

THE SPECIAL COURT FOR SIERRA LEONE

CASE NO. SCSL-2004-15-T
TRIAL CHAMBER I

THE PROSECUTOR
OF THE SPECIAL COURT
V.
ISSA SESAY
MORRIS KALLON
AUGUSTINE GBAO

THURSDAY, 27 JANUARY 2005
9.52 A.M.
TRIAL (REDACTED)

Before the Judges:

Benjamin Mutanga Itoe, Presiding
Bankole Thompson
Pierre Boutet

For Chambers:

Ms Candice Welsh
Mr Matteo Crippa

For the Registry:

Ms Maureen Edmonds
Mr Geoff Walker

For the Prosecution:

Mr Peter Harrison
Mr Alain Werner
Mr Alieu Iscandari
Mr Christopher Dunn (intern)
Mr Mark Wallbridge (Case Manager)

For the Principal Defender:

Mr Abdul Rahman Mansaray

For the accused Issa Sesay:

Mr Wayne Jordash
Ms Sareta Ashraph
Ms Chloe Smythe

For the accused Morris Kallon:

Mr Shekou Touray
Mr Melron Nicol-Wilson

For the accused Augustine Gbao:

Mr John Cammegh
Mr Ben Holden

1 [HS270105A - EKD]

2 Thursday, 27 January 2005

3 [The accused not present]

4 [The witness entered court]

5 [Open session]

6 [Upon recommencing at 9.52 a.m.]

7 PRESIDING JUDGE: Good morning, learned counsel. Good
8 morning, Mr Witness.

9 THE WITNESS: Good morning, sir.

10 PRESIDING JUDGE: Just before we start, the Chamber would very
11 much appreciate the cooperation of counsel with the aim
12 of enabling us to begin our session precisely at 9.30.
13 We would be very much obliged. This should happen,
14 because we have noticed that a lot of time has been lost
15 between 9.30 and 10.00 and it is pushing our timetable
16 backwards. We would appreciate the cooperation of
17 learned counsel for us to start our sessions exactly at
18 9.30, please. I suppose we are fully understood in the
19 statement that we are making. Thank you very much.
20 Mr Cammegh, this said, you may please proceed.

21 WITNESS: TF1-071

22 CROSS-EXAMINED BY MR CAMMEGH: [Continued]

23 MR CAMMEGH: Thank you.

24 Q. Morning, Mr Witness.

25 A. Yes, morning.

26 Q. I think where we left off yesterday you had --

27 PRESIDING JUDGE: And, please, it seems Mr Cammegh has --

28 let's take it that he has one hour to go. The Chamber
29 would like to indicate that we would not be able to take

1 the evidence of the child witness, because the ruling is
2 not quite ready to enable us to proceed with the
3 testimony of this witness. So we would be asking the
4 Prosecution to agree with the Defence on a substitute
5 witness who we can proceed with as soon as we are through
6 with this witness. I suppose we are understood here as
7 well. Thank you. Mr Cammegh.

8 MR CAMMEGH: Can I just say this, Your Honour, I think it
9 would be wrong for me not to do so: I am always ready at
10 9.30 to start.

11 PRESIDING JUDGE: No, no, no, Mr Cammegh, don't you worry, it
12 was a general comment.

13 MR CAMMEGH: But Your Honour has then gone on to mention that
14 Your Honour wants me to finish in one hour.

15 PRESIDING JUDGE: No, I'm not asking you --

16 MR CAMMEGH: That is what I understood.

17 PRESIDING JUDGE: No, Mr Cammegh you can finish in two hours;
18 that is not my concern. You can finish throughout the
19 day. I mean, it's not my concern at all.

20 MR CAMMEGH: I will finish as soon as I can, but I just wanted
21 to make that quite clear, Your Honour.

22 Q. Now, Mr Witness, when we left off yesterday I think you
23 had made it quite clear that you hadn't heard of
24 Augustine Gbao prior to the year of 2000?

25 A. Yes.

26 Q. May I suggest this to you, therefore, that that being the
27 case, and with you occupying the high rank that you did
28 throughout the years of the war, had Mr Gbao occupied a
29 high rank within the RUF you would have known about it,

- 1 wouldn't you, prior to 2000?
- 2 A. As I said, I never knew Augustine Gbao and he never gave
3 me command up to just after 2000 up to 2001. That was
4 the time I knew him as Augustine Gbao.
- 5 Q. You said something then about command. What was that? I
6 didn't catch it. Can you repeat it, please?
- 7 A. Yes, I mean, I never knew whether he was in command of
8 the RUF at that time.
- 9 Q. Right. And you never heard of him until 2000?
- 10 A. Until 2000.
- 11 Q. My point is this: That if he had been chief of the
12 security wing of the RUF in '98, '99, up until 2000, you
13 would have known about that, wouldn't you?
- 14 A. Yes.
- 15 JUDGE THOMPSON: Mr Cammegh, repeat that part.
- 16 MR CAMMEGH: If he had been chief of the security wing of the
17 RUF --
- 18 PRESIDING JUDGE: It was command that he used. Command. Are
19 you changing it now to if he had been chief of security
20 of the RUF.
- 21 MR HARRISON: No, my recollection is the same as Mr Cammegh.
22 He used the words "chief of security wing".
- 23 PRESIDING JUDGE: He said if he were in command before the
24 year 2000. That is what I heard. Mr Cammegh, can you
25 take your question again, please let's get it clearly.
- 26 MR CAMMEGH:
- 27 Q. We'll do it again, Mr Witness.
- 28 A. It's no problem.
- 29 Q. If Mr Gbao had been the chief of the security wing of the

- 1 RUF in the years before 2000 you would have known about
2 that, wouldn't you?
- 3 A. Yes.
- 4 JUDGE THOMPSON: Thank you.
- 5 MR CAMMEGH:
- 6 Q. I just want to clarify one thing. When Mr Harrison was
7 asking you questions last Friday he asked you to give
8 details of the RUF command structure 1998. At that time
9 you indicated that Augustine Gbao was chief of RUF
10 security in 1998?
- 11 A. Yes.
- 12 Q. I don't think I am necessarily criticising you for that
13 answer, but why did you give that answer?
- 14 A. Yes, because when I was in Kono I heard him of being as a
15 chief of security, but I never knew him personally.
- 16 PRESIDING JUDGE: When you were in Kono; when?
- 17 THE WITNESS: 1998.
- 18 PRESIDING JUDGE: You heard what?
- 19 THE WITNESS: I only heard that he was the chief of defence --
20 chief of security, sorry.
- 21 JUDGE BOUTET: And you stated you heard of that while you were
22 in Kono in 1998?
- 23 THE WITNESS: Yes.
- 24 MR CAMMEGH:
- 25 Q. What I don't understand here is that both yesterday just
26 before we broke off and again this morning just, what,
27 four or five minutes ago, you told this Court that you
28 didn't hear of Augustine Gbao until 2000?
- 29 A. Yes, I say that.

- 1 Q. Can this be the case, that in 2000 you heard that Gbao
2 was security chief back in 1998? Is that really what
3 happened?
- 4 A. Exactly, that was what happened.
- 5 Q. So you first heard of him in 2000 and the information was
6 that Gbao has been security chief since '98? Is that the
7 position?
- 8 A. That was his position as I heard, because I knew him only
9 in 2000.
- 10 Q. Right.
- 11 PRESIDING JUDGE: Let us get this answer very clear, please.
- 12 JUDGE BOUTET: You knew him -- you knew him in 2000?
- 13 THE WITNESS: Yes, sir.
- 14 JUDGE BOUTET: But prior to 2000 you had heard of him, but --
- 15 PRESIDING JUDGE: In 1998.
- 16 THE WITNESS: From 1998 he was the chief of securities as I
17 been hearing.
- 18 JUDGE BOUTET: When was it you heard that he was chief of
19 security?
- 20 THE WITNESS: From 1998.
- 21 JUDGE BOUTET: No, that is not my question. When was it that
22 you personally heard for the first time that Gbao was
23 chief of security? You heard that in 2000 or you heard
24 that in 1998?
- 25 THE WITNESS: In 1998.
- 26 JUDGE THOMPSON: Where?
- 27 THE WITNESS: In Kono.
- 28 JUDGE THOMPSON: That's difficult.
- 29 THE WITNESS: Yes.

- 1 JUDGE THOMPSON: That's difficult.
- 2 JUDGE BOUTET: I'm sorry, Mr Cammegh, I had to clarify that.
- 3 PRESIDING JUDGE: That was the clarification I was seeking as
4 well.
- 5 JUDGE THOMPSON: Is that the clarification, that you heard he
6 was chief of security in 1998?
- 7 THE WITNESS: Yes, sir.
- 8 JUDGE BOUTET: But in 1998 you did not know him?
- 9 THE WITNESS: Never.
- 10 JUDGE BOUTET: You had never seen him?
- 11 THE WITNESS: Never.
- 12 JUDGE BOUTET: First time for you was 2000?
- 13 THE WITNESS: 2000.
- 14 JUDGE BOUTET: Where you had a personal knowledge of Gbao?
- 15 THE WITNESS: Gbao.
- 16 MR CAMMEGH:
- 17 Q. I'm going to return to that issue, but can we just go
18 back to the events of 1998. I'm just going to remind you
19 of some of the events you told us about a few days ago.
20 You told us that very, very soon after their arrival in
21 Koidu, Issa Sesay and Johnny Paul Koroma left for
22 Kailahun?
- 23 A. Yes.
- 24 Q. Around that time there was some meetings at the Tankoro
25 Police Station?
- 26 A. Yes.
- 27 Q. In Koidu?
- 28 A. Yes.
- 29 Q. As a result of those meetings, the -- I think you used

- 1 the words the handicapping of civilians was minimised?
- 2 A. Yes.
- 3 Q. And Superman basically said that anybody who wanted to
4 continue harassing civilians had to leave Koidu?
- 5 A. Yes.
- 6 Q. Had to leave the RUF contingent, in other words?
- 7 A. Yes.
- 8 Q. And I think one of them, for example Savage, went down to
9 Tombodu at that point?
- 10 A. Yes, sir.
- 11 Q. From what you know of Savage's conduct in Tombodu, was he
12 in effect operating as his own master in those days?
- 13 A. Yes, before we got to Koidu Savage had already been to
14 Tombodu; that was somewhere around March. Yes, he was
15 there on his own I can say.
- 16 Q. Yes, and we have heard that some terrible things
17 happened.
- 18 A. Yes.
- 19 Q. In your opinion, and it opinion based on your rank and
20 your presence in Kono at that time, do you think it was
21 possible for anybody to exercise any authority over
22 Savage in that period?
- 23 A. Please repeat your question.
- 24 Q. Based on your experience and your knowledge of what was
25 going on in Kono at that time, was it your impression
26 that anybody was able to influence or exercise any
27 authority over what Savage was doing in Tombodu?
- 28 MR HARRISON: I would ask the witness just pause and not
29 answer that question. I would like to make it clear that

1 the purpose of the objection is to give the Court some
2 guidance for future reference. If what is being
3 solicited is the opinion of this witness or impressions
4 from a witness, generally speaking that is not
5 admissible. This Court may well take the view that in
6 certain circumstances such evidence is helpful to the
7 Court, but if they are to do so, it ought to be on a
8 principled basis and it ought to be something that
9 counsel can understand and employ in the future with
10 subsequent witnesses. That is all I wish to say.

11 MR CAMMEGH: I am, of course, aware of the objection under the
12 heading opinion, but the way I laid that question or laid
13 the ground for that question was based on two things:
14 This witness's rank and this witness's proximity to what
15 was alleged to be going on in Tombodu. I also laid the
16 ground that Savage of his own accord left Koidu after
17 Superman laid down the law. If you want to carry on
18 harassing civilians, you've got to get out. And on that
19 basis I would suggest that this man can be treated as an
20 expert as to what was going on at that time, or certainly
21 somebody whose opinion is rather well educated than
22 simple speculation.

23 JUDGE THOMPSON: Learned counsel for the Prosecution, the
24 Court is not minded to come out with any particular
25 guidance except the general guidance on the law. That as
26 a general rule opinion evidence from an ordinary witness
27 is not permissible unless in certain exceptional, clearly
28 defined circumstances. But having regard to the nature
29 of these trials and also the fact that this witness, even

1 in examination-in-chief, has actually answered questions
2 indicating his competence in the movement, the hierarchy
3 of the movement - matters of such technical and military
4 importance and he has answered them in
5 examination-in-chief, virtually some of them opinion
6 answers; yes, the records will reveal that - and not just
7 confined to the factual parameters of the indictment, I
8 think it would be clearly unfair to preclude the Defence
9 from exploring that same approach. This witness
10 virtually said yes, because of the position in which I
11 was, I could say this about that. So I think in this
12 particular instance we would overrule the objection
13 without, of course, prejudice to some general guidelines
14 in an appropriate case.

15 PRESIDING JUDGE: It does not, of course, mean that the
16 witness is bound to express that opinion. If he doesn't
17 know, he can clearly say that he wouldn't know, because
18 it's a question that is put to him. It is seeking his
19 opinion. If he hasn't formed an opinion or he hasn't an
20 opinion about it, he could say so. If he has an opinion
21 about it, he expresses it and that's fine.

22 JUDGE THOMPSON: Proceed, Mr Cammegh.

23 MR CAMMEGH: I'm grateful to Your Honours for that ruling and
24 I will endeavour not to take unfair advantage of it.

25 Q. I will repeat the question, Mr Witness. As we know
26 Savage left for Tombodu. Based on your knowledge and
27 experience and rank at the time, early part of 1998, was
28 it your impression or your opinion that it was possible
29 for anybody to influence what Savage was doing in

- 1 Tombodu?
- 2 A. Yes, it was not any other personal opinion at that time
3 as I said of Tombodu incident. Before our arrival from
4 Freetown, somewhere around March, Savage had already been
5 in Tombodu. I can say on his own, and --
- 6 Q. Own his own? Sorry to interrupt. On his own?
- 7 A. Yeah, on his own. And most of the atrocities that
8 already have taken place in Tombodu, which was later
9 revealed after we have spent couple of time in Koidu,
10 that was the time I came to understand Savage was in
11 Tombodu and such atrocities had been carried out by him.
12 And then in my own view, if it was under the command of
13 Superman, because he was a battle group, he wouldn't have
14 given the advice to everybody in such a manner, in a
15 general open place in which everybody was there and
16 everybody heard the advice he gave. And at that time I
17 was not in my full capacity to have undertaken
18 [inaudible] assignment because everybody is just at
19 random.
- 20 Q. Let me see if I understand what you mean by that answer.
21 Do you mean that if the order had come from Superman for
22 Savage to commit atrocities in Tombodu, that was an order
23 that must have been given in private? Is that what you
24 mean?
- 25 A. Well, I never knew -- Superman never gave private orders.
- 26 Q. Is it your impression, then, that Savage just went to
27 Tombodu and did what the hell he wanted?
- 28 A. That was what we all understood.
- 29 Q. I think in the end he went mad and ended up in -- was it

- 1 Kurubonla?
- 2 A. Yeah, later I understand that Savage went insane.
- 3 Q. Insane?
- 4 A. Yes.
- 5 Q. And was that the end of the atrocities in Tombodu, when
- 6 he went insane?
- 7 A. That was it.
- 8 Q. Do you have any idea of how long he was insane for before
- 9 he left Tombodu?
- 10 A. Well, the thing just started on him immediately he was
- 11 transferred to Koinadugu, just in a couple weeks.
- 12 Q. You have given detailed evidence now of your entry into
- 13 Sierra Leone from Bopolu, the incident concerned
- 14 BS Massaquoi, your trip to Freetown, the withdrawal from
- 15 Freetown, your arrival in Koidu, meetings at the Tankoro
- 16 Police Station, and then Savage's conduct in Tombodu. At
- 17 no time was Augustine Gbao involved in any of those
- 18 incidents, was he?
- 19 A. Not at all.
- 20 PRESIDING JUDGE: Mr Cammegh, can you repeat those incidents
- 21 again?
- 22 MR CAMMEGH: I'll try to. The witness's entry into
- 23 Sierra Leone from Bopolu, which was across the Liberian
- 24 border. Then it would be the incident that he witnessed
- 25 concerning BS Massaquoi, which was in Kenema Town. Then
- 26 it would be his trip bearing the message to Freetown, and
- 27 his arrival in Freetown would be in about November of
- 28 '98. As I said yesterday he remained in Freetown for a
- 29 month and a half, there was then the withdrawal from

1 Freetown. I should have said November '97. His
2 subsequent arrival in Koidu, and Your Honour will
3 remember that he witnessed certain atrocities on the way
4 to Koidu. The meetings at Tankoro Police Station that
5 followed very soon after arrival in Koidu. And then his
6 knowledge of what was happening at Tombodu under Savage.
7 His answer as I recall, and I stand to be corrected, was
8 that he was not aware of Gbao being involved in any of
9 that.

