:20:59 5 Q. Now, Mr Witness, you had testified earlier that you were in
6 Nonkoba when Freetown was invaded in 1999?

7 A. Yes, sir.

8 Q. The invasion of Freetown in 1999 was done by SLA soldiers
9 of the former AFRC government, wasn't it?

09:21:29 10 A. Well, I only heard that the RUF had entered Freetown.

11 Q. I put it to you, sir, that the invasion of Freetown, in
12 1999, was conducted by SLA soldiers of the defunct AFRC
13 government; what is your response, please?

14 A. Well, what I heard is what I have talked about, because I
09:22:03 15 haven't any other thing to add.

16 Q. Thank you, sir.

17 A. Yes, sir.

18 Q. Mr Witness, one of the leaders of that Freetown invasion
19 was Alex Tamba Brima, also known as Gullit, wasn't it?

09:22:22 20 A. During that time I only heard that they've made an
21 overthrow in Freetown.

22 Q. I put it to you, sir, that Alex Tamba Brima, also known as
23 Gullit, was one of those who led the invasion in Freetown in
24 1999; what is your response, please?

09:22:54 25 A. I have nothing to say because what I heard is what I've
26 explained. I haven't anything to say.

27 Q. I put it to you, sir, that Ibrahim Bazy Kamara was also
28 one of those who led the invasion in Freetown in 1999; what is
29 your response, please?

1 A. Well, I'll give you the same answer, that I wasn't here. I
2 only heard it, heard it over the radio. There is nothing I can
3 say concerning that.

09:23:32 4 Q. I put it to you, sir, that Santigie Borbor Kanu, also known
5 as Five-Five, was one of those who led the invasion in Freetown
6 in 1999; what is your response, please?

7 A. The same answer because I wasn't present.

09:23:57 8 Q. Thank you, Mr Witness. I want to now go back to your
9 testimony as it relates to Nonkoba. I have a few questions and I
10 hope you can clear some things up for me; all right, sir?

11 A. Yes, sir.

12 Q. Now, you had testified earlier that after the Freetown
13 invasion that nothing had happened in Nonkoba; is that correct?

14 A. Something happened.

09:24:17 15 Q. Right after the Freetown invasion?

16 A. It wasn't just after the invasion; it was in April when
17 something happened.

09:24:39 18 Q. You had also testified that during that time, I believe
19 it's the Freetown invasion, the rebels in Lunsar were trying to
20 create a relationship with you in the Masimera area, where
21 Nonkoba is; do you remember that part of your evidence, sir?

22 A. That area, I spoke about it because during that time they
23 were trying to make a relationship with us. Even the time when
24 they wrote the letter to the chief, saying that they will come
09:25:07 25 and pay us a visit.

26 Q. Thank you, Mr Witness. Now you also -- let me just jump
27 out a little bit -- you stated that Independence Day in Sierra
28 Leone is on the 27th of April; is that correct?

29 A. Independence?

1 Q. Yes, sir.

2 A. April 27, yes.

3 Q. Thank you. Now, you had also testified that the group who
4 you called the rebels, they arrived on the 25th of April and
09:25:42 5 stayed until the 26th of April; do you remember that?

6 A. Yes, sir.

7 Q. And when the rebels arrived you and your family went into
8 the bush; correct?

9 A. Yes, sir.

09:26:03 10 Q. And they only showed up, the rebels, after they sent the
11 letter saying that they wanted to celebrate Independence Day in
12 Nonkoba; correct?

13 A. Yes.

14 Q. My question to you, sir, is this: If these rebels who were
09:26:19 15 trying to establish a relationship with you, and then had wanted
16 to come over just to celebrate Independence Day with you in
17 Nonkoba, why did you run and hide in the bush?

18 A. Well, we knew that they had guns, so we hadn't guns. That
19 was why we ran away. They said they were going to make a good
09:26:47 20 relationship with us but, when they went, they took away our
21 property so that was why we ran away. When they went they did
22 bother us.

23 Q. Now, Mr Witness, you had stated that a lot of this started
24 with the letter in which the words "RUF" were written on; is that
09:27:09 25 correct?

26 A. Yes, sir.

27 Q. Prior to you giving evidence here today, sir, did you ever
28 speak to anyone at the Special Court concerning your evidence
29 here?

1 A. No, sir. I said nothing.

2 Q. Did you ever give a statement to anyone from the Special
3 Court, anyone from the Defence?

09:27:45 4 A. No, sir. I did not give a statement nor make a statement
5 to anybody.

6 Q. And it's your evidence that you talked to nobody from the
7 Special Court prior to your giving evidence here today; is that
8 correct?

9 A. What I have said here, I've never said to any other person.

09:28:07 10 Q. The reason I ask you this, Mr Witness, is that the
11 Prosecution is given a summary of what you're going to testify
12 to, and nowhere in the summary provided does it mention that you
13 ever, or anyone in Nonkoba, ever received a letter from Superman,
14 or anybody from Lunsar, and it is your evidence that you've
09:28:33 15 talked to no one before you came here today?

16 A. I did not speak with anybody.

17 Q. Mr Witness, other than the rebels, in Lunsar, after the
18 Freetown invasion, there were other armed groups in Port Loko and
19 in the Nonkoba area, weren't there?

09:29:01 20 A. Yes, sir.

21 Q. I put it to you, sir, that the rebels from Lunsar, under
22 the command of Superman, never attacked Nonkoba; what is your
23 response?

09:29:25 24 A. Well, I can tell you that they attacked Nonkoba because
25 they went there and took away my property.

26 Q. I put it to you, sir, that Nonkoba was attacked by the SLAs
27 who had invaded Freetown, in 1999, and were called the West Side
28 Boys; what is your response, please?

29 A. The first attack, it was the rebels from Lunsar; they were

1 the ones that attacked. That was on the 25th. They came there.

2 Q. I put it to you, sir, that the group that attacked Nonkoba,
3 called the West Side Boys, was led by Ibrahim Bazy Kamara; what
4 is your response?

09:30:15 5 A. Well, I don't know about Ibrahim -- I don't know about
6 Ibrahim Bazy because we saw people coming, that was why we ran
7 away. The others came, we don't know. We -- we didn't know
8 whether they were RUF or SLA because, when they came, they always
9 wrote RUF on our words. That was what we used to see.

09:30:43 10 Q. I put it to you, sir, that that attack was by the West Side
11 Boys and that they write RUF as a way to distract attention from
12 their actions; what is your response?

13 A. Well, they know better, because I don't know anything
14 concerning that.

09:31:08 15 Q. Mr Witness, you had mentioned that you had spoken --

16 A. Yes, sir.

17 Q. -- to Foday Bangura concerning who led the attack on
18 Nonkoba; do you remember that?

19 A. Yes, sir. I can recall.

09:31:26 20 Q. Where is Foday Bangura now?

21 A. Foday Bangura is at Mamorka, about a mile from Nonkoba.

22 Q. And he told you that it was Tina Musa that led the attack;
23 is that correct?

24 A. He said Tina Musa was among the group.

09:31:59 25 MR HARDAWAY: If I may have the Court's indulgence for one
26 moment, please. Thank you, Your Honours.

27 Q. Mr Witness, I put it to you that Tina Musa was never part
28 of any attack on Nonkoba; what is your response?

29 A. Well, the one who was captured told me that Tina Musa was

1 among.

2 Q. I put it to you, sir, that Tina Musa had travelled from,
3 after the invasion, from Freetown to Benguema, ultimately ending
4 in Makeni, and had never been to Nonkoba; what is your response,
09:33:17 5 please?

6 A. What I have to say, I did not see her. I was only told
7 that the woman was among. She was among the group.

8 Q. Thank you, Mr Witness. You had mentioned earlier that
9 there had been -- no, I withdraw that. I have no more questions
09:33:40 10 of you, Mr Witness. Thank you for your time here today.

11 MR HARDAWAY: Your Honours, this concludes my
12 cross-examination.

13 PRESIDING JUDGE: Thank you, Mr Hardaway. Is there any
14 re-examination?

09:33:51 15 MR FOFANAH: There is none, Your Honours.

16 PRESIDING JUDGE: Mr Witness, that completes your evidence.
17 Thank you very much for coming to Court. You will be able to
18 leave in a few minutes. The Court attendant will arrange for the
19 curtains to be drawn and then you can stand up and go.

09:34:11 20 [The witness withdrew]

21 PRESIDING JUDGE: Well, who will the next Defence witness
22 be?

23 MS THOMPSON: Your Honour, up to the time I left the
24 office, the witness house was being contacted as to whether
09:35:41 25 DAB -- Your Honour, I will find the pseudonym in a minute -- but
26 the witness who was unwell yesterday, whether he was well enough
27 to come to Court today. Our legal assistant has gone down to
28 find out what the answer to that is. Nobody was brought up this
29 morning, besides the witness who has just left the witness box.