10 Q. I want to repeat a point I raised with you yesterday just
11 before we left off, when I said to you, Mr Witness, if
12 Augustine Gbao had been involved or a member of the
13 command structure of the RUF during that time, you surely
14 would have known about that, wouldn't you?

15 A. Command of Augustine Gbao?

16 Q. Yes, if he had held a position of command and
17 responsibility within the RUF during the period late '97
18 to the middle of '98, you would have known about that
19 personally at that time, wouldn't you?

20 A. No, I was only told and I only heard that Augustine Gbao
21 was the chief of securities from 1998, but personally
22 I've never met him and I've never taken instruction from
23 him until after 2000.

24 Q. Then let's look at some security issues that arose in
25 1998 and see if he was involved in them. You agreed with
26 me yesterday that the issue of security was one of the
27 uppermost -- or one of the issues of uppermost importance
28 to the RUF in the years '97 to '98?

29 A. Even throughout the whole war.

- 1 Q. Throughout the whole war?
- 2 A. Yeah.
- 3 Q. But in those years they were of supreme importance,
4 weren't they, those issues of security, because there
5 were the problems with getting troops back over from
6 Liberia, from Bopulo, there were constantly problems with
7 ECOMOG, constantly problems with the uneasy relationship
8 with the AFRC. Security was of vital importance, wasn't
9 it?
- 10 A. Yes, security was very important to us.
- 11 Q. And your position and we know what that position was -
12 that was a position that you held for some years and held
13 right to the end of the war - would surely have involved
14 liaison with security within the RUF, wouldn't it?
- 15 A. Except on some level, when it is at top level I have
16 overall [inaudible] represent, I only make report in my
17 own capacity to my top most senior overall commander.
- 18 Q. By security are we in reality referring to the IDU, the
19 Internal Defence Unit?
- 20 A. IDU was part of the security of the RUF.
- 21 Q. Because you've -- was it the most important arm of the
22 security forces within the RUF, the IDU?
- 23 A. Huh?
- 24 Q. Was it the most important arm of the security forces
25 within the RUF?
- 26 A. Of course.
- 27 Q. The IDU?
- 28 A. Yes.
- 29 Q. Yes, thank you. Because you have made it quite clear,

1 haven't you, in your discussions with the Prosecution --
2 and I am not for one moment suggesting there is anything
3 untoward or suspicious there. But you have made it
4 absolutely clear, haven't you, that the head of the IDU
5 of the RUF -- head of the Internal Defence Unit (Police)
6 of the RUF was one Augustine Bonga, B-O-N-G-A?

7 A. G-A.

8 Q. And that is a different person from Augustine Gbao, isn't
9 it?

10 A. Yeah, he's different from Augustine Gbao. Augustine
11 Bonga, he became the battalion IDU commander in the Kono
12 District, not Augustine Gbao.

13 Q. Wasn't he head of the entire IDU? Not just Kono, but for
14 the whole of the RUF?

15 A. It was not the whole of RUF. We had a overall IDU
16 commander for the RUF and not Augustine Bonga.

17 PRESIDING JUDGE: So Bonga was the head for Kono only?

18 THE WITNESS: Kono, yes. Kono battalion and brigade.

19 MR CAMMEGH:

20 Q. I would like you to be shown something, please. There is
21 a chart that you prepared along with the OTP referring to
22 the 1999 command structure.

23 MR CAMMEGH: Your Honour, Mr Jordash helpfully informs me or
24 reminds me that I require Your Honours authorisation to
25 put this in. It is not to be put in as an exhibit. It
26 is simply on the same basis the '98 chart was put in the
27 other day. I want to ask one question about one item on
28 this chart, not as an exhibit, it is simply for
29 cross-examination purposes and to make one clarification.

1 JUDGE BOUTET: But in the case of Mr Jordash it was for the
2 specific purpose of prior inconsistent statement.

3 Presumably that is what you are trying to do too.

4 MR CAMMEGH: It is.

5 JUDGE BOUTET: He was very specific on that matter.

6 MR CAMMEGH: Your Honour can be assured that that is what I am
7 attempting to do here.

8 JUDGE BOUTET: It's only that you said for purpose of
9 cross-examination, but it was a bit more specific than
10 that.

11 MR CAMMEGH: Your Honour, I hope, will see the point very soon
12 and I will be able to put the charts aside almost
13 immediately.

14 MR HARRISON: Will the same procedure be adopted as with the
15 previous chart? That if it is for the purpose of a prior
16 inconsistent statement, that the 1999 chart also be
17 tendered and accepted by the Court as an exhibit as they
18 did with the 1998 chart. I am simply asking if it is
19 going to be the same practice and procedure with what I
20 understand to be the same circumstances.

21 JUDGE THOMPSON: Yes, Mr Harrison. In the interests of
22 consistency, if the specific purpose for which learned
23 counsel for the third accused intends to introduce that
24 particular chart is to show prior inconsistent statement,
25 then unless the Defence wants to canvass a distinction
26 here we have to adhere to the same procedural practice:
27 Introduce the portion or portions that are perceived as
28 being inconsistent with certain parts of the oral
29 testimony - will have to be highlighted - otherwise the

1 Court will not be in a position to make any evaluation as
2 to alleged or perceived inconsistency -- unless the
3 Defence has some ingenious legal distinction to draw
4 here. Are we on the same wavelength?

5 MR CAMMEGH: I am not sure we are, Your Honour, because it was
6 certainly not my impression that the '98 chart had been
7 exhibited.

8 JUDGE THOMPSON: It is Exhibit 20.

9 MR CAMMEGH: Then that is my mistake.

10 JUDGE THOMPSON: Remember when we were about to treat and
11 resolve Mr Jordash's application we put to him two
12 possible legal options and asked him to opt for one. He
13 elected for the second one, which was to have the
14 document tendered in evidence to show prior inconsistency
15 between that chart and some portions of the witness's
16 testimony, as opposed to the first option, which was to
17 refresh the witness's memory.

18 MR CAMMEGH: That's right.

19 JUDGE THOMPSON: So we proceeded tidily procedurally on that
20 and the document ended up being exhibited and marked
21 Exhibit 20 for the limited purpose only of evaluating
22 whether the alleged prior inconsistent statement in fact
23 is inconsistent vis-a-vis the testimony, and we asked him
24 to highlight the portions.

25 MR CAMMEGH: Your Honour, that being the case, I am quite
26 satisfied that the same procedure be adopted here.

27 JUDGE THOMPSON: Yes, unless Mr Jordash wants to enlighten us,
28 so the Prosecution must be right.

29 MR JORDASH: I completely agree with everything that has just

1 been said, but Mr Harrison referred to the 1999 chart and
2 that was my consternation.

3 JUDGE THOMPSON: Well, your legal consternation would be what?
4 What is in evidence is the 1998 chart, Exhibit 20.

5 MR JORDASH: I can sit down then.

6 JUDGE THOMPSON: Counsel proposes to bring in another chart
7 that is not in evidence, and if it is for the same
8 purposes we would think we are on common ground with the
9 Prosecution and with the Defence.

10 MR JORDASH: My mistake, I'll sit down.

11 JUDGE THOMPSON: Let's proceed then.

12 MR CAMMEGH: In actual fact, Your Honour --

13 JUDGE THOMPSON: In that regard, then, perhaps we might
14 require Mr Cammegh to go through the familiar ritual of
15 laying the proper foundation, so that we -- I mean, in
16 other words, this process is becoming so familiar to all
17 of us that at the end of the day in future we should not
18 even have any problems.

19 MR CAMMEGH: Yes, indeed. Just to emphasise my point, I think
20 it will be necessary for me to show the '98 chart to the
21 witness as well.

22 JUDGE THOMPSON: It is in evidence.

23 MR CAMMEGH: In respect of exactly the same --

24 JUDGE THOMPSON: [Microphone not activated]

25 MR CAMMEGH: Exactly.

26 Q. Mr Witness, before I ask you to look at these charts, is
27 it right that in recent months you had a conversation
28 with the Prosecution which led to you helping or
29 contributing to the creation of various charts depicting

- 1 the command structure of the RUF?
- 2 A. Yes.
- 3 Q. When those charts were drawn up and presumably created in
4 this fashion, were you given an opportunity to inspect
5 them and check them for their accuracy?
- 6 A. Yes, I looked through it.
- 7 Q. If you had asked for any amendments to be made or any
8 changes to be made to those plans or those charts, were
9 they done to your satisfaction?
- 10 A. Yes.
- 11 Q. Therefore, when they were in their final form were you
12 happy with their accuracy or the accuracy of their
13 content?
- 14 A. Yes.
- 15 MR CAMMEGH: Your Honour, does that suffice?
- 16 JUDGE THOMPSON: Yes, with one slight modification. The
17 particular chart now put in focus [inaudible], that
18 probably we need to refer to the one for 1999.
- 19 MR CAMMEGH: Yes.
- 20 JUDGE THOMPSON: Since the other is in evidence and we had a
21 foundation already laid.
- 22 MR CAMMEGH: Indeed and I'll clarify that.
- 23 Q. You have already clarified the accuracy so far as you
24 were concerned of 1998. Could you look at the '99 chart,
25 Mr Witness, and just confirm if you will whether or not
26 this is identical to the chart you were invited to check
27 some time ago after it had been completed?
- 28 A. Yes.
- 29 Q. And you're happy with it, are you?

1 A. I was.

2 Q. If you look at the '98 chart to start with and I will
3 just make this clear. The only thing I want to ask you
4 about is in relation to the position of -- well, the box
5 referring to the Internal Defence Unit. So 1998, this is
6 a chart of the command structure of the entire RUF, isn't
7 it?

8 A. Yes.

9 Q. And we know it is for the entire RUF, it is not a limited
10 branch, because we have the leader at the top, Bockarie
11 is there, Sesay, Kallon --

12 PRESIDING JUDGE: That is the 1998 chart?

13 MR CAMMEGH: 1998, yes.

14 JUDGE THOMPSON: Exhibit 20.

15 MR CAMMEGH: Yes.

16 Q. So this, you can confirm, please, is a chart concerning
17 the entire command structure of the RUF during the period
18 April to December of '98?

19 A. Yes.

20 Q. Right. Can you confirm, secondly, that if you look at
21 the bottom left-hand corner there is a box entitled
22 Internal Defence Unit (Police)?

23 A. Yes.

24 Q. Just by way of illustration, if you look across four
25 boxes from the right, you see your name, don't you?

26 A. Yes.

27 Q. As joint --

28 MR HARRISON: This was exactly why we had a closed session.

29 The exhibit, presumably, is not something that is going

1 to be sealed, or we'd never asked that it be sealed. I
2 am just asking if we can go into closed session and
3 resolve this.

4 MR CAMMEGH: I will abandon that question. I'll deal with it
5 in a safer way if that is the objection.

6 Q. The row of boxes along the bottom depict the heads of
7 each individual unit depicted, don't they?

8 A. Yes.

9 Q. Internal Defence Unit (Police). The head of the Internal
10 Defence Unit or police of the RUF, there he is, Augustine
11 Bonga?

12 A. 1998.

13 Q. Right.

14 A. On battalion level.

15 JUDGE BOUTET: That chart depicts two different levels. The
16 top portion is the HQ and the bottom portion is the
17 battalion level.

18 THE WITNESS: Battalion level.

19 JUDGE THOMPSON: Does that make a difference?

20 MR CAMMEGH: Your Honour --

21 JUDGE BOUTET: So there is confusion because of your previous
22 question, being this depicts the whole command structure
23 of the RUF.

24 MR CAMMEGH: I am aware of that. If I can, with respect, just
25 come to the second leg of the point, then I hope that
26 will assuage Your Honour's concerns.

27 Q. You know what I'm driving at though, Mr Witness. I want
28 to know who was in charge of the police in 1998. That is
29 Internal Defence Unit. Can you confirm this, that on HQ

1 level, if you look on the upper half of the chart, there
2 is no reference to Internal Defence Unit?

3 JUDGE BOUTET: Well, there is reference if you look at HQ
4 [inaudible] on the left-hand side of the chart. You're
5 looking at '98 second box on the left. It says IDU --

6 MR CAMMEGH: All right, IDU. Sorry, it is not set out in the
7 same -- it is an acronym. I am obliged to Your Honours
8 for that.

9 Q. IDU second from the left, battalion level, the boss of
10 the IDU appears to be someone called Francis Musa, '98,
11 '99?

12 A. Yes, this was on headquarter level.

13 Q. Right, well, headquarter level it is. It is not
14 Augustine Gbao, is it?

15 A. Yes.

16 Q. It is Francis Musa, according to you, at headquarter
17 level in Kailahun?

18 A. Yes.

19 Q. Can you confirm Augustine Gbao's name does not appear on
20 this chart? Well, it doesn't, does it?

21 A. It doesn't reflect on this, because, as I told you, I
22 have never seen him in person and I never knew him. So
23 all those that I have named were commanders that I knew
24 in persons.

25 Q. I see. And just to ram home the point, if you look a
26 little across to the right, six from the right, you've
27 got MP --

28 PRESIDING JUDGE: Mr Cammegh, the point you are making is that
29 Mr Gbao's name is nowhere on this chart?

- 1 THE WITNESS: Yes.
- 2 JUDGE THOMPSON: Is that what you're saying?
- 3 MR CAMMEGH: Yes.
- 4 PRESIDING JUDGE: Is that what you're saying?
- 5 THE WITNESS: It's not there.
- 6 JUDGE THOMPSON: [Overlapping speakers] question: Does this
7 chart show Mr Augustine Gbao's name?
- 8 THE WITNESS: No.
- 9 MR CAMMEGH: No.
- 10 JUDGE THOMPSON: Not at all.
- 11 MR CAMMEGH:
- 12 Q. If I can just ask one last question in relation to the
13 '98 chart, if you cast your eye six across to the left on
14 that same row, Mr Witness.
- 15 A. On headquarter level?
- 16 Q. Headquarter level, yes.
- 17 A. Okay, go ahead.
- 18 Q. I assume "MP" stands for Military Police?
- 19 A. Yes.
- 20 Q. You've got head of military police as Colonel Kaisuku of
21 the RUF?
- 22 A. Yes, at that time.
- 23 JUDGE THOMPSON: Remember you should confine your questions
24 to -- [Overlapping speakers]
- 25 MR CAMMEGH: I'm sorry, Your Honour, I do apologise.
- 26 PRESIDING JUDGE: Don't you think that your purposes are
27 served.
- 28 JUDGE THOMPSON: Quite.
- 29 MR CAMMEGH: They have been served for the '98 chart. I can

1 be much more brief on the '99 one.

2 JUDGE THOMPSON: We don't want you to [inaudible] in case of
3 the '98 chart.

4 MR CAMMEGH: No, I accept that.

5 Q. Turning to the '99 chart, Mr Witness, and if you want to
6 take a moment to familiarise yourself with it, because it
7 has a lot more detail, please say so.

8 JUDGE THOMPSON: Learned counsel, before you continue, at this
9 stage we have listened to your questions to the witness
10 in terms of the 1999 chart and the Court is satisfied
11 that you have laid the proper foundation for it to be
12 received in evidence. At this point we need, just for
13 the records, to ask whether the Prosecution has any
14 objection, the Court being satisfied that the proper
15 foundation has been laid.

16 MR HARRISON: I have nothing to say.

17 JUDGE THOMPSON: May we ask learned counsel for the first
18 accused, do you have any objection to the chart being
19 received in evidence for the limited purpose which
20 counsel intends it to be received?

21 MR JORDASH: No, Your Honour.

22 JUDGE THOMPSON: Learned counsel for the second accused?

23 MR TOURAY: Only that Your Honour will be satisfied if any
24 evidence led --

25 JUDGE THOMPSON: Yes, so our injunction would apply with equal
26 force to this chart, that evidence may emerge from it
27 does not affect the second accused.

28 MR TOURAY: Indeed so, Your Honour.

29 JUDGE THOMPSON: In that regard, we will receive the document

1 in evidence and mark it Exhibit 21. Court Management,
2 are we correct in our counting?

3 MR WALKER: That is correct, Your Honour.

4 [Exhibit No. 21 was admitted]

5 JUDGE THOMPSON: And with the portions highlighted and also
6 the conditions in respect of the second accused.

7 MR CAMMEGH: I can assure Mr Touray that I am not going to
8 trespass on anything prejudicial to him or make any
9 reference to his client.

10 Q. This chart, Mr Witness, doesn't distinguish between HQ
11 and battalion level, does it, in the way that the '98
12 chart did?

13 A. Yes.

14 Q. Let's just look at it. You tell me, please, first of all
15 if you can see any reference to Internal Defence Unit
16 other than Augustine Bonga in the bottom left-hand
17 corner?

18 A. Internal Defence Unit?

19 Q. Yeah. Can you see any other reference to IDU on this
20 chart?

21 JUDGE THOMPSON: Yes, learned counsel for the Prosecution.

22 MR HARRISON: With respect, the chart is clear. It refers to
23 1st Brigade, it also refers to 2nd Brigade, 3rd Brigade,
24 4th Brigade and 5th Brigade, and the only brigade for
25 which units are demarcated are the ones for 2nd Brigade,
26 and the name is clearly on the chart where 2nd Brigade
27 is.

28 JUDGE THOMPSON: So in other words, the chart speaks for
29 itself.

- 1 MR HARRISON: Precisely.
- 2 JUDGE THOMPSON: Learned counsel, how do you respond to that
3 observation?
- 4 MR CAMMEGH: I accept what my friend says, but I would once
5 again like to challenge the witness to tell me if he can
6 see any reference to Internal Defence Unit on this chart
7 at headquarters level.
- 8 THE WITNESS: At the headquarter unit already have been
9 established and I told you and I told the Prosecutor that
10 this have been extended units to all from headquarter to
11 brigade, brigade to company, and from -- from battalions,
12 sorry, to companies.
- 13 JUDGE THOMPSON: Well, Mr Harrison?
- 14 MR HARRISON: I think to be fair to the witness, there is a
15 box in what could be called headquarters, where unit
16 commanders is clearly indicated. It is at the top. What
17 you will not find is the separation of all the various
18 units, and there are names under unit commanders. It is
19 the box on the left about four centimetres down from the
20 top of the page. I am unfortunately colour blind, but it
21 maybe -- it is a purple box on the left.
- 22 JUDGE THOMPSON: Does that help to resolve your difficulty?
- 23 JUDGE BOUTET: It does not help me to understand. Now I am
24 confused, because to me a unit commander commands a unit.
25 I don't know what is a unit and what is not a unit, so I
26 am totally confused now. To me a battalion is a unit.
27 Maybe you can ask the witness to clarify that.
- 28 JUDGE THOMPSON: Perhaps we should ask Mr Cammegh to ask his
29 question again.

1 MR CAMMEGH: Yes.

2 JUDGE THOMPSON: In clearer terms so that we ourselves can
3 understand the purport of the question.

4 MR CAMMEGH: I will endeavour to try.

5 Q. Mr Witness, can you confirm, please, that on this chart
6 there is no reference to IDU command at headquarters
7 level?

8 A. At headquarter level in Kailahun?

9 Q. No --

10 JUDGE THOMPSON: No, this chart, this one. Look at
11 Exhibit 21.

12 THE WITNESS: It's not mentioned there, but --

13 JUDGE THOMPSON: All right, let's get that answer first. You
14 agree that --

15 THE WITNESS: I know very well --

16 JUDGE THOMPSON: Well, we will have your --

17 THE WITNESS: Okay.

18 JUDGE THOMPSON: Let's have the first part of your answer.

19 THE WITNESS: Okay.

20 JUDGE THOMPSON: I agree that there is no mention of -- did
21 you say IDU, Mr Cammegh?

22 MR CAMMEGH: Yes, at headquarters level.

23 JUDGE THOMPSON: But what, Mr Witness?

24 THE WITNESS: But chart 1998 reflects on all unit commanders
25 at headquarter level extended --

26 JUDGE THOMPSON: So 1998 reflects what?

27 THE WITNESS: Reflects to all brigades the same unit from the
28 headquarter of 1998 chart extend to the same chart on
29 1999.

- 1 JUDGE THOMPSON: In other words, there is some kind of
2 reference by corporation, is it, or integrated.
3 Mr Cammegh, I am sure you got that.
- 4 MR CAMMEGH: Yes.
- 5 JUDGE THOMPSON: He is basically saying the two documents have
6 to be read in conjunction.
- 7 MR CAMMEGH: I understand that.
- 8 Q. You would agree, won't you, that Augustine Gbao's name
9 does not appear on the '99 chart?
- 10 A. Never.
- 11 Q. You see, Mr Witness, when you told this Court on Friday
12 the 21st January, "Augustine" -- and I have just looked
13 this up myself and this is my note, so I will stand to be
14 corrected. But you said these words according to my
15 note: "Augustine Gbao was the commander of the IDU in
16 1998."
- 17 A. Augustine Bonga or Augustine Gbao?
- 18 Q. "Augustine Gbao was commander of the IDU in 1998"?
- 19 A. At battalion level.
- 20 Q. Well, you didn't say battalion level in 1998, did you, on
21 Friday the 21st of January -- did you? You said he was
22 the commander of the IDU?
- 23 A. But I knew it was under battalion, not under headquarter.
- 24 Q. Which battalion?
- 25 A. 2nd Battalion, colonel.
- 26 JUDGE THOMPSON: Perhaps he preempted you. Would you ask the
27 question again? I didn't quite get his answer.
- 28 MR CAMMEGH: He said yes, he was commander at battalion level.
- 29 THE WITNESS: Augustine Bonga, Bonga.

- 1 JUDGE THOMPSON: Not Gbao.
- 2 THE WITNESS: Not Gbao.
- 3 MR CAMMEGH: And that that was at Kono.
- 4 JUDGE THOMPSON: Was commander of the RUF at battalion level.
- 5 THE WITNESS: Yes, IDU
- 6 MR CAMMEGH:
- 7 Q. But this was at a time on Friday morning when you were
8 being asked to give the hierarchy of the RUF. Why did
9 you not indicate who the overall commander of the IDU
10 was?
- 11 A. The overall commander of IDU?
- 12 Q. Yeah.
- 13 A. I already indicated in the charts --
- 14 MR HARRISON: I disagree completely. During the direct
15 examination there was a very clear demarcation where the
16 witness was asked to talk about overall command structure
17 and then Internal Defence Units were dealt with as a
18 subsequent and part of Kailahun.
- 19 JUDGE THOMPSON: I clearly remember that particular
20 distinction and perhaps you need to check your own
21 records.
- 22 MR CAMMEGH: That may well be the case, but my question to
23 this witness is why did he not -- and please, Mr Witness,
24 perhaps you can answer this.
- 25 Q. Why did you not tell this Court who the overall head of
26 the IDU was?
- 27 A. It's already indicated in the chart already from Kailahun
28 headquarter.
- 29 Q. No, I mean the overall IDU chief --

- 1 A. Yes.
- 2 Q. -- of the RUF?
- 3 A. Of the RUF. It's mentioned already in the chart of 1998.
4 And if you look at 2000/2001 chart, it's already
5 mentioned.
- 6 Q. Well, this morning you have been saying that the
7 reference to the commander of IDU on the '98 chart is
8 simply at battalion level, not overall.
- 9 JUDGE BOUTET: No, no, no -- [Overlapping speakers]
- 10 MR HARRISON: That's not -- [Overlapping speakers]
- 11 JUDGE BOUTET: The bottom part of '98, Exhibit 20, is
12 battalion; the top part is headquarters. In the top part
13 you have IDU and there is a name mentioned for the IDU
14 commander, which is --
- 15 MR CAMMEGH: Francis Musa.
- 16 JUDGE BOUTET: That is why the answer now --
- 17 MR CAMMEGH: My confusion, I accept that.
- 18 JUDGE THOMPSON: With that acknowledgment, we'll proceed.
- 19 MR CAMMEGH: Yes.
- 20 Q. I want to go on to a few events that took place in 1998.
21 There was the incident in Wendedu in Kono where an
22 11-year-old girl reported that someone called KS Banya
23 killed her family on suspicion of being ECOMOG spies; do
24 you remember that?
- 25 A. I remember that very well.
- 26 Q. You're not suggest that Augustine Gbao had anything to do
27 with that, are you?
- 28 A. Well, I told you already I never knew him up to that
29 part.

- 1 Q. And in the same month Waiyoh, the Nigerian lady, the same
2 thing applies?
- 3 A. The same thing, yes.
- 4 Q. The incident in Tombodu, when a gentleman was captured
5 and sent to you and you gave him a gallon of palm oil,
6 events led to an ambush as a result of information he
7 gave. Gbao wasn't involved with that, was he?
- 8 A. Repeatedly, I never knew Gbao to that time.
- 9 Q. You would have known nothing about Gbao being in Makeni
10 early in '99, would you?
- 11 A. I never knew him, so I don't know.
- 12 Q. Well, you referred to the capture of Makeni in early
13 1999. Was Gbao involved in that to your knowledge?
- 14 A. I don't know. I don't know him, so I don't know.
- 15 Q. But were you aware of the capture of Makeni in early
16 1999?
- 17 A. The capture of Makeni?
- 18 Q. Yes, were you aware of who was involved?
- 19 A. I only knew of -- let me just say Rambo who was Buster
20 Flomo, Denis Mingo - Superman, and so many other
21 commanders such as Tamba Vanney.
- 22 Q. So you knew many names in connection with the capture of
23 Makeni?
- 24 A. Capture of Makeni.
- 25 Q. And Gbao was not among them?
- 26 A. Augustine Gbao, I told you at that time I have not seen
27 him personally and I do not even know him.
- 28 Q. If Gbao had been a senior RUF commander in Kailahun Town
29 from 1996 to 1998, you would have known about that,

- 1 wouldn't you?
- 2 A. First of all, not every RUF should be known to me, so I
3 cannot tell and I never knew.
- 4 Q. I think, similarly, you had dealings with some of the
5 camps, didn't you?
- 6 A. In?
- 7 Q. Some of the camps in Kono?
- 8 A. Yes.
- 9 Q. Augustine Gbao's name was never connected with those, was
10 it, so far as you were aware?
- 11 A. No.
- 12 Q. And we know what happened in those camps. You see, what
13 I am suggesting to you is this: You've given this Court
14 a lot of hearsay evidence about Gbao's involvement with
15 the abduction of the peacekeepers. Do you understand
16 what I mean by "hearsay"?
- 17 A. I'm well understood.
- 18 Q. I think again last Friday over and over again, and I am
19 not criticising you. But over and over again you said
20 that according to sources Gbao did this, Kallon did that?
- 21 A. Yes.
- 22 Q. It was nothing that you witnessed at first hand?
- 23 A. Never.
- 24 Q. What I am suggesting to you is that your claim that
25 Augustine Gbao was chief of security of the RUF in 1998
26 was hearsay, which you have already admitted.
- 27 A. It was hearsay.
- 28 Q. Yes, but hearsay that you heard as late as 2000?
- 29 A. Yes. That's why, in fact, in my charts that prepare from

1 1998, 1997, Augustine Gbao was never mentioned.

2 Q. Right.

3 A. Except when I came to know that in person this was the
4 Augustine Gbao. In the 2000/2001 chart, if you can see,
5 you can see that I have mentioned his name because I knew
6 he was Augustine Gbao and he was occupying that position.

7 Q. I accept that he is there as chief of security on the
8 2000 chart, but I want to make this clear. What I am
9 suggesting to you is that it wasn't until 2000 that you
10 had received that hearsay information that Gbao was chief
11 of security in '98 and '99. That you didn't hear that
12 until 2000. Now could I be right about that?

13 A. If I didn't hear that?

14 Q. Until 2000?

15 A. Of course. Hearing it and seeing it are two quite
16 different things. When I hear it I have to prove for
17 myself. That's why I never mention him to that level.

18 Q. I will just try and --

19 MR HARRISON: My recollection is that the witness was taken
20 quite clearly through this by the Court, and my note and
21 my recollection is that, with the guidance of the Court
22 and through the clear questioning of the Court, the
23 witness said that he heard in '98, when he was in Kono,
24 that Augustine Gbao was the chief of security. He did
25 not see or have dealings with Augustine Gbao.

26 THE WITNESS: Thank you.

27 JUDGE THOMPSON: Up to 2000.

28 PRESIDING JUDGE: And that is why he did not mention him in
29 the command.

1 THE WITNESS: Yes.

2 PRESIDING JUDGE: In 1998.

3 THE WITNESS: And 1999.

4 JUDGE THOMPSON: But that said, counsel is entitled to put his
5 theory to him if he finds one of those two positions
6 inconvenient.

7 MR HARRISON: I accept he is entitled to put the theory, but
8 he is not entitled to put it three times. This is the
9 third time.

10 JUDGE THOMPSON: Yes, I think [inaudible]. But clearly the
11 two positions are on the record and he now is taking
12 another position, that indeed whatever information -
13 hearsay, of course - he alleges came to his knowledge in
14 2000. Is that what you're saying?

15 MR CAMMEGH: Absolutely right.

16 JUDGE THOMPSON: I think he is entitled to do that once more.

17 JUDGE BOUTET: I'm not sure that the witness has understood
18 your question in that respect. I have heard your
19 question quite clearly; I am talking of the witness. I
20 would suggest you repeat the question so we know what
21 [inaudible] is.

22 MR CAMMEGH: All right. I hear Mr Harrison's objection and at
23 the risk of --

24 JUDGE THOMPSON: But you have our leave.

25 MR CAMMEGH: If Your Honour wants me to put it, I'll do it
26 again.

27 JUDGE THOMPSON: [Overlapping speakers] it's important for
28 you.

29 MR CAMMEGH: I'm very grateful. This is the very last time

1 and I hope to make it absolutely clear.

2 Q. Last week you told this Court that according to hearsay
3 information Gbao was involved in the abduction of the
4 peacekeepers?

5 A. Exactly.

6 Q. Information that you received in 2000?

7 A. Yes.

8 Q. My question is this: Just as you received hearsay about
9 peacekeepers in 2000, concerning Gbao, isn't it really
10 the case that it was also in 2000 that you received
11 hearsay information citing Gbao as a security chief of
12 the RUF in '98 and '99? In other words, wasn't it in
13 2000 that you heard that information for the first time?

14 A. Of the abduction of the peacekeepers?

15 Q. No, of Gbao being chief of security.

16 A. Until 2000 I saw him.

17 JUDGE THOMPSON: Mr Witness --

18 PRESIDING JUDGE: Mr Cammegh, wouldn't it appear to you clear
19 on the record that he has always said that he was told in
20 Kono that in 1998 he was the head of the IDU in Kono. He
21 said he was told, but he hadn't met this man, hadn't seen
22 him. He only took note of it on the information that was
23 given him. So don't you think that your question is
24 [inaudible].

25 MR CAMMEGH: The only reason I asked it was because I felt I
26 had been invited to be put it in precisely that way one
27 final time.

28 JUDGE BOUTET: Indeed, I invited you.

29 JUDGE THOMPSON: We think we should allow you to put your

1 instruction, though not very many times. Once or twice,
2 but not many times.

3 MR CAMMEGH: I'm not seeking to take any unfair advantage. I
4 was invited to put it once more and I did so and I will
5 leave it there. I want to come on to peacekeepers. I am
6 aware I am taking a little bitter longer this morning
7 than I'd hoped to, so I want to wrap this up fairly
8 quickly.

9 Q. You told us or you told the Court on the 24th of January
10 that peacekeepers were divided. The senior commanders
11 and the artillery went to Tombodu and the rank and file
12 to Yengema; is that right?

13 A. Yes, Yengema training base. Not only Yengema, but
14 Yengema training base.

15 Q. Right. How long after the peacekeepers were abducted
16 were you told that Augustine Gbao was at least partly
17 responsible?

18 A. Before the arrival of the peacekeepers in Kono, it was
19 our concern, we that were in Kono, for the abduction of
20 the peacekeepers. And even to reaffirm the --

21 PRESIDING JUDGE: What was your concern?

22 THE WITNESS: That the abduction of the peacekeepers, it was
23 our great concern in Kono. It was very surprise to us
24 again. That even when you say hearsay, yes, some hearsay
25 was very, very important. We had a sort of a system in
26 the RUF at that time. The muster parade was one part of
27 our information media. Two, we had a Joint Security
28 Board of Investigations, which my unit was a concerned
29 member. And I had my colleague in Makeni and I inquire

1 from him to give me detail of what happened in Makeni as
2 my reference. So I was given the detail.

3 MR CAMMEGH:

4 Q. When?

5 A. It was very early back, before the 8th of May, you know,
6 I heard this information. So I was very concerned. I
7 contacted my colleagues and I received the detailed
8 information about the incident at Makeni.

9 Q. Who told you this information?

10 A. Who told me this information?

11 Q. Yes, who named Gbao?

12 PRESIDING JUDGE: Well, I think since it is his colleague it
13 might also --

14 THE WITNESS: I have colleagues at the Joint Security Board of
15 Investigations. I have colleagues there and I was
16 informed by the Joint Security Board member, one -- two
17 of the members.