1 They are still finding out whether that one is well enough.

2 PRESIDING JUDGE: That's DAB-003, I think, isn't it?

3 MS THOMPSON: 033, Your Honour. Yes, 033. That's the one.

4 PRESIDING JUDGE: Madam Court Attendant, could you go and
09:36:33 5 check the witness room now, please, and see if there's anybody
6 there.

7 MR AGHA: Your Honours, if there is not a witness there,
8 may the Prosecution make a small submission?

9 PRESIDING JUDGE: Well, let's find out first, Mr Agha.
09:37:03 10 It's not much point hearing it and then finding there's a witness
11 there. Yes, Mr Agha. There is no witness there.

12 MR AGHA: Your Honour, just bearing in mind that this
13 witness was also unwell yesterday, may the Prosecution suggest,
14 or submit, that perhaps we adjourn until 2.00 this afternoon, and
09:37:56 15 that there be an order to get the medical report on the witness,
16 since this would be his second day away from Court and to see if
17 it is possible if he can appear this afternoon as a witness and,
18 if not, what the prognosis might be for the following week,
19 because we do have a witness for cross-examination on Monday
09:38:14 20 morning, but it may be that this witness is very unwell and it
21 would be helpful to get an indication of when he may be able to
22 give evidence.

23 PRESIDING JUDGE: I think that might be a bit precipitous.
24 Ms Thompson has made some inquiries already.

09:38:32 25 MR FOFANAH: Your Honours, before that, can the curtains be
26 drawn since we are now --

27 PRESIDING JUDGE: We are in open Court, so draw the
28 curtains, please. You are still waiting, aren't you,
29 Ms Thompson, or has your legal assistant got something to say?

1 MS THOMPSON: Your Honour, they haven't been able to get a
2 word from him. When I left this morning, one legal assistant was
3 on the phone to the witness house, Mr Mansaray and the other
4 legal assistant has just been to find out what the witness was
09:39:02 5 saying, and they can't find him to say anything. I don't know
6 whether he is in bed, in the bathroom or whatever but they
7 haven't been able to make direct contact with him.

8 PRESIDING JUDGE: Is he being treated by Dr Harding?

9 MS THOMPSON: I don't know if it's Dr Harding, Your Honour,
09:39:19 10 but certainly yesterday he had been prescribed some medication.
11 I saw the -- he showed me the medication himself and there was
12 some other liquid that he was taking but I don't know whether it
13 was Dr Harding and I think there was a nurse there. Someone
14 spoke to me who I assumed was a nurse, about what he complained
09:39:35 15 of, and what he was prescribed, and when I went to the bedroom, I
16 was shown this medication and -- and some other things that he
17 was taking but I cannot say who the doctor was.

18 PRESIDING JUDGE: Well, look, what do you suggest,
19 Ms Thompson?

09:39:51 20 MS THOMPSON: Your Honour, I can't argue with my learned
21 friend's submission. It may be a good idea to find out exactly
22 what the situation is. I'm not sure whether it may necessitate
23 coming into Court. I can try to find out and then send a message
24 on.

09:40:09 25 PRESIDING JUDGE: Well, I'm -- I'm just reluctant to write
26 off a whole morning over an inquiry that could possibly take five
27 minutes.

28 MS THOMPSON: Sorry, Your Honour, I'm -- I'm in Your
29 Honour's hands as -- as -- as in what we do. It may take five

1 minutes, it may take longer. I -- I -- I really cannot say, Your
2 Honour.

3 PRESIDING JUDGE: Well, look, we're curious as to the
4 condition of this person and we'd like to get some medical
09:40:37 5 indication of whether he is ever going to come to Court or,
6 alternatively, whether he can come to Court and for some reason
7 simply won't come. So will the Defence be able to provide
8 something like that, if the witness is not going to be available?

9 MS THOMPSON: Yes, Your Honour. We should be able to.

09:40:54 10 PRESIDING JUDGE: All right, well --

11 MS THOMPSON: At least we will try and make the necessary
12 inquiries.

13 JUDGE DOHERTY: Ms Thompson, have you had any updates on
14 the situation of the three witnesses who were supplied their
09:41:09 15 travel allowances but haven't come?

16 MS THOMPSON: No, Your Honour. They haven't arrived and
17 they haven't made any contact whatsoever with anybody.

18 MR AGHA: Your Honours, if it was out of place for me to
19 suggest that till 2.00, then obviously it's whatever time may be
09:41:28 20 convenient because obviously we wouldn't want to write off a
21 morning either, if that could be avoided. It's just a question
22 of how fast we can get the correct information.