18 MR CAMMEGH:

19 Q. So it was more than one person who told you?

20 A. More than one person, so I grow concerned.

21 [HS270105B 11.04 a.m. - RK]

22 Q. Who told you this information? You said that according
23 to a reliable source Gbao was in Makeni?

24 A. Yes, that was what I was told.

25 Q. So you were told by other people in Kono?

26 A. Not in Kono but from Makeni.

27 Q. They had come from Makeni, had they?

28 A. I communicated. I have my means of communication.

29 Q. So you spoke to people in Makeni and they told you, "Gbao

- 1 has abducted some peacekeepers here"; is that right?
- 2 A. I was told both in Kono and even both from Makeni. The
3 rumour was very, very spread all over.
- 4 Q. What rank was Gbao at that time, do you know?
- 5 A. Augustine Gbao?
- 6 Q. Yeah?
- 7 A. I used to hear people saying that he was a colonel.
- 8 Q. People were saying he was a colonel?
- 9 A. He was a colonel.
- 10 Q. And he is Chief of Security for the entire RUF?
- 11 A. Yes, I came to know in 2000.
- 12 Q. You told us about how this problem allegedly arose in
13 Makeni. It was a dispute concerning the conditions of
14 disarmament, to put it shortly, wasn't it?
- 15 A. Yes, according to Morris Kallon.
- 16 Q. Well, were you speaking to Kallon?
- 17 A. I said according to Morris Kallon, as the information
18 I received, the confrontation came between more and the
19 peacekeepers.
- 20 Q. But you didn't speak to Morris Kallon at that time, did
21 you?
- 22 A. No, never. I said information.
- 23 Q. Yes, hearsay information?
- 24 A. Yes, and it was very reliable.
- 25 Q. Well, forgive me, Mr Witness, how do you know it was
26 reliable if you weren't there to witness what was
27 reported to be going on? How did you know it was
28 reliable?
- 29 A. It became a reality.

- 1 Q. How did it become a reality to you, in what way?
- 2 A. More than many combatants complaining against the
3 abduction of the peacekeepers by Morris Kallon, Augustine
4 Gbao and one other Kailondo. This was -- it was very,
5 very rampant.
- 6 Q. You said that you saw 300 peacekeepers, correct, in
7 Yengema?
- 8 A. According to the information. I didn't see everybody in
9 the figure of 300, but according to the information there
10 were up to 300.
- 11 Q. Well, no, what you actually told this Court was that you
12 saw about 300 peacekeepers?
- 13 A. Of course, yes, but I didn't count but only according to
14 the information I received and I went to Yengema. I saw
15 a group of people. I saw a large number of them, so I
16 agreed that it was 300.
- 17 Q. You just didn't count them--
- 18 A. [Overlapping speakers]
- 19 Q. You didn't say anything at all about mistreatment when
20 you were asked about this the other day, did you?
- 21 A. About?
- 22 Q. Well, they didn't appear to have been mistreated, did
23 they?
- 24 A. The abductees?
- 25 Q. Yes.
- 26 A. Well, in my own presence I didn't see that. Maybe it
27 might have happened prior to my arrival, but I never saw
28 that.
- 29 Q. Did you speak to any of them?

- 1 A. Never.
- 2 Q. So they looked well, did they?
- 3 A. Well, according to my physical appearance some of them
4 were looking very pale, you know, thin and tired.
- 5 Q. Yes, but they had only been abducted a few days
6 previously, according to your sources, hadn't they, so
7 becoming thin wouldn't necessarily be the result of what
8 happened just a few days ago, would it?
- 9 PRESIDING JUDGE: That is argumentative.
- 10 JUDGE THOMPSON: It sounds like a lecture.
- 11 PRESIDING JUDGE: But they are submissions. Can you get along
12 with the questions, please.
- 13 MR CAMMEGH: I am nearly finished.
- 14 PRESIDING JUDGE: They looked pale and --
- 15 THE WITNESS: Yes, sir, very tired and weak.
- 16 MR CAMMEGH:
- 17 Q. They had been walking a long way, hadn't they?
- 18 A. I only saw trucks that came with them, covered with the
19 tarpaulin and they were taken to Yengema training base.
20 I didn't see them walking around the township.
- 21 Q. But can you confirm that you didn't see them being
22 physically mistreated?
- 23 A. In my own presence I didn't see that.
- 24 Q. Thank you. Now you gave several statements to the
25 Prosecution and those statements were prepared on 17th of
26 November of 2002. You gave a long statement then, didn't
27 you. Mr Jordash has shown it to you already. Then you
28 gave another statement on 12th of February 2003, another
29 long statement.

1 JUDGE THOMPSON: What was the date of the first one?
2 MR CAMMEGH: I think it is 17th of November, 2002. The second
3 one, 12th of February 2003. Third one, 13th September
4 2004.
5 Q. You've been shown those statements during
6 cross-examination, haven't you, all three of them?
7 A. Yes.
8 Q. And they're fairly long, aren't they? They're fairly
9 detailed; you would agree with that?
10 A. What?
11 Q. You would agree that they are fairly detailed?
12 A. Of course.
13 Q. You have had an opportunity to read them recently,
14 haven't you?
15 A. Yes.
16 Q. None of them mention the name Augustine Gbao, do they?
17 A. Of?
18 Q. None of them mention the name Augustine Gbao?
19 A. On what occasion?
20 Q. Can you just confirm that none of those three statements
21 mention the name of Augustine Gbao?
22 MR HARRISON: I think the witness is actually entitled to look
23 at the statements --
24 THE WITNESS: Which of the statements?
25 MR HARRISON: -- to satisfy himself with respect to that
26 question.
27 MR CAMMEGH: I was hoping not to take that time, but of course
28 I agree with Mr Harrison. He is fully entitled to check.
29 JUDGE THOMPSON: If he feels that he needs to refresh his

1 memory -- you yourself admitted they were detailed and
2 lengthy statements. Perhaps he needs to be given the --
3 MR CAMMEGH: I was hoping the witness would take that from me.
4 But Mr Harrison is right, if the witness wants to check
5 them, he must be given that opportunity.
6 PRESIDING JUDGE: Mr Cammegh, let me have the date of the
7 second statement. Is it 17th November.
8 MR CAMMEGH: It's September.
9 PRESIDING JUDGE: The second, I mean.
10 MR CAMMEGH: The second statement is 12th of February 2003.
11 PRESIDING JUDGE: And the third is 13th of September 2004.
12 MR CAMMEGH: 2004.
13 JUDGE THOMPSON: Mr Cammegh, evidently you want him to
14 re-familiarise himself with each of those statements
15 depending on how your cross is progressing [inaudible]
16 MR CAMMEGH: The point -- I'm sure Your Honours have the point
17 already. The point I am going to raise is that there was
18 a subsequent proofing towards the end of last year when
19 his name appears and matters flow from that. So all I'm
20 asking the witness to do is to scan over these statements
21 to see whether the name Gbao appears and I appreciate
22 that might take some time.
23 JUDGE THOMPSON: But the initial response of this witness was
24 he wanted to know what incident you were talking about.
25 So my impression is that he would probably like to
26 re-familiarise himself with the statements to be able to
27 give educated answers.
28 MR CAMMEGH: Well, I can't prevent him from doing that. My
29 concern is that --

- 1 PRESIDING JUDGE: Your concern is that he never mentioned Gbao
2 anywhere in those statements.
- 3 MR CAMMEGH: That's the point I'm seeking to elicit, but my
4 concern for the purpose of this tribunal is -- and to be
5 fair to the witness, if he feels the need to clarify it
6 is going to take a few minutes.
- 7 PRESIDING JUDGE: Then we will have to rise for some time and
8 give him time to scan through the statements.
- 9 JUDGE THOMPSON: [Inaudible] in fairness to your client.
- 10 MR CAMMEGH: I'm grateful.
- 11 PRESIDING JUDGE: Do you think you will need about -- well,
12 the question should not be for you really. Let us rise.
13 When the witness is ready, we shall be called in, please,
14 because he should be given an ample opportunity to
15 familiarise himself with these statements that have been
16 shown to him. The Court will rise, please, and we will
17 be called in as soon as you are ready.
- 18 [Recess taken at 11.15 a.m.]
- 19 [On resuming at 11.36 a.m.]
- 20 MR CAMMEGH: Thank you for the time, Your Honours.
- 21 PRESIDING JUDGE: We're resuming the session, Mr Cammegh.
- 22 MR CAMMEGH: Thank you for the time.
- 23 Q. Mr Witness, will you please confirm that -- have you had
24 time to read through those three statements?
- 25 A. I have read through them.
- 26 Q. Will you please confirm that the name Augustine Gbao does
27 not appear in any of those three statements?
- 28 A. Indeed, because I was never asked detail.
- 29 PRESIDING JUDGE: [Overlapping speakers] just a minute,

1 please.

2 THE WITNESS: Okay, no.

3 JUDGE THOMPSON: "I do confirm Mr Gbao's name does not appear
4 in any of the statements."

5 MR CAMMEGH: Yes.

6 PRESIDING JUDGE: Those three statements.

7 JUDGE THOMPSON: Those three statements, okay. He was about
8 to add something.

9 MR CAMMEGH:

10 Q. Yes, I think you were about to explain why?

11 A. Yes, not in these other statements, because I was never
12 asked detailed about the abduction of the peacekeepers,
13 but I remember I have given to --

14 PRESIDING JUDGE: Just a minute. In these statements, these
15 three statements.

16 THE WITNESS: Yes, I was never asked detail

17 PRESIDING JUDGE: About?

18 THE WITNESS: About the abduction of the peacekeepers.

19 MR CAMMEGH:

20 Q. You must have been aware between 2002 and 2004, during
21 which time you were in contact with the Prosecution --
22 you must have been aware that the incident concerning the
23 abduction of the peacekeepers was a very, very serious
24 one?

25 A. Yes.

26 Q. And you say: "I never gave any details, because I wasn't
27 asked."

28 A. I was never asked.

29 MR CAMMEGH: Can I just ask Mr Harrison if he has a copy of

- 1 the proofing notes of 20th of September and 22nd of
2 September, please?
- 3 Q. In September, Mr Witness, that is two months after this
4 trial actually started, you were interviewed again by the
5 OTP concerning your testimony or events that you
6 witnessed; correct?
- 7 A. Yes, I was interviewed.
- 8 Q. Can you just, please, go to page 9766. Is it marked at
9 the top? 9766. It should be the second page that you
10 have there?
- 11 A. 9766, yes.
- 12 Q. Yes. Now 9766, you would agree, concerns your proofing
13 or your interview on 20th of September of last year. Can
14 you just confirm that. You will see that on page one
15 before that you have there, or 9765 --
- 16 A. 9766?
- 17 Q. Turn the page back to 9765 and can you see there is a
18 heading "Proofing of the 20th of September"?
- 19 A. Yes.
- 20 Q. You discuss various matters there. Can I ask you to look
21 at paragraph 14 on page 9766. I'm going to read out loud
22 what is recorded.
- 23 JUDGE THOMPSON: What was the paragraph number?
- 24 MR CAMMEGH: Forgive me. Paragraph 14, page 9766, proofing
25 notes from the 20th of September of last year.
- 26 Q. You state this: "In 2000 UN peacekeepers were abducted.
27 The RUF and some peacekeepers were in a fight and Kallon
28 orchestrated the abduction along with Gbao, Kailondo and
29 others."

- 1 A. Exactly.
- 2 Q. Will you confirm, please, that this was the first
3 occasion on which you had put on record any suggestion
4 that Morris Kallon and Augustine Gbao had been involved
5 with an abduction of UN peacekeepers?
- 6 A. Yes.
- 7 Q. The first time?
- 8 A. First time I was asked.
- 9 Q. First time you were asked?
- 10 A. Yes.
- 11 PRESIDING JUDGE: Let's get the answer first, the first answer
12 to what counsel is asking. This was the first time you
13 mentioned that Morris Kallon and Augustine Gbao were
14 involved --
- 15 THE WITNESS: Yes.
- 16 PRESIDING JUDGE: -- in the abduction incident. This was the
17 first time you had mentioned it.
- 18 THE WITNESS: Yes, sir.
- 19 MR CAMMEGH: You had never stated --
- 20 PRESIDING JUDGE: Please wait.
- 21 MR CAMMEGH: Sorry, Your Honour.
- 22 PRESIDING JUDGE: There was a second arm to the question which
23 you wanted to give. There was also second arm to the
24 answer to the question which you had, what was it?
- 25 THE WITNESS: Sir?
- 26 PRESIDING JUDGE: You admitted that this was the first time
27 that you mentioned these two people, but you were going
28 to add something.
- 29 THE WITNESS: Yes. My addition was that was the only time I

1 was asked in detail.

2 MR CAMMEGH:

3 Q. That was the first time you were asked in detail?

4 A. Yes.

5 JUDGE THOMPSON: About the abduction.

6 THE WITNESS: Yes, about the abduction of the peacekeepers.

7 MR CAMMEGH:

8 Q. Whether or not that is the case, Mr Witness, you can
9 confirm, can't you, that is the very first occasion you
10 put the name Gbao on record?

11 PRESIDING JUDGE: Mr Cammegh, I think we have understood that.

12 It is clear on the record.

13 MR CAMMEGH: Very well.

14 Q. Can we now turn to paragraph 15, it follows directly on
15 the same page, 9766. This was on 22nd of September. I'm
16 going to read it out loud: "I came to know Gbao in 2000.
17 Before then I had just heard the name. In 2000 Gbao was
18 the chief of security and head of the military police and
19 all security branches." What do you mean by that
20 exactly, Mr Witness?

21 A. What I meant by this is that we had a joint security
22 border investigations comprising the IDU, the MP, the IO,
23 the G5. These were the concerned bodies of the joint
24 security force and he was in charge of all of these
25 branches.

26 Q. Yes.

27 A. As a boss on national level of the RUF.

28 PRESIDING JUDGE: What were these arms, again? You said the
29 G5.

1 THE WITNESS: The G5, the IO, the MP, IDU on national level of
2 the RUF.

3 JUDGE BOUTET: And you called that a joint board --

4 THE WITNESS: Joint board of investigations.

5 JUDGE BOUTET: And the joint board of investigations comprised

6 --

7 THE WITNESS: The IO --

8 JUDGE BOUTET: MP, IO and so on.

9 THE WITNESS: Yes, and Augustine Gbao was the chief of that on
10 national level of the RUF.

11 MR CAMMEGH:

12 Q. You say that: "Before 2000 I had just heard the name.
13 In 2000 he was the chief of security." Why don't you say
14 here that before 2000 I knew he was chief of security of
15 the RUF? Because you don't, do you?

16 A. Yes, because I have just been hearing him, but why
17 I mention now, because I see him in person in the
18 capacity of the chief of security.

19 Q. Why on 22nd of September when you were clearly being
20 asked about Gbao's rank and position within the high
21 command of the RUF, do you not make it crystal clear that
22 since 1998 I knew he was chief of security? Why do you
23 not say that?

24 A. I have mentioned that previously.

25 Q. You mentioned it for the first time last Friday?

26 A. No, previously I've been mentioning that in my
27 questionings.

28 Q. Well, it is not on record, is it. I've just got one or
29 two, and I really do mean one or two other matters and

- 1 then I can assure Your Honours I'm going to be finished.
- 2 PRESIDING JUDGE: Please, feel free, Mr Cammegh.
- 3 MR CAMMEGH: Well, Your Honour, I just want to ask one or two
- 4 things.
- 5 Q. Did you know -- I'm going to give you two names and you
- 6 tell me whether you knew either of them, please.
- 7 Miloskie Kallon?
- 8 A. Who?
- 9 Q. Did you ever know Miloskie Kallon?
- 10 A. No, I don't know him.
- 11 Q. Saidu Kallon?
- 12 A. I don't know.
- 13 PRESIDING JUDGE: Miloskie Kallon and who else?
- 14 MR CAMMEGH: It was Miloskie Kallon and Saidu Kallon. I'm
- 15 sorry to jump about. This is a completely unrelated
- 16 subject and I just want to deal with it quickly.
- 17 Q. Can I just take you back to the withdrawal from Freetown
- 18 back in February of 1998. Would you agree that SAJ Musa
- 19 left the column of the RUF and of the juntas who had left
- 20 Freetown -- left that group at Makeni?
- 21 A. If he left the group at Makeni?
- 22 Q. Yes, as they were travelling up towards Kono did he leave
- 23 the group at Makeni?
- 24 A. Who, SAJ Musa?
- 25 Q. Yeah.
- 26 A. From where?
- 27 Q. The retreat from Freetown, okay, we've been through that,
- 28 they go to Masiaka and they arrive at Makeni. Was it at
- 29 Makeni that SAJ Musa left and went on his own way up to

- 1 Koinadugu?
- 2 A. Koinadugu, yes, I heard of that.
- 3 Q. He didn't go on his own, did he?
- 4 A. If he never went on his own?
- 5 Q. No, he didn't, did he? He went with others?
- 6 A. Whether he went on command?
- 7 Q. He went with others, didn't he?
- 8 A. Yes, he went with others.
- 9 Q. Did he go with --
- 10 PRESIDING JUDGE: He went with others to?
- 11 MR CAMMEGH: Koinadugu.
- 12 THE WITNESS: Koinadugu.
- 13 MR CAMMEGH:
- 14 Q. I want to suggest that there were two people in
15 particular that he went with, one of them Brigadier Mani.
16 Did he go off with SAJ Musa to Koinadugu?
- 17 A. I heard of Brigadier Mani, but didn't see him.
- 18 Q. But did you hear of him going up to Koinadugu --
- 19 A. Yeah, he was in Koinadugu.
- 20 Q. -- with Musa. Right. Secondly, is it also correct that
21 General Bropleh went off with SAJ Musa up to Koinadugu as
22 well at that time?
- 23 A. Yes.
- 24 Q. Thank you. Therefore it must follow, mustn't it, that
25 General Bropleh was not in Koidu along with Superman and
26 wasn't in Superman's ground either?
- 27 A. At that time, 1998, Bropleh was not in Kono.
- 28 Q. Just for the record, Mr Witness, I don't want to be
29 pedantic, but can you just confirm he wasn't in Koidu and

- 1 he wasn't in Superman's ground in 1998?
- 2 A. General Bropleh?
- 3 Q. Yes. You agree with that?
- 4 A. Yes.
- 5 Q. And also 1999?
- 6 A. Yes.
- 7 Q. But from what you heard is it true that SAJ Musa, Bropleh
8 and Mani didn't actually remain together in the future?
9 After they reached Koinadugu they didn't actually remain
10 together, did they?
- 11 A. According to sources.
- 12 Q. According to sources they didn't remain together?
- 13 A. No.
- 14 Q. My final point is this and it really is my last point and
15 I hope you will be able to leave us soon.
- 16 A. Very good.
- 17 Q. Whatever you have said about Augustine Gbao is based on
18 hearsay, isn't it?
- 19 A. To a certain extent.
- 20 Q. Well, to a full extent, isn't it?
- 21 A. Some I said about him were information. Some I said
22 about him I met, I seen in person.
- 23 Q. But what you say about him being chief of security back
24 in 1998 and 1999?
- 25 A. It was by information.
- 26 Q. It was by information. And what you say about his
27 involvement in the abduction of the peacekeepers was
28 based on information as well?
- 29 A. It was based on reliable information.

1 Q. And the first time that you ever put Gbao's name on
2 record in these proceedings, that is in writing, was on
3 20th of September of last year, two months after this
4 trial started. And in relation to his rank, what you say
5 there is that before 2000 you only knew his name?

6 A. Yes, Augustine Gbao.

7 Q. And the very first time you have told anybody, I suggest,
8 that he was chief of securities before 2000 was in this
9 courtroom last Friday; that is right, isn't it?

10 A. That has been mentioned already in my chart. If you can
11 check on the chart of 2000 to 2001 his name has
12 been mentioned as chief of security.

13 Q. No, I don't think you -- maybe it's my fault, I am not
14 sure you understood the question. This is my last
15 question.

16 A. Um-hum.

17 Q. The first time you have told anybody that Gbao was the
18 chief of the RUF security prior to 2000 was in this
19 courtroom last Friday; that's right, isn't it?

20 A. Prior to 2000?

21 Q. Yes.

22 A. Yes.

23 MR CAMMEGH: Yes. Thank you very much. Thank you,
24 Mr Witness. That is all I have, Your Honours.

25 JUDGE THOMPSON: Learned counsel, any re-examination of this
26 witness?

27 MR HARRISON: I do have three areas that are relatively brief
28 and I am just asking to proceed. Before I do so I do
29 have a submission to make to the Court with respect to

1 the charts. The extensive use and reliance upon them
2 in the cross-examination, in the Prosecution's view,
3 changes the purpose for which they can be used by the
4 Court. There has been extensive reference to the
5 distinction between headquarters and units, brigades,
6 particularly those in the Kono region. There has also
7 been reference to various unit commanders and all of that
8 information is now on the transcript. The fact that it
9 has been put to the witness and the witness has relied
10 upon it, renders the charts admissible for all purposes.
11 In addition, it is now clear from the witness's evidence
12 that all three charts, including that of 2000/2001, are
13 inextricably linked and the third chart should also be in
14 evidence before the Court.

15 Those are the comments I wish to make. I'll allow my friends
16 on the other side to have their response. I just wish to
17 remind the Court that there are three brief areas of
18 re-examination that the Prosecution does wish to pursue.

19 JUDGE THOMPSON: Before we call upon the Defence to respond to
20 that, I need some clarifications and perhaps you can
21 provide them.

22 You're submitting that the extensive use of the charts in
23 cross-examination for the limited purposes for which they
24 were admitted has now put an entirely different
25 complexion upon the purposes or the purpose for which
26 they were admitted. In other words, widening the scope,
27 you say. In other words, you are saying that, in your
28 submission, both charts are now admissible for purposes
29 other than just to evaluate the merit of prior

1 inconsistent statements vis-a-vis the oral testimony.
2 If you say that, suppose I respond that even if one wanted to
3 take that argument as having any merit, it relates only
4 to Exhibits 19 and 20 -- 20 and 21 and the other chart is
5 in evidence.

6 MR HARRISON: That's correct, it is not in evidence and I've
7 suggested to the Court that the third chart -- because of
8 the witness's own evidence of how they are inextricably
9 linked. But I'm asking you to, if you can, think of it
10 as Part 1 and Part 1(A) of the submission.

11 JUDGE THOMPSON: Well, in short, if you take that position,
12 then ought you not proceed more properly by either in the
13 process of re-examination seek to tender the chart which
14 has not yet been in evidence, if you want us to see, as
15 you submit, the global pictures, in other words, three
16 charts form part of an integrated whole. Saying that 20
17 and 21 do not give us the complete picture to enable us
18 to define an evaluation, so there is a missing link, and
19 ought you not, in your re-examination, to see whether or
20 not the Court will agree with you that this missing link
21 can now be routine, and then probably at the end of the
22 day in your address down the road, invite us to say the
23 scope of these charts has now expanded beyond the very
24 narrow scope. Wouldn't that be another way of
25 proceeding? I just wanted to hear this.

26 MR HARRISON: I think it would be. I was under the
27 understanding from the Court's ruling that the procedure
28 of the Prosecution using charts was prohibited. That was
29 my understanding.

1 JUDGE THOMPSON: On grounds of leading questions on
2 controversial issues.
3 MR HARRISON: That was my understanding.
4 JUDGE THOMPSON: Right. Leading questions alone. That was
5 the point of our ruling.
6 MR HARRISON: Yes, that was my understanding. And I'm still
7 under the understanding that that applies.
8 JUDGE THOMPSON: Yes, in re-examination.
9 MR HARRISON: And if you're telling me --
10 JUDGE THOMPSON: I'm -- the law is very interesting. I'm
11 giving you a different perspective. That if they've
12 tendered Exhibits 20 and 21 and you feel that under
13 re-examination you can establish that there is a missing
14 link somehow - I mean, leave the question of leading
15 questions now - there is a missing link, because you've
16 admitted just now for limited purposes, why not canvass
17 the viewpoint, because there is a missing link and the
18 Court will not have a complete picture in relation to
19 this limited purpose that we need to admit this. I mean,
20 it is not so settled. The law is not so clear I'm trying
21 to say why not.
22 MR HARRISON: If the olive branch is being extended, I shall
23 reach with both hands for it.
24 JUDGE THOMPSON: No, I'm just saying that these are areas
25 where there are grey areas within the law. I mean the
26 novelty of your submission is that we have an integrated
27 set of documents. Two are in, through cross-examination.
28 This Court is not going to be able to complete its
29 evaluation and do justice in this case without the third

1 one in. I'm just inviting you to canvass this position.

2 That is my own random thoughts on this.

3 JUDGE BOUTET: Mr Harrison, I should say that we've not
4 decided to admit the third one yet. We will have to
5 determine if it is or not.

6 MR HARRISON: I'm sorry. I'm having a bit of problem with my
7 headphones; could you repeat that.

8 JUDGE BOUTET: We have not decided yet to admit this third
9 chart. What is suggested to proceed to seek the
10 admissibility of that. However, I just want to make sure
11 that I clearly understand your position. You now are
12 asking this Court to move further on the admissibility of
13 Exhibits 20 and 21, the two charts. In other words, to
14 go beyond the admissibility for the simple purpose of
15 inconsistency between the evidence and what may have been
16 said in a prior inconsistent statement. Now you are
17 asking the Court that these exhibits be considered for
18 the truth of their content, in other words they become
19 full, complete exhibits.

20 PRESIDING JUDGE: Exhibits to be used for all intents and
21 purposes.

22 JUDGE BOUTET: That's right. To be used for all intents and
23 purposes. So that is your position at this time. In
24 other words, you want to change the quality of those
25 exhibits to become what I would call a full exhibit
26 rather than for the limited purpose for which it had been
27 admitted.

28 MR HARRISON: You have my point.

29 JUDGE BOUTET: Okay.

1 MR HARRISON: Perhaps The Court will -- did you wish to hear
2 from Defence counsel or should I proceed?

3 JUDGE THOMPSON: Perhaps we should hear from Defence.

4 MR JORDASH: Well, my very short submission in response would
5 be this: That Your Honours have given a very clear
6 ruling based upon the need to give voice to the
7 limitation on leading questions. And also having given
8 careful consideration to the real risks of prejudice to
9 those co-accused who are not engaged in the
10 cross-examination based upon those charts, based upon the
11 use of those charts only for the limited purpose of
12 putting inconsistent statements.

13 The only -- in other words, the use of those charts has
14 been limited to a very limited purpose balancing those
15 very fine considerations. My learned friend now wants to
16 go behind those rulings and all he has said is his
17 reasoning for the application is that there has been
18 extreme reference to headquarters, unit brigades and unit
19 commanders. And his application is predicated, it would
20 seem, simply on that basis. My respectful submission
21 would be if my learned friend wants to make this
22 application, then he ought to make it outlining in detail
23 why it is he seeks to go behind a considered judgment of
24 the Court. In my respectful submission, simply asserting
25 that cross-examination has been much wider than was
26 allowed and then giving these limited examples is
27 insufficient to overturn, in effect, a judgment of the
28 court. I don't know in reality what his basis for this
29 application is except in those limited areas he has

1 listed.

2 PRESIDING JUDGE: So you're objecting to the application.

3 MR JORDASH: I'm objecting until I understand what his

4 objection is about. Because on the face of it, it looks

5 simply an attempt, I would submit, to get these charts in

6 through the back door. Because he hasn't laid the

7 foundation, I would submit, in outlining what it is he

8 says the Defence have actually done to make that ruling

9 no longer valid. Those are my submissions at this stage.

10 PRESIDING JUDGE: Mr Touray.

11 MR TOURAY: Our short response is this: That firstly, we have

12 never cross-examined on the basis of those documents. We

13 made no reference to them in our cross-examination. And

14 we were more or less guided by the ruling of this Court

15 that they were admitted for a limited purpose and we felt

16 bound by that and made no reference to it. To admit them

17 now would be very prejudicial to us, not having

18 cross-examined them and not having even referred to them

19 in the cross-examination. That is our point, very short.

20 JUDGE THOMPSON: Thank you.

21 Mr Cammegh.

22 MR CAMMEGH: Perhaps I can lay the ground what I sought to do

23 and what I hope I actually did. Remarking, by the way,

24 that Your Honours are never slow to bring us up short or

25 to interrupt us if we are transgressing in some way. And

26 I noted that during my cross-examination on those

27 documents there was no interjection from Your Honours.

28 Last Friday this witness made a rather

29 astonishing revelation, one which was -- well, it really

1 came out of the blue, so far as I was concerned that is
2 that in 1998, my client Augustine Gbao, according to him
3 -- I'll stop in my tracks. Mr Jordash has just given me
4 a very sensible note and I agree. Perhaps this should be
5 discussed in the absence of the witness.

6 JUDGE THOMPSON: Yes.

7 MR CAMMEGH: And I wonder if the witness could leave.

8 JUDGE THOMPSON: Are you moving for that?

9 MR CAMMEGH: I am, yes.

10 JUDGE THOMPSON: We'll ask that the witness be taken out to
11 retire temporarily and come back.

12 PRESIDING JUDGE: Mr Witness, you will retire temporarily and
13 you will come back in a couple of minutes.

14 THE WITNESS: It is no problem.

15 [The witness stands down]

16 JUDGE THOMPSON: Proceed.

17 MR CAMMEGH: As I was saying, last Friday the witness made
18 quite a stark revelation which was, that contrary to the
19 disclosure that we've received -- I shouldn't say
20 contrary, but it was certainly new, suddenly there was a
21 claim that my client Augustine Gbao was chief of security
22 back in 1998. Now, we've had the charts now for, I don't
23 know, something over a week and a half, and it was quite
24 clear to me on initial inspection of those charts that
25 there was really nothing to fear. Gbao's name did not
26 feature on the charts of 1998 or 1999. For the purposes
27 of my case I accepted that he was chief of security in
28 2000; that's not a difficulty. Now it would never have
29 been incumbent on me to have introduced the charts at all

1 had the witness not made the declaration that he did,
2 that the witness -- that Gbao was chief of security in
3 1998. And, Your Honours, I know, have the point, the
4 reason I sought to introduce those charts flowed from an
5 exchange today. I felt it right under the circumstances
6 that something that perhaps in another jurisdiction
7 I wouldn't have done. But here I know that Your Honours
8 go by the transcript. And if I'd left unchallenged his
9 evidence a few days ago that Gbao was chief in 1998,
10 notwithstanding his answer at the end of play yesterday,
11 where he said if he'd been in a high echelon of command -
12 I forget his precise words - prior to 2000, "I in my
13 position as commander of whatever, would have known about
14 it." I thought well, it is still on the transcript. I
15 have to meet it. I have to challenge it. But the
16 witness, to my surprise this morning, stood by his guns
17 of last Friday and maintained that Gbao was chief back in
18 1998, which seemed to be contrary to the evidence which
19 he gave yesterday, but there we are. The charts had to
20 go in. That's why I made the application. And I made
21 the application on a very narrow basis and it was
22 pursuant to Your Honours' indication earlier this week on
23 the basis of prior inconsistent statement. The
24 inconsistency being implicit that these two charts of
25 1998 and 1999 are extensive in their detail; exhaustive
26 one could say. But there is no reference to Gbao. There
27 doesn't appear to be an HQ level rank of or a position of
28 chief of security.
29 Now, I'm not quite sure what my learned friend Mr.

1 Harrison is driving at when he says there's extensive
2 cross-examination on these documents. Am I, in my
3 cross-examination, to be tactically unwise and unfair to
4 the Prosecution by not giving the witness an opportunity
5 to identify any area on the plan that could represent the
6 chief of security's position? That's why I asked him
7 about Augustine Gbao. When Your Honour, Mr Justice
8 Boutet flagged up my error and pointed out that there was
9 at HQ level an IDU commander, I was actually quite
10 pleased because it just rammed home my point even
11 further.

12 And then we turned to the 1999 chart and the
13 same applied, but to be fair, because I do try to be
14 fair, surely it's incumbent on me to give the witness an
15 ample opportunity not just to blandly say, yes, you're
16 right, Gbao's name isn't on this document, but also to
17 identify areas where Gbao's name could have been. And
18 I did only restrict it to IDU. The reason I had to do
19 that is that there was no reference to chief of security
20 which only highlights the inconsistency. Now I can't
21 legislate for any answers that the witness is going to
22 give that might draw on other detail on the plan. I'm
23 not sure if he made reference to other details on the
24 plan and on the chart anyway. But how am I to
25 cross-examine on this limited issue - and everybody knows
26 it was a limited issue - unless I am to alert the witness
27 to what he put on his plan. And secondly, why should
28 I suffer? Why should my learned friends, moreover suffer
29 as a result of that cross-examination that went to not

1 just a very narrow issue but to an extremely important
2 issue that came like a bolt out of the blue last Friday.
3 Now one tries to keep in touch of disclosure, and one
4 tries to maintain command over what these statements say,
5 but from the documents that I've got - and I think the
6 witness confirmed this just now - there was no reference
7 to Gbao being commander of security in 1998-1999 until
8 last Friday. It is not in these documents at all; it is
9 not in the charts; and it's for me trying my best to
10 represent someone who is being as uncooperative with me
11 as he possibly can, to alert Your Honours to that
12 admission. And that is what I sought to do, compliant
13 with the rules that Your Honour Justice Thompson laid
14 down the other day. I am surprised at Mr Harrison's
15 application. I utterly refute it and I adopt for my
16 purposes, the points raised by Mr Jordash as well.