23 PRESIDING JUDGE: No, no. It certainly wasn't out of
24 place, Mr Agha. I -- and in fact -- it may be necessary to take
09:41:41 25 that amount of time but we're -- we're just exploring
26 alternatives at the moment.

27 Well, Ms Thompson, at -- at this stage we're thinking of
28 adjourning for half-an-hour, and giving you a chance to -- to
29 ascertain the exact position because I understand that your legal

1 assistant wasn't even able to find this witness.

2 MS THOMPSON: No, Your Honour.

3 PRESIDING JUDGE: So we'd -- we'd like some more precise
4 information on his availability and if he is not available

09:42:25 5 perhaps you could arrange for somebody there to obtain a medical
6 certificate saying as much.

7 MS THOMPSON: Yes, Your Honour. I will.

8 PRESIDING JUDGE: We will adjourn till 10.15 and we'll see
9 what the position is then and make further orders then, if

09:42:41 10 necessary.

11 MS THOMPSON: I am most grateful, Your Honour, for the
12 time.

13 PRESIDING JUDGE: Thank you. We will adjourn now.

14 [Break taken at 9.42 a.m.]

10:19:36 15 [Upon resuming at 10.20 a.m.]

16 PRESIDING JUDGE: Yes, Ms Thompson?

17 MS THOMPSON: Your Honour, the latest -- first of all may I
18 say I am grateful for the time -- the legal assistant went to the
19 witness house himself to ascertain what the exact position is at
10:20:12 20 the moment. He wasn't able to see the nurse -- because

21 apparently there is a resident nurse there -- or the doctor, but
22 the witness is still suffering from diarrhoea which, although not
23 as frequent, has progressed to another level and I don't really
24 want to go into the all the nitty-gritties of it, but it has

10:20:34 25 progressed to another level, so that he now needs to see the
26 doctor. Up till now he has been treated by a Mr Sai du Sesay who
27 is the nurse.

28 The long and short of it is, Your Honour, he will not be
29 available for today.

1 PRESIDING JUDGE: Well -- well, that being the case, what's
2 the Defence position?

3 MS THOMPSON: Your Honour, my learned friends and I were
4 discussing this. Our position is this, and we -- we say this
10:21:06 5 with some trepidation and also bearing in mind the time that has
6 been wasted but I don't think we have much choice and we crave
7 the Court's indulgence. There are nine witnesses still out
8 there, nine common witnesses still out there. We have been able
9 to -- though the missing three have still not been located. We
10:21:29 10 have been able to locate one so far, who has been on the list
11 since, I think, quite a while now, but he has been on the list
12 but not showed up. But he has been located and he has been told
13 to either contact the team, which is up there so he can come with
14 them, or make his way down. At the moment I am not sure when he
10:21:53 15 will be down but certainly instructions have been given for him
16 to be here.

17 The team that is up in the upcountry at the moment is also
18 making efforts to contact the remaining -- and that is the five
19 remaining because we have now -- the missing three are part, this
10:22:12 20 one has made contact, so there's just five remaining they are
21 still trying to locate. I think they have been looking for the
22 whereabouts of one but not been able to make actual contact.

23 Our submission would be perhaps to keep those aside. We
24 have the cross-examination on Monday morning. My learned friend
10:22:34 25 says it won't take the day but certainly will take the better
26 part of the morning, I think, and if we could start the
27 individual cases Tuesday or Wednesday, and I say that because
28 there is some individual witnesses who are resident in Freetown
29 and I've asked WVS to make contact with them and it may well be

1 that they will be ready to give evidence Tuesday or Wednesday, I
2 am not sure, because we haven't actually got them physically yet
3 into the witness house. But that's the position at the moment,
4 Your Honour. That is what we suggest.

10:23:16 5 PRESIDING JUDGE: Well, do I take it, then, the Defence is
6 asking for an adjournment until Monday morning?

7 MS THOMPSON: Yes, Your Honour.

8 PRESIDING JUDGE: Any -- any reply from the Prosecution? I
9 am sorry, Mr Knoops. Go ahead.

10:23:29 10 MR KNOOPS: Thank you, Your Honour. Your Honour, it would
11 also be my suggestion that -- I just got an update from my legal
12 assistants with respect to the two outstanding missions, no word
13 yet -- that we preliminary drop these nine outstanding common
14 witnesses and start with the individual witness list next week,
10:23:47 15 to keep the trial moving. And the Prosecution -- and, of course,
16 we can interpose if one of them would show up -- but if that not
17 -- if not the case, the Defence is willing to voluntarily drop
18 those nine witnesses.