17 JUDGE THOMPSON: Sit down. From what I gather you're saying
18 on your side, Mr Jordash and Mr Cammegh, both of you,
19 you're suggesting that, in essence, to suggest that the
20 cross-examination of both you and Mr Cammegh has enlarged
21 the scope of the purposes for which Exhibits 20 and 21
22 were received in evidence is meretricious; is that what
23 you're saying?

24 MR JORDASH: Certainly, in relation to if I can just limit my
25 response to my cross-examination first.

26 JUDGE THOMPSON: Yes.

27 MR JORDASH: I asked perhaps only four or five questions which
28 are limited to exactly what I said I would do and I would
29 submit, in complete compliance with Your Honours' ruling.

1 I adopt everything my learned friend just said in
2 relation to his cross-examination. Any appearance of
3 extending the remit of cross-examination is indeed just
4 that; it is an appearance.

5 JUDGE THOMPSON: So the submission of learned counsel for the
6 Prosecution that your cross-examination did enlarge the
7 scope of the purposes for which those exhibits were
8 received is without merit.

9 MR JORDASH: And moreover the Prosecution haven't even
10 asserted any cross-examination of my own went beyond --

11 JUDGE THOMPSON: Particulars of such expansion or enlargement
12 of the scope.

13 MR JORDASH: Exactly, Your Honour.

14 JUDGE THOMPSON: Right. I understand your position.

15 MR HARRISON: A short reply, just returning to first
16 principles I think. If the prohibition is about leading
17 questions, well that's a done deal. There cannot be a
18 leading question now.

19 Second principle which the Court has to bear in mind is that
20 this is demonstrative evidence. The general rule with
21 respect to demonstrative evidence is that the standard
22 for admissibility is much lower than for oral testimony.

23 The third principle is, and it is the overriding principle of
24 the Court and the International Criminal Tribunal's
25 jurisprudence, that admissibility is a completely
26 unrelated question to the weight which goes to the
27 document and that the courts have imposed a low threshold
28 for the admissibility of documents. With respect to the
29 factual content, this witness has had his attention drawn

1 to the document. He has responded to the document and he
2 has referred to the document, and the 2000/2001 document,
3 on several occasions today. The transcript will speak
4 for itself.

5 JUDGE THOMPSON: But the point of course that we now have a
6 contention over is whether the individual
7 cross-examination of Mr Jordash and the individual
8 cross-examination of Mr Cammegh have, in a way, enlarged
9 the scope of the purpose for which the documents were
10 received in evidence.

11 The position, it seems to be, is that you have not been able
12 to give us particulars of such enlargement of the scope,
13 because remember the scope was to establish -- the rubric
14 was to establish prior inconsistent statements. Have we
15 gone beyond that scope?

16 MR HARRISON: We now have a clear explanation that the 1998
17 chart is divided into two elements. There is a clear
18 command structure based in Kailahun known as the
19 headquarters. There is also a clear command structure
20 based in Kono that's known as the battalion. It was gone
21 over with the witness who was at the top of the
22 headquarters in Kailahun.

23 It was also established in the battalion unit that there is an
24 IDU, internal defence unit commander. Also reference was
25 made to G5 before there was an interjection with respect
26 to that ought to be in closed session. And there is a
27 reference to MP, military police. There is also a clear
28 discussion about unit commanders and how there are unit
29 commanders in Kailahun, headquarter unit commanders and

1 unit commanders in Kono attached to the battalion.

2 All of that information is an extension of the original
3 purpose granted by the Court. That is from 1998.

4 MR CAMMEGH: I asked nothing about unit commanders and I did
5 not --

6 MR HARRISON: That was raised by the witness. The witness
7 made that clear. All of that information was put before
8 the Court.

9 MR CAMMEGH: Not by me.

10 MR HARRISON: With respect to '99, you have again information
11 about the brigade structure and the command structure
12 existing in '99. You also have a discussion about the
13 IDU commander attached to the 2nd Brigade. There is also
14 self-evident from the chart, the other units are there
15 indicated under the brigade. All of that information is
16 before the Court.

17 JUDGE THOMPSON: That is not -- wasn't it done as an
18 underlying premise upon which to launch the attack on
19 prior inconsistent statements?

20 MR HARRISON: If the Court takes that view, I accept it.

21 JUDGE THOMPSON: The building blocks to launch an attack that
22 in fact this witness's oral testimony on certain matters
23 in respect of those individual clients has been
24 inconsistent. Because that was the way I was following
25 the cross-examination; not that they wanted the Court to
26 address the entire structure, but only for the limited
27 purpose of saying what he was saying in the witness box
28 in respect of our client, vis-a-vis this chart, is
29 inconsistent. That's how I was following it.

1 MR HARRISON: You have my point. You have invited me to make
2 a short reply. I think I have probably gone beyond the
3 short reply you anticipated.

4 PRESIDING JUDGE: Mr Harrison, I think the application you're
5 making is interesting. My recollection is, of course, my
6 learned brother's recollection as well. You see, these
7 charts were admitted as 19 and 20 respectively for
8 limited use.

9 As far as Mr Jordash was concerned, it was to highlight some
10 inconsistencies in relation to his client only. As far
11 as the second accused Kallon is concerned, Mr Touray did
12 not even -- first of all, he objected to the admission of
13 those charts and, later on, when the Court came out with
14 a limited ruling, a ruling on the limited use of these
15 exhibits, he did not even bother to cross-examine on
16 this.

17 As far as Mr Cammegh is concerned, he was only wanting to
18 highlight the fact that his client was mentioned nowhere
19 in those two exhibits and limited it only as far as his
20 client was concerned.

21 We're through with the cross-examination and you've heard the
22 submissions of the three defence teams, and particularly
23 the submission of Mr Touray who did not so much as
24 cross-examine on those charts at all. What would you
25 think allowing an application such as that would have as
26 an impact on the rights of the Defence and the general
27 principles of fairness as far as the second accused is
28 concerned, at this stage, when they did not even bother,
29 because of the limited ruling of the Court on these

1 exhibits, to cross-examine on the charts?

2 MR HARRISON: I think there is two points that could be made.

3 The first is as an extension of the existing ruling, and

4 I won't be able to quote it with the accuracy that

5 I ought, but, to paraphrase it, I think the ruling said

6 that any cross-examination, the evidence therefrom could

7 not be used against the interests of one of the

8 co-accused. I think it was intended to try to protect

9 Mr Touray's position and that of his client. If it is

10 the Court's view that that ought to be extended to

11 Mr Touray's client's with respect to these charts and my

12 application, that is a position that the Prosecution

13 acknowledges may be appropriate.

14 The second point to be made is that during the

15 cross-examination there was no intervention or objection

16 expressed by counsel for Mr Kallon. They could have done

17 so. They chose not to. That is a factor the Court can

18 take into consideration.

19 JUDGE BOUTET: Mr Harrison, before you sit down, what you have

20 addressed now is what I would call the first leg of your

21 application which was based upon what you describe as the

22 enlargement of the scope of the cross-examination. So we

23 have explored that now. But you also said in further

24 comments that the prohibition against the admissibility

25 of these charts at the time you tried to exhibit them was

26 that the Court had ruled that it amounted to leading

27 questions and therefore, on that ground, it was not

28 admissible.

29 You're saying that now we are beyond that stage and I presume

1 I do understand your position to be in addition to the
2 enlargement, as a second ground, is this is demonstrative
3 evidence and it should be admitted because we are no more
4 in a leading scenario but we are much beyond that. Am
5 I quoting you correctly?

6 MR HARRISON: That's correct. Yes.

7 JUDGE BOUTET: So, in other words, you're saying if it does
8 not proceed on the enlargement of scope theory, then it
9 should proceed on the second one.

10 MR HARRISON: You have my point.

11 JUDGE BOUTET: I don't think we've heard -- because that was
12 in your reply to the response by counsel. I don't think
13 that issue was addressed when you first -- at least, if
14 it was, it was not clearly understood, at least not by
15 me, and the response given by counsel for all accused did
16 not address that particular issue.

17 MR HARRISON: I think the Court is correct in that.

18 JUDGE BOUTET: Mr Jordash, you understood my comments?

19 MR JORDASH: I think I do, Your Honour, yes. Well, I would
20 say this: If one looks at the purpose which was being
21 pursued by Mr Cammegh, it was a limited purpose to
22 establish inconsistency to elicit the witness's answer.
23 Or have I missed the point?

24 JUDGE BOUTET: We're not on the extension of the enlargement.
25 The second ground was -- what the Prosecution is asking
26 is -- aside from the enlargement of scope, as such, their
27 second argument to seek the admissibility of these charts
28 as an exhibit is that the prohibition for them doing so
29 at the time was based upon the Court ruling that it

1 amounted to leading questions. Their position is this is
2 no more leading questions because we're far beyond that
3 and therefore that decision based on the leading
4 questions has no more basis per se. Therefore the
5 prohibition that might have existed doesn't exist any
6 more. So that is the issue. Then therefore it should be
7 admitted because they claim that demonstrative evidence
8 has a lower threshold admissibility and therefore should
9 be admitted in re-examination.

10 JUDGE THOMPSON: It would seem too that indeed the Prosecution
11 is relying upon the theory of the enlargement of the
12 scope. As far as I understand, their point is that this
13 is critical. In other words, they're saying we are now
14 at a different stage. We're no more in the arena of
15 restricted scope in terms of [inaudible] prior
16 inconsistent statements objective. But we are also in an
17 area where there has been extensive use of these charts
18 to establish the entire command structure, hence the need
19 for the Court to move beyond the narrow canvass to the
20 much wider universal discourse.
21 So even though they also argued the additional point here, I
22 think the scope point seems central to their application.
23 I think you should address that, because if I find that
24 the allegation that the scope of the cross-examination
25 for both first accused and second accused has not been
26 enlarged then I find no merit in the application.

27 MR JORDASH: If I quickly address Your Honour's --

28 MR TOURAY: Is it first and second or first and third?

29 JUDGE THOMPSON: First and third, I apologise.

1 MR JORDASH: My first response then -- if I may just answer
2 whether the question has enlarged the scope, and then if
3 I may move to Honourable Justice Boutet's point.

4 PRESIDING JUDGE: Please, very briefly.

5 MR JORDASH: Very briefly. Firstly, I would say that the
6 questions asked were to establish inconsistency. The
7 answers given were designed to prove a lack of
8 inconsistency. So to that extent there has been no
9 expansion of the very issue that the questions were
10 designed to -- what the questions were designed to do.
11 The witness's answers were not designed to give
12 additional evidence about these subjects which my learned
13 friend has listed, they were designed to prove that
14 Mr Cammegh was wrong and this witness hasn't been
15 inconsistent.
16 So the ruling never precluded answers by the witness in
17 establishing that he hadn't been inconsistent. In fact,
18 the ruling was designed to give the witness an
19 opportunity to prove a lack of inconsistency and that was
20 what the witness did. Of course the answers may, in that
21 proof, cover a wide area of subjects.
22 I would say finally on this point, those areas were covered by
23 my learned friend in chief. He listed evidence about
24 units in Kailahun being linked in some way to units in
25 Kono. There is nothing that my learned friend has listed
26 which was new to this Court but for, perhaps, a couple of
27 comments which were related directly to the role Mr Gbao
28 was supposed to have played. That is my answer in
29 relation to whether the scope has been enlarged.

1 In relation to the other two points, I don't follow
2 Mr Harrison's point about why the position has changed at
3 this stage. If my learned friend is suggesting that now
4 he is entitled to ask leading questions whereas before he
5 wasn't, I respectfully submit that's wrong.
6 There is no more -- there is an equal limitation on leading
7 questions during re-examination, or else my learned
8 friend could simply save some of his examination-in-chief
9 to that stage and then put leading questions to the
10 witness and elicit the evidence which he should have
11 elicited during examination-in-chief. I know of no rule
12 in international criminal tribunals or national
13 jurisdictions which distinguishes between the type of
14 questions which can be asked in chief and those that can
15 be asked in re-examination by a party.
16 Secondly, I do not know either of the principle of
17 demonstrative evidence. I had never heard of it until
18 Mr Harrison -- and I say that with all due respect to
19 Mr Harrison and his national jurisdiction. I can see the
20 Honourable Judge Boutet has heard of it, but I haven't.
21 JUDGE BOUTET: No, in fact, I was going ask Mr Harrison for
22 some additional information on that, because I would like
23 to have some case law on this; that there is a lesser
24 threshold. This is quite different and it is new to me.
25 MR JORDASH: I've never heard of it so I'm not able to respond
26 on that subject, I'm afraid, but I hope that covers my
27 response to the leading questions issue.
28 PRESIDING JUDGE: Yes, thank you. Is there any other further
29 -- there is no further requests for further submission on

1 this. Do you have one, Mr Cammegh?

2 MR CAMMEGH: Since it is my cross-examination I think I ought
3 to just give a brief reply.

4 PRESIDING JUDGE: [Overlapping speakers] for it to be very
5 brief, please.

6 MR CAMMEGH: Yes. In order to establish a contradiction or a
7 prior inconsistent statement, if one is to do it properly
8 and not leave any room for confusion, one has to build
9 blocks or lay a foundation, if you like, which is what
10 I attempted to do. I restricted it to the simple issue.

11 Your Honour, I cannot legislate for what a witness may
12 genuinely say or may disingenuously say in an attempt to
13 bolster the credibility of a chart with which I take
14 issue. It doesn't matter what he said. He was flailing
15 around, pointing at levels of command that had nothing to
16 do with my question. It didn't meet the point I was
17 making which is the contradiction was there, it was
18 established.

19 I'm sorry that he went off the rails in trying to justify
20 himself but Your Honour, with respect, that is not my
21 responsibility. I did not seek to adduce those
22 responses. As a result those details are not properly
23 before the Court. There is a myriad of information on
24 this chart. There must be over 100 boxes on it. We
25 haven't visited anywhere near even a tiny minority of
26 them.

27 In my submission, Mr Harrison's application -- I too have
28 never heard of anything in relation to demonstrative
29 evidence or whatever it is called. It plays no part in

1 these proceedings, I would respectfully submit and
2 I leave it there. I suggest, with respect, that the
3 Defence position on this is really undamaged.
4 PRESIDING JUDGE: Thank you. Mr Touray, I imagine you have --
5 MR TOURAY: No further comments, Your Honour.
6 PRESIDING JUDGE: Okay. Learned counsel, we'll rise for just
7 a couple of minutes. We'll be resuming shortly.
8 MR HARRISON: If there is a question about the page reference,
9 it's 238 and 239 of Judge May's book.
10 PRESIDING JUDGE: Pardon me?
11 MR HARRISON: Pages 238 and 239 of Judge May's book.
12 MR JORDASH: Whenever I have referred to documents in argument
13 I give a copy to the Prosecution.
14 PRESIDING JUDGE: Judge May's book. We shall rise, please.
15 [Break taken at 12.40 p.m.]
16 [On resuming at 1.00 p.m.]
17 [Trial Chamber confers]
18 PRESIDING JUDGE: Learned counsel, sorry to have kept you
19 waiting, but the Court will deliver its ruling on the
20 application by the Prosecution to have Exhibits 20, 21,
21 and the un-tendered chart -- the chart which is not yet
22 admitted in this Court as an exhibit. The application,
23 of course, by the Prosecution is that these charts, not
24 only Exhibits 20 and 21 be admitted, but they be admitted
25 for all purposes because the extensive way in which the
26 Defence has conducted its cross-examination on the issues
27 therein. The Prosecution seeks further to have admitted
28 in evidence the third chart which, according to it, has a
29 connection with the other charts. The ruling of this

1 Chamber will be presented by Honourable Judge Thompson.

2

3 [Ruling]

4 JUDGE THOMPSON: This is the unanimous ruling of the
5 Chamber on the Prosecution's application.

6 The Chamber is of the opinion that the Prosecution
7 has not advanced any convincing reason for admitting
8 Exhibits 20 and 21 in evidence beyond the limited purpose
9 of establishing prior inconsistent statements.

10 We find that the individual and respective
11 cross-examination on behalf of the first accused and
12 third accused has not extended or enlarged the scope of
13 the purpose for which those exhibits were received in
14 evidence. This part of the application is denied.
15 However we order consequentially that both these exhibits
16 be put under seal, consistent with the protective
17 measures ordered insofar as they relate to this witness.

18 In respect of the chart entitled "Command Structure
19 2001/2002" the Chamber is of the opinion that no proper
20 legal foundation has been laid for its reception in
21 evidence as part of the re-examination process. That
22 part of the application is also denied.

23 PRESIDING JUDGE: Learned counsel, you have heard the ruling
24 of the Court on this application. We would be -- we will
25 be directing that the witness be brought in so that we
26 can have the re-examination to be continued and that we
27 only adjourn in the afternoon to take a fresh witness.