19 The Prosecution, during the half hour break, took the time
10:24:15 20 to have a constructive meeting on the schedule for the experts
21 and the TRC witnesses, and that has now all been set for the week
22 of 16 October onwards and the week of 23 October onwards.

23 In the event the individual witness would not be concluded
24 before the 16th, we have actually agreed that we would suggest to
10:24:44 25 interpose the individual witness lists to have the TRCs, and the
26 experts, being examined in Court because I have to make the
27 arrangements today for their travel authorisation, et cetera.

28 I hope with these suggestions the trial could effectively
29 continue next week and we leave it up to the Court's discretion

1 whether or not you would issue an order to the Defence when the
2 individual witness lists should be -- well, when the individual
3 lists -- when the individual witnesses would be called to Court.

10:25:37 4 I -- I could imagine that, with respect to the Brima
5 Defence team, some time would be required to prepare their
6 witnesses; for instance, time till Tuesday or Wednesday but, on
7 the other hand, it's up to the Court's discretion to make a
8 decision on this.

9 There is also information that witness, DAB-010, is
10:26:12 10 contacted to come over. It might be so that he is available
11 Monday afternoon to be examined in Court.

12 This is, as far as myself concerns, an update.

13 PRESIDING JUDGE: Thank you.

14 MR FOFANAH: Your Honours.

10:26:30 15 PRESIDING JUDGE: Yes, Mr Fofanah.

16 MR FOFANAH: Just in addition to that I observe that since
17 we are now moving into the individual witnesses, it will follow
18 in line, in synchrony, that if the Brima Defence team starts,
19 then certainly we will expect them to finish their witnesses
10:26:47 20 before the second accused, naturally, calls his individual
21 witnesses. So in that light, I have taken the cue from what my
22 colleagues have said, I am respectfully indulging the Court to
23 probably consider, or take in view, the situation regarding the
24 common witnesses.

10:27:12 25 I believe that by latest Tuesday we should be able to
26 inform the Court as to whether we are dropping them or not
27 because if they do come over the weekend, on Sunday, it means
28 that they should be in Court on Monday. And that is just to give
29 the Brima Defence team time to ensure that they don't break when

1 they start calling their individual witnesses, because, if they
2 do, then naturally we have to come in as a second accused. I was
3 just thinking about that.

10:27:46 4 PRESIDING JUDGE: All right, thank you, Mr Fofanah. Well,
5 the Court's position would be that you should have your
6 individual witnesses ready to call. And I'm not -- I'm not
7 saying by a certain date -- I'm saying as soon as possible. If
8 there are, for instance, no more common witnesses available, I
9 would like to start the individual lists on Monday, if that could
10:28:09 10 be possible. Although I note that what Ms Thompson and Mr Knoops
11 have said that it may have to be Tuesday. But let there be no
12 doubt about it, I want those individual witnesses ready to give
13 evidence. And if it happens that you do locate some common
14 witnesses, I would still advise you to have your individual
10:28:34 15 witnesses ready to give evidence.

16 MR FOFANAH: I appreciate that, Your Honour. Thank you.

17 PRESIDING JUDGE: But what I was going to ask you, Mr
18 Fofanah, I don't know, apart from some summaries, exactly the
19 evidence all of these witnesses are going to give but, is there
10:28:56 20 some Defence strategy that they would not call individual
21 witnesses before the common list is exhausted, or are you saying
22 that if you call, if you start with the individuals next Monday,
23 or Tuesday, and some common witnesses do become available, you
24 would be seeking to interpose them in the individual witness
10:29:22 25 list?

26 MR FOFANAH: I think both of the propositions are correct,
27 in the sense that, firstly, if by Monday we do not hear from
28 them, then I think the most appropriate thing to do is to inform
29 the Court as to whether we will be dropping them or interposing

1 them at a later date. But I think, like I said earlier, in order
2 to streamline the case, well, again, we are entirely in the
3 Court's hand. I believe that when the Brima Defence team starts
4 they will naturally be expected to finish their individual
10:29:55 5 witnesses and then we will follow in line. But that is entirely
6 up to the Court. I mean, I was just thinking that probably, if
7 they start on Tuesday, we are, of course, going to bring in our
8 individuals by latest next week to ensure that they are in the
9 safe house, ready to move on.

10:30:14 10 PRESIDING JUDGE: Thank you, Mr Fofanah.