28 Mr, Harrison, are you happy with this approach?

29 MR HARRISON: I was just going to indicate that I've cut the

1 re-examination to two areas from three and I think I can
2 complete it within ten to 15 minutes.

3 PRESIDING JUDGE: That's all right. We're comfortable with
4 that. I think the witness can be brought in, please.

5 [The witness entered court]

6 JUDGE THOMPSON: Proceed, Mr Harrison.

7 MR HARRISON: There are two areas of re-examination, both
8 arising from yesterday's cross-examination and I have
9 distributed a transcript and I should say it is an
10 unedited version of the transcript from yesterday, the
11 date of which is 26th of January 2005. I'm asking if a
12 copy of that transcript could be put before the witness,
13 because I intend, actually to try to be as accurate as I
14 can with the questions and actually taking him through
15 the transcript.

16 JUDGE THOMPSON: You have the leave of the Court to do that.

17 RE-EXAMINED BY MR HARRISON:

18 Q. With the intention of being as concise and as accurate as
19 I can, I would ask, witness, you to turn to page 13 of
20 the transcript.

21 A. Yes.

22 Q. And on page 13, I'm going to draw your attention to line
23 28.

24 A. Yes.

25 Q. And I'm going to read you a portion of page 13 starting
26 at 28 and I'll continue on to the next page, 14, about
27 halfway down. The transcript, an unedited version of the
28 transcript and I wish to point out to you, witness, so
29 that you're clear on this, because it is unedited it is

1 possible that there are errors in the transcript.

2 Starting from line 28:

3 Q. Now, did you have a rank of battle field
4 inspector in the movement?

5 A. Yes, I heard of him at that time when --

6 Q. Did you have?

7 A. If we have a battlefield inspector?

8 Q. Yes.

9 A. Yes, Morris Kallon became battlefield
10 inspector at one time.

11 Q. At one time?

12 A. Yes.

13 Intervention by:

14 MR JUSTICE BOUTET: Was that a rank or a position?

15 THE WITNESS: It was a position given to him by Issa
16 Sesay.

17 MR JUSTICE BOUTET: But is battle field inspector a
18 rank?

19 THE WITNESS: His rank?

20 MR JUSTICE BOUTET: Yes. The question you were
21 asked was, was there at that time a rank of
22 battlefield inspector? Obviously your answer
23 seemed to indicate there was a position.

24 THE WITNESS: Yeah, it was only a position given to
25 him by Issa Sesay as a battlefield inspector.

26 MR JUSTICE BOUTET: But do you called that a rank?

27 THE WITNESS: No, it is not a rank. It is just a
28 position or an assignment.

29 Can you explained what a battlefield inspector is?

1 A. Battle field inspector which was assigned under a battle
2 field commander, the battlefield inspector was more or
3 less a special assistant to the battlefield commander;
4 that is, he reports all battle activities directly with
5 the battlefield commander.

6 Q. Does the battlefield commander fit within the command
7 structure?

8 A. Yes, it was fit.

9 Q. Where does it fit in?

10 A. He was second in command to the battle -- to the chief of
11 defence staff.

12 PRESIDING JUDGE: Sorry.

13 MR HARRISON: This is the battlefield inspector we're talking
14 about.

15 JUDGE BOUTET: Yes, but you asked the question battlefield
16 commander.

17 MR HARRISON: Oh, did I? Sorry, I confused everything.

18 Q. I meant to ask you where the battlefield inspector fits
19 into the command structure.

20 MR TOURAY: Objection, My Lord. My objection is this: This
21 is not an issue for re-examination again. The answer of
22 the witness was quite clear that it is not a rank; it is
23 an assignment. So the issue of fitting in the command
24 structure does not arise at this stage. The answer was
25 quite clear without any ambiguity. It is not a rank. It
26 was an assignment. That is quite clear. That is my
27 objection, Your Honour.

28 JUDGE THOMPSON: But I recall that the issue of the battle
29 field inspector came out first under cross-examination.

1 It never came out in examination-in-chief, so why is
2 counsel not entitled if a new matter arises in
3 cross-examination, which perhaps the Prosecution was not
4 aware of, why should he not be able to cross-examine on
5 that? Do you mean to be restricting the scope of
6 re-examination only to clarification of ambiguities?

7 MR TOURAY: The point now is there is no more ambiguity on the
8 answer given as to the status of the battle field
9 inspector. The answer is quite clear in the evidence
10 that it is not a rank. It is just an assignment.

11 JUDGE THOMPSON: My point is why do we need to limit the scope
12 of re-examination only to just clarifying ambiguities and
13 inconsistencies? If a new material comes out under
14 cross-examination which takes the other side by surprise,
15 why are they not entitled to re-examine on it? The
16 concept of battlefield inspector never featured in
17 examination-in-chief. That is my own position on it.
18 I would deny -- I've overruled the objection.

19 MR TOURAY: As Your Honour pleases.

20 MR JORDASH: Your Honour, I was going to add my voice. And
21 could I --

22 PRESIDING JUDGE: No, but we've denied the objection. Let's
23 proceed, please.

24 JUDGE THOMPSON: Adopting the equality of the arms allows the
25 flexibility of Rules here. The Rule is this is new
26 material that came out in cross-examination, the other
27 side is entitled to it. Go ahead.

28 MR HARRISON:

29 Q. The question is: Where does the battlefield inspector

1 fit within the command structure?

2 A. The battlefield inspector works directly with battle
3 field commander.

4 Q. What does he do?

5 A. As I said, he was more or less a special assistant to the
6 battle field commander. He mostly deals with combat
7 activities, information, preparation of missions and
8 other military activities.

9 JUDGE THOMPSON: Continue, counsel.

10 MR HARRISON:

11 Q. You said that Morris Kallon became battle field inspector
12 at one time. When was that?

13 A. He became battlefield inspector during the time we went
14 into the bush near when Issa Sesay took over complete
15 assignment as battlefield commander. It was 1998, part
16 of 1998.

17 Q. There is a second area that I would like to move to now.
18 If you were to turn to page 33.

19 PRESIDING JUDGE: 33?

20 MR HARRISON: 3-3.

21 PRESIDING JUDGE: 33.

22 MR HARRISON:

23 Q. Again of the same transcript of 26 January 2005?

24 A. Yes.

25 Q. I'm going to draw your attention to line 3. And again,
26 to try and be as concise and accurate as I can, I'm
27 simply going to read from the transcript from line 3 on.
28 The transcript reads:

29 Q. No, no, I mean during the time of the incident

1 of these peacekeepers.

2 A. Yes, he was in Freetown.

3 Q. He was in Freetown and very much in control of
4 the RUF and at that time he was also a member
5 of the government of Sierra Leone?

6 A. Foday Sankoh.

7 Q. Yes. Almost with the rank of Vice-President.

8 A. Yes, but he did not give orders for --

9 Q. Please, I did not ask you.

10 Now, the context of this passage is a discussion
11 regarding peacekeepers and the abduction of the
12 peacekeepers. My question to you is quite
13 straightforward. At line 11 you said "Yes, but he did
14 not give orders for", and I'm simply asking you is there
15 anything further you wish to amplify?

16 A. I further add additional statement to that. According
17 to --

18 PRESIDING JUDGE: But, Mr Harrison -- was this during
19 examination-in-chief or during cross-examination?

20 MR HARRISON: No, no, it is from yesterday. If I could just
21 continue on, perhaps. At line 13 Judge Thompson -- or

22 JUDGE THOMPSON: Didn't ask that at that time Foday
23 Sankoh was a member of the government of Sierra
24 Leone?

25 MR TOURAY: Yes, and almost in the position of
26 Vice-President.

27 THE WITNESS: Yes, that was the agreement.

28 MR HARRISON: But I heard the witness about to add to
29 that answer and amplify it. I think he's entitled

1 to do so.

2 MR TOURAY: I think you can ask that in re-examination,
3 if you wish.

4 MR HARRISON: No, frankly, if a witness --

5 PRESIDING JUDGE: He can't give an answer to that. How
6 could he speculate? How could he know whether Foday
7 Sankoh gave instructions to Kallon or to --

8 It then continues on. The Prosecution says they are
9 perfectly entitled to simply ask the answer to complete
10 that answer.

11 PRESIDING JUDGE: Yes, go ahead.

12 MR JORDASH: Your Honour, I would objection to that, even if
13 Mr Touray doesn't, and I would object -- put my objection
14 in this way: Firstly, this is not an area covered by
15 cross-examination. It is not --

16 MR HARRISON: I take a preliminary objection. Mr Jordash's
17 client has absolutely no interest in this evidence and he
18 is not entitled to make representations in areas of no
19 interest to his client.

20 MR JORDASH: Well, I'm grateful that the Prosecution intend to
21 amend the indictment so that Mr Sesay isn't alleged with
22 any wrongdoing in relation to the peacekeepers. I'm
23 happy for that concession. But presuming that is not
24 really what Mr Harrison wanted to say just then, it is
25 entirely relevant to Mr Sesay, this evidence and what
26 Foday Sankoh's position was in relation to that will be a
27 principal aspect of his defence to those charges. And
28 that is why I'm objecting, because this is evidence which
29 I purposely did not cross-examine on, because it hadn't

1 touched Mr Sesay. When we go into this evidence as to
2 what Mr Sankoh's position was, we will go into the area
3 of Mr Sesay's defence and my objection really is this:
4 That because it wasn't dealt with in-chief, it wasn't
5 dealt with in cross-examination by Mr Touray. In fact,
6 Mr Touray at that stage made it quite clear that his
7 questions were not directed to that evidence. That it is
8 simply arising by virtue of Mr Harrison's re-examination.

9 The difficulty for the Defence is that whatever the
10 answer given by this witness, the Defence for Mr Sesay
11 has not had an opportunity to deal with this area.
12 We're about to hear, perhaps, new evidence about
13 Mr Sankoh, what his position was in relation to the
14 peacekeepers, and if that evidence comes out and it is
15 incriminating of Mr Sesay, I will have to apply to
16 cross-examine this witness on this subject. I'm
17 purposely not on that subject, because nothing that has
18 occurred thus far touched upon that sensitive issue.

19 Those are my objections.

20 PRESIDING JUDGE: Mr Touray, you said you have --

21 MR TOURAY: May I further add to that, Your Honour, that the
22 issue of re-examining on this issue is clearly not
23 acceptable to the Defence here for reasons that it was
24 clear, the answer of the witness. He has given a very
25 clear answer to my question. What he sought to add was
26 not in answer to my question. That is the very simple
27 reason. So --

28 PRESIDING JUDGE: And you stopped him.

29 MR TOURAY: I stopped him, that is it.

1 [Trial Chamber confers]

2 JUDGE THOMPSON: Learned counsel for the Prosecution, do guide
3 the Bench on precisely what this line of re-examination
4 is intended to achieve. I mean, having regard to the
5 basic principles of the scope of re-examination. Just
6 clarify for us.

7 MR HARRISON: It appears to me that a matter was raised in
8 cross-examination.

9 JUDGE THOMPSON: Is it a new matter?

10 MR HARRISON: So far as I know it is. What happened was, we
11 never found the answer. In fact, if we read on in the
12 transcript, it actually going on to say that --
13 Mr Justice Thompson is stating: "Why does he want to
14 amplify that?" "MR HARRISON: I don't know, but I think
15 the rule is that the witness is entitled to." I don't
16 know the answer. What we do know is that there is
17 something potentially new that was raised in
18 cross-examination and the witness was cut off from being
19 able to complete it.

20 JUDGE THOMPSON: Good point. So would it be fair to say that
21 since the Prosecution does not know the answer, the
22 Prosecution wants to go on a legal fishing expedition?

23 MR HARRISON: I think that is very unfair. I think that is
24 quite an unreasonable inference to draw from these
25 circumstances and particularly from the facts that I have
26 read from the transcript.

27 JUDGE THOMPSON: Well, if that is not what you want to do,
28 then if you don't know the answer, what is the prejudice
29 to the Prosecution's case if the answer is not known to

1 us?

2 MR HARRISON: The prejudice is this: This Court is here to
3 hear witnesses who come forward. If witnesses are
4 improperly cut off during the questions and answering,
5 this Court is denied improperly the essence of the
6 information that it ultimately has to rely upon. That is
7 the unfairness.

8 JUDGE THOMPSON: It may be clearly that the answer to the
9 question may well launch the Court into a plethora of
10 irrelevancies and if the judges, as the judicial
11 gatekeepers here, are not on guard to cut witnesses off
12 if they want to launch themselves into explorations, into
13 areas that are not necessary, having regard to the fact
14 that there is an indictment, there are charges and then
15 there is notice of the evidence. So if you want to give
16 witnesses that unlimited carte blanche, why then ask
17 specific questions? Because if that were the case, then
18 witnesses would be in control of the proceedings. It is
19 not the my understanding that way. You are a
20 professional. That is why we have evidence being
21 presented by three major mediums: One,
22 examination-in-chief; cross-examination; re-examination.
23 They all have their rules and it cannot be right to say
24 that judges as judicial gatekeepers must just let
25 everything in, particularly when precise answers are
26 given to the precise questions. There is no rule in the
27 jurisprudence which suggests that every witness is
28 entitled to amplify or elaborate on the answers they have
29 given, otherwise the whole process would be out of

1 control of the judges and the lawyers. That is my
2 response.

3 [Trial Chamber confers]

4 PRESIDING JUDGE: Learned counsel, we are upholding the
5 objection by the Defence. So, Mr Harrison, can you
6 please proceed.

7 MR HARRISON: There is no point. There is nothing further to
8 do today.

9 PRESIDING JUDGE: So that is the end of your re-examination?

10 MR HARRISON: That is it.

11 PRESIDING JUDGE: Right, learned counsel, we have come to the
12 end of the testimony of this witness.

13 Mr Witness, we thank you very much for coming to
14 provide your testimony in this tribunal and for the
15 assistance you have given through your testimony for us
16 to determine the truth in what -- in the cases that -- in
17 the case that we have before us. We thank you for coming
18 and we wish you a safe journey to wherever you live, but
19 we would say here that you are being released for now,
20 but necessity may arise for the tribunal to call you back
21 here. And should this happen, we trust that you would be
22 available for the Court to be able to put further
23 questions to you on -- in these or other circumstances.
24 Thank you very much.

25 The Court will rise. We'll resume at 3.00.

26 [Luncheon recess taken at 1.40 p.m.]

27 [HS270105C 3.08 p.m. - SGH]

28 PRESIDING JUDGE: Good afternoon, learned counsel. We resume
29 our session and we will be asking the Prosecution to call

1 on the next witness.

2 MR ISCANDARI: Good afternoon, Your Honours.

3 PRESIDING JUDGE: Good afternoon.

4 MR ISCANDARI: The Prosecution will now call witness number

5 21, code number TF1-015. Alieu Iscandari on behalf of

6 the Prosecutor's office.

7 PRESIDING JUDGE: May we have the name again, please.

8 MR ISCANDARI: Alieu Iscandari on behalf --

9 PRESIDING JUDGE: Iscandari.

10 MR ISCANDARI: Yes, on behalf of the Prosecutor's office.

11 PRESIDING JUDGE: Yes, I have lost track of you, you went on

12 holidays.

13 MR ISCANDARI: Yes, Your Honour.

14 PRESIDING JUDGE: You went on holiday?

15 MR ISCANDARI: Yes, Your Honour.

16 PRESIDING JUDGE: The leave was too long, so we are happy to

17 have you back.

18 MR ISCANDARI: I am most pleased.

19 WITNESS: TF1-015 [sworn]

20 EXAMINED BY MR ISCANDARI:

21 PRESIDING JUDGE: The witness is testifying in what language

22 please, Mr Iscandari?

23 MR ISCANDARI: Your Honour, this witness will be testifying in

24 Kono.

25 PRESIDING JUDGE: In Kono.

26 JUDGE THOMPSON: Repeat the pseudonym for us again.

27 MR ISCANDARI: That would be TF1-015, Your Honour.

28 JUDGE THOMPSON: Your 21st witness?

29 MR ISCANDARI: That is our 21st witness.

1 JUDGE THOMPSON: Thank you.
2 MR ISCANDARI: May I proceed?
3 JUDGE THOMPSON: You may.
4 MR ISCANDARI: Thank you.
5 Q. Good afternoon, sir.
6 A. Good afternoon.
7 Q. Sir, where were you born?
8 A. I was born in Kono.
9 Q. Is Kono a district or a town?
10 A. It's a district.
11 Q. Were you born in a particular town in Kono District, sir?
12 A. Kono.
13 Q. What year were you born, sir?
14 A. I was born in Kono.
15 Q. Yes. What year were you born?
16 A. I was born in 1960.
17 Q. So how old are you now, sir?
18 A. I'm 46 plus this year.
19 Q. Have you ever attended any school, sir?
20 THE INTERPRETER: My Lordship, there is a confusion in the
21 translation.
22 JUDGE THOMPSON: What is that?
23 THE INTERPRETER: The machine is not corresponding.
24 JUDGE THOMPSON: So what then is the remedy?
25 THE INTERPRETER: We want Rebekka in, Rebekka to come in,
26 please.
27 JUDGE THOMPSON: Well, shall we invite the head of the
28 translation unit to diagnose the problem and to find the
29 solution?