11 MR FOFANAH: We will also file the remaining summaries by
12 next week for the individual witnesses.

13 PRESIDING JUDGE: All right. Thank you for that, Mr
14 Fofanah. Does the --

10:30:28 15 JUDGE DOHERTY: Ms Thompson, can you inform us whether
16 witness 05 who went home to look after his sick child is actually
17 going to come back?

18 MS THOMPSON: Your Honour, in fact, he is apparently
19 waiting -- I should have mentioned this, I do beg your pardon,
10:30:42 20 because I was concentrating on 033 -- 005 is waiting for the --
21 they have provided assistance in forms of money to -- for
22 transportation to Segbwema and he has -- he is awaiting that. I
23 think he will be going later today. He says he will be back next
24 week.

10:31:02 25 PRESIDING JUDGE: Right. Is there anything the Prosecution
26 would like to add?

27 MR AGHA: Yes, Your Honour. Simply to say that we have had
28 some very constructive discussions with the Defence counsel, and
29 I am pleased to report that we are all working together amicably,

1 so that we can, so far as we are able, get the trial moving as
2 expeditiously as possible without prejudice to either side. So
3 that is something I just wanted to let the Court know.

4 We understand the difficulties regarding witnesses et
10:31:34 5 cetera, and we would hope that the first witness on Monday, after
6 the cross-examination, would be DAB-033, provided that he is well
7 enough. And, as Your Honours mentioned, the witnesses of the
8 first accused coming and interposing with those common witnesses
9 who do manage to turn up next week.

10:32:02 10 But an observation the Prosecution would like to make is
11 that we would prefer it if the issue of the common witnesses,
12 either coming or not coming, was dealt with before the witnesses
13 of the first accused had been exhausted. The reason being is we
14 would then, in the terms of joint and separate trials, be moving
10:32:27 15 into the case of the second accused, the first accused having
16 closed his case, and a common witness would, of course, be
17 witness for the first accused as well.

18 So, really, we, although I don't want to elaborate on it at
19 this stage, because hopefully it may not be necessary in light of
10:32:46 20 what my learned friends have said, but we would like to see the
21 issue of the common witnesses resolved before any witnesses of
22 the first accused, rather, before the second accused started his
23 case. That's all, Your Honour.

24 PRESIDING JUDGE: Yes. I can see there could be some
10:33:01 25 potential difficulties there, Mr Agha. Pardon me for a moment.
26 Well, firstly, we are going to adjourn until Monday morning. I
27 understood that, from you, Mr Agha, there's no Prosecution
28 objection to that in the circumstances?

29 MR AGHA: Not at all, Your Honour.

1 PRESIDING JUDGE: And these circumstances with the current
2 witnesses that were intended to be called this week, there are
3 obviously some unforeseen circumstances that did arrive and we
4 think, in those circumstances, adjourning until Monday is
10:34:22 5 appropriate.

6 I want to repeat, just to emphasise, that if there are no
7 common witnesses available I would expect to be starting the
8 Brima individual witnesses as soon as possible, and that is
9 Monday afternoon, or perhaps Tuesday morning, if that's not
10:34:43 10 possible on Monday.

11 We note that Monday morning we will be hearing the
12 testimony of DAB-096 in cross-examination. That may not go all
13 day and, if it doesn't, hopefully we would have 033 available.
14 But we appreciate that we won't know the final position regarding
10:35:21 15 033 or, in fact, the common witnesses either, until at least
16 Monday.

17 Having made our position clear on the first of the
18 individual witnesses, in other words, just to repeat once more:
19 We would like those available to go as soon as possible in case
10:35:48 20 there are no more common witnesses. But, having said that, we
21 note that, as regards the expert witnesses and the TRC witnesses,
22 that the parties have agreed that the weeks of 16 and 23 October
23 be set aside for those witnesses. And if it's necessary to
24 interpose those witnesses, on those dates, that would be quite
10:36:16 25 satisfactory to the Court. And we will make a note in our
26 diaries that, regardless of the witness schedule, those two weeks
27 are set aside for expert and TRC witnesses.

28 Well, I thank the parties. We will adjourn until Monday
29 morning at 9.15.

1 [Whereupon the hearing adjourned at 10.35 a.m.,
2 to be reconvened on Monday, the 25th day of
3 September 2006, at 9.30 a.m.]
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WITNESSES FOR THE DEFENCE:

WITNESS: DBA-111 2

CROSS-EXAMINED BY MR HARDAWAY 2