- 1 MS EHRET: Can I get some speech from the floor quickly?
- 2 MR ISCANDARI: Prosecution testing.
- 3 MS EHRET: It is okay now. I apologise.
- 4 JUDGE THOMPSON: So may we then proceed?
- 5 THE INTERPRETER: Yes.
- 6 JUDGE THOMPSON: Right, let us go on. Let us go ahead,
7 Mr Iscandari.
- 8 MR ISCANDARI: Thank you, Your Honour.
- 9 Q. Sir, have you ever attended any school?
- 10 A. Yes, I went to school.
- 11 Q. Sir, what is the highest grade you attained in school?
- 12 A. I stopped in form five.
- 13 Q. Can you read English, sir?
- 14 A. Yes, I do read English.
- 15 Q. Can you write your name in English?
- 16 A. Yes, I write my name in English.
- 17 Q. Can you speak English fluently?
- 18 A. Yes.
- 19 Q. What is your native language sir?
- 20 A. Kono.
- 21 Q. Do you speak any other languages other than Kono?
- 22 A. Yes.
- 23 Q. Are you married?
- 24 PRESIDING JUDGE: Which language was this?
- 25 THE WITNESS: Yes.
- 26 PRESIDING JUDGE: Which other language?
- 27 MR ISCANDARI:
- 28 Q. What other languages do you speak other than Kono?
- 29 A. I speak Krio and Mandingo.

- 1 Q. Any other languages, sir?
- 2 A. No.
- 3 Q. Are you married?
- 4 A. Yes.
- 5 Q. How many times have you been married?
- 6 A. This is my second wife.
- 7 Q. How long did the first marriage last for?
- 8 A. I got married in '85 and she died. Just imagine the time
9 duration.
- 10 Q. When did she die?
- 11 A. She died 1998.
- 12 Q. How did she die?
- 13 A. They shot her.
- 14 Q. Do you know who shot her?
- 15 PRESIDING JUDGE: Please, hold on. Hold on, please. Let the
16 witness --
- 17 THE WITNESS: Rebels.
- 18 PRESIDING JUDGE: Just wait. Can the witness be attended to
19 please by the Witness Protection Unit, please. Can you
20 offer the witness some assistance?
- 21 JUDGE BOUTET: Close the mike, please.
- 22 MR HARRISON: Can we suggest a five minute pause so that the
23 witness could be removed from the room to compose
24 himself?
- 25 PRESIDING JUDGE: We just want to see if -- it's not a bad
26 suggestion. Let us see how far he can go. Okay, how is
27 he? Mr Witness -- Mr Witness, how are you? How are you
28 feeling now?
- 29 THE WITNESS: Let's proceed.

- 1 PRESIDING JUDGE: Mr Iscandari.
- 2 MR ISCANDARI: Yes, Your Honour.
- 3 PRESIDING JUDGE: You can proceed. He says we can proceed.
- 4 MR ISCANDARI: Thank you very much.
- 5 Q. Sir, do you know the circumstances surrounding the death
6 of your wife?
- 7 A. Yes, I know.
- 8 Q. And how did you come to know the circumstances
9 surrounding the death of your wife?
- 10 A. We were in Koidu. At that time I saw Kamajors who came
11 to Koidu Town. When they came it was in the Lent period.
12 Then we heard gunshots.
- 13 Q. Let me ask you this question, sir.
- 14 A. Yes, sir.
- 15 Q. What month was that?
- 16 A. March month.
- 17 Q. Do you recall the year?
- 18 A. Yes.
- 19 Q. What year was that?
- 20 A. 1998.
- 21 Q. How do you know -- recall that this was in March 1998
22 that the Kamajors came to town?
- 23 A. I am a Christian and at that time it was our Lent season,
24 a period for fasting.
- 25 Q. And some point in time you testified earlier that the
26 Kamajors came to town and later on you heard some
27 shooting a few days after; is that correct?
- 28 A. Yes, the Kamajors came after a few days after hearing
29 gunshots.

- 1 Q. Did you come to find out where the gunshots were coming
2 from?
- 3 A. No, because it was during the night.
- 4 Q. At what time during the night did you hear these
5 gunshots?
- 6 A. Three o'clock a.m.
- 7 Q. Is there a reason why you are so sure --
- 8 JUDGE THOMPSON: Counsel, measure your pace a bit.
- 9 MR ISCANDARI: Sir.
- 10 JUDGE THOMPSON: Moderate your pace so that we can get it for
11 the records.
- 12 MR ISCANDARI: Certainly, Your Honour.
- 13 JUDGE THOMPSON: You are welcome. I think [inaudible] was
14 three a.m., was it?
- 15 MR ISCANDARI: That is correct, Your Honour. May I proceed?
- 16 JUDGE THOMPSON: Certainly.
- 17 MR ISCANDARI:
- 18 Q. Sir, is there a reason why you were so sure that these
19 events started unfolding at this particular time, three
20 a.m. in the morning?
- 21 PRESIDING JUDGE: He has said so. Do you think he is not
22 giving you the right time? If that is the case you may
23 proceed.
- 24 MR ISCANDARI: There is an offer of proof, Your Honour. I
25 think this witness will establish why he was aware that
26 it occurred at three o'clock.
- 27 MR CAMMEGH: I think comments should be made in the absence of
28 the witness. It is a very clever form of leading, I am
29 sure it wasn't intended, but we don't want to hear what

- 1 my learned friend hopes the witness to hear.
- 2 JUDGE THOMPSON: Yes, quite. I was a little worried about
3 this picture of events, for example, unfolding.
- 4 MR ISCANDARI: I will --
- 5 JUDGE THOMPSON: You could reduce it completely.
- 6 MR ISCANDARI: I will do that.
- 7 Q. Is there a reason why you remember that these events
8 started at three o'clock in the morning?
- 9 A. Yes.
- 10 Q. Could you tell this Court why you remember that these
11 events started at three o'clock in the morning?
- 12 A. Yes.
- 13 Q. Please do.
- 14 A. Lent period we do pray and fast, and every three-hourly
15 we pray and pray to the Lord.
- 16 Q. So?
- 17 A. It was that time I rose up and look at my watch. I had a
18 watch on my hand. It was three o'clock a.m. This is how
19 I came to know that it was three o'clock.
- 20 Q. Do you recall, sir, whether the gunshots you heard were
21 sporadic or continuous?
- 22 A. It was during the night when they started shooting. It
23 was continuous, there was no break in time.
- 24 Q. Do you recall what time this continuous shooting ended?
- 25 A. Yes.
- 26 Q. What time did it end?
- 27 A. 6.30 in the morning.
- 28 Q. Sir, what, if anything, did you do from the moment you
29 heard the continuous shooting at three o'clock in the

1 morning until it subsided at 6.30 in the morning?

2 A. I was praying and I mean giving shouts all throughout the
3 night until that time I have stated.

4 Q. Was your family with you then?

5 A. Yes.

6 Q. On this particular day what was the extent of your family
7 other than your wife? Did you have any children?

8 A. Yes. I had children with me; two.

9 Q. Did you have two boys, two girls?

10 A. Yes, I have a boy and a girl, but at that time I had only
11 two children with me in that house.

12 Q. Did there come a time -- strike that. Did you stay in
13 your house after the gunshots subsided at 6.30 in the
14 morning?

15 A. When the gun -- when the gunshots subsided in the morning
16 I opened my door. I looked outside. I saw people.

17 Q. The people you saw, were they doing anything in
18 particular, sir?

19 A. Yes. They were running about and they were many.

20 Q. Did they appear to be running in an organised manner?

21 MR NICOL-WILSON: Your Honour --

22 JUDGE THOMPSON: Yes, counsel.

23 THE WITNESS: They were running helter-skelter as if they
24 were -- somebody was running after them.

25 MR NICOL-WILSON: Your Honour, I was just going to raise
26 objection that the question is leading, but it has
27 already been answered by the witness.

28 JUDGE THOMPSON: Yes, quite. Well, counsel will caution
29 himself. Proceed.

- 1 MR ISCANDARI: Thank you, Your Honour.
- 2 JUDGE BOUTET: It is leading, but is it contentious? If it is
3 not contentious I don't see -- that's fine if it's not --
- 4 MR NICOL-WILSON: I submit it is. I submit it is.
- 5 JUDGE BOUTET: [Inaudible]
- 6 JUDGE THOMPSON: Counsel, continue.
- 7 MR ISCANDARI: Thank you, Your Honour.
- 8 Q. Did you speak to any of these people you saw running?
- 9 A. Yes. I did ask them.
- 10 Q. What did you ask them?
- 11 A. I ask them, "Why are you running helter-skelter like
12 this?"
- 13 Q. And did they respond?
- 14 A. Yes.
- 15 Q. What was their response?
- 16 A. He said, "Those people have come."
- 17 Q. Did you have --
- 18 JUDGE THOMPSON: Just a minute, counsel, please. Again wait
19 [inaudible] please. You are getting answers and
20 [inaudible]. Helter-skelter -- let's get it all
21 [inaudible].
- 22 MR ISCANDARI: The last response was he said, "Those people
23 have come."
- 24 JUDGE THOMPSON: Yes, quite. [Inaudible]. Yes, proceed from
25 that [inaudible].
- 26 MR ISCANDARI:
- 27 Q. When they said, "Those people have come," did you form an
28 understanding of who they were referring to as "those
29 people"?

- 1 A. That gave me an understanding the type of people.
- 2 Q. What was your understanding of which type of people they
3 were talking about?
- 4 A. The rebels.
- 5 Q. By rebels, is there a particular group that you are
6 referring to?
- 7 A. By then I had no distinction between them.
- 8 Q. When you said you had no distinction between them, was
9 there more than one group that you would have referred to
10 as rebels?
- 11 A. Yes.
- 12 Q. Can you name the different groups that you would have
13 referred to as rebels back then?
- 14 A. Yes.
- 15 Q. Please name them for the Court.
- 16 A. RUF, they are rebels. AFRC, they are rebels. These are
17 the people I know.
- 18 Q. So let us go back to where you saw these people running
19 and they said, "Those people had come." What did you do
20 as a result of hearing, "Those people had come"?
- 21 A. I had told my wife, "Let's go, they have come. These are
22 the people who we have been waiting for -- I mean, we
23 have been hearing about. Now go with the children ahead,
24 I will follow you later." They went ahead, then later I
25 followed them.
- 26 Q. Do you have any recollection of what time of the day it
27 was when your wife and children left the house?
- 28 A. Yes.
- 29 Q. Please tell the Court.

- 1 A. It was early in the morning by 6.30.
- 2 Q. Do you recall the direction in which your wife and
3 children went in when they left the house?
- 4 A. I cannot say because they were in a large group of people
5 moving towards a particular direction.
- 6 Q. How old were your two children, sir?
- 7 A. The boy was 12 years. The girl five years.
- 8 Q. Could you tell this Court how you felt when you learned
9 that the RUF or the rebels were in town?
- 10 A. I became tormented. I became fearful. I was not happy
11 about it.
- 12 Q. Did you have an opportunity to observe the demeanour of
13 the other citizens that you saw running away?
- 14 A. Yes. It was daylight now I did so.
- 15 Q. So can you describe to this Court the demeanour, as you
16 observed it, of the people you saw running away that day?
- 17 A. Everybody was panicking and they were all civilians. I
18 didn't see anything with them.
- 19 Q. Did you observe any weapons on any of the civilians
20 running away?
- 21 A. I didn't see any weapon.
- 22 Q. To the best of your knowledge were any of the civilians
23 you saw running away participants in the shooting?
- 24 A. To my own knowledge I didn't see anybody with weapon and
25 I didn't see anybody shooting among the civilians.
- 26 Q. When you told your wife and kids to go ahead and they
27 left, was that the last time you saw them?
- 28 A. Since then I have not seen them.
- 29 PRESIDING JUDGE: In the question? When they went away what

1 happened?

2 MR HARRISON: I'd just be asking if there could be a brief
3 pause at this time.

4 PRESIDING JUDGE: Yes, yes.

5 MR HARRISON: To give the opportunity to perhaps see if the
6 witness needs some assistance.

7 MR JORDASH: Your Honours, could I ask Your Honours to stay in
8 court while the witness leaves? There's a matter I would
9 like to address in the witness's absence.

10 PRESIDING JUDGE: Pardon me?

11 JUDGE THOMPSON: He wants us to stay in court.

12 MR JORDASH: If Your Honours wouldn't mind to address a very
13 quick point in Your Honours' absence -- in the witness's
14 absence.

15 MR HARRISON: Can the witness be allowed to step outside for
16 five minutes.

17 JUDGE THOMPSON: Yes yes. We've reached a point where we
18 would allow the witness to be taken out.

19 [The witness stands down]

20 PRESIDING JUDGE: Yes, Mr Jordash.

21 MR JORDASH: Your Honour, I'd like to raise an objection, and
22 it's this: That there is nothing in this witness's
23 statement to suggest -- well, there's nothing which
24 explicitly says that his wife --

25 JUDGE THOMPSON: Slowly, slowly, counsel. Let's get it right.

26 MR JORDASH: That this witness's wife died.

27 JUDGE THOMPSON: In which explicitly states - in the statement
28 of the witness.

29 MR JORDASH: In the statement, it's got the page number 9777.

1 What it does say is -- well, there two references to the
2 witness's wife come on page 9777: "I am married and have
3 four children. Two of my children have been missing
4 since 1998." And then towards the bottom of the page he
5 refers, the witness, to being with his wife and two
6 children when the rebels came.

7 My objection isn't simply that there is no reference
8 to the wife being killed; there will be no dispute from
9 the first accused that this witness's wife was killed.
10 But I say this and I say this with having given thought
11 as to what I should say about this.

12 JUDGE THOMPSON: Yes.

13 MR JORDASH: But it is clear, I would submit, that learned
14 counsel for the Prosecution was reading from a script,
15 knew perfectly well that the wife had died and moreover
16 knew the circumstances of that death. It was a
17 structured examination-in-chief; it was structured so
18 that the wife's death was elicited first and foremost
19 before moving on to the context of how the wife died.
20 That was the information - and I put it very
21 straightforwardly - that was information in the hands of
22 the Prosecution which ought to have been disclosed to the
23 Defence. He was reading from a script, he continuously
24 looked at the script when leading the witness through
25 that evidence. And it is not simply that it isn't,
26 hasn't been disclosed to us; it is that the Prosecution
27 were using it in court without having disclosed it to the
28 Defence. There is no great point to be made about the
29 witness's wife having died. I don't dispute it, but I do

1 submit that if the Prosecution has information like that
2 then they ought to disclose it, and not simply keep to it
3 to be used to surprise the Defence at the last minute.

4 On this issue it's not so crucial; on another issue
5 it might be extremely crucial.

6 JUDGE BOUTET: So your objection has nothing to do with
7 principle of orality. So you recognise the principle as
8 we have stated in the past, so this is not your issue.
9 Your issue is you are being taken by surprised with
10 relation to information that according to you the
11 Prosecution has in its hands even at this particular
12 moment, and therefore the objection is if they have
13 disclosed and they have not disclosed. That's
14 essentially what you're saying.

15 MR JORDASH: It is. And its trial by ambush because it's not
16 simply not disclosing it, it's intentionally not
17 disclosing it, I would respectfully submit.

18 JUDGE THOMPSON: Yes. So what are you asking the Chamber to
19 do at this point in time properly speaking? Because if
20 you say that what we have here, and I am using your own
21 [inaudible] is trial by ambush, and the Court agrees with
22 you, then some sanction ought to be imposed. What are
23 you inviting the Court to do? Because I don't want you
24 to equivocate on this. And I know sometimes it is
25 difficult when we're evaluating and dealing with legal
26 principles and how they apply to situations, but if you
27 are being direct here that what is happening here is
28 tantamount to trial by ambush, it would seem to me that
29 you need to guide the court, that the court agrees with

1 you, as to how to remedy the situation from your
2 perspective and the perspective of your client.
3 MR JORDASH: Well, there is no remedy I seek.
4 JUDGE THOMPSON: At this point.
5 MR JORDASH: At this point, no. I wanted to raise this
6 because it isn't in the interests of justice. It's also
7 not in the interests of justice of this witness because
8 if I had stood up and objected during the witness's
9 distress, it wouldn't have been good for him too. So I
10 raise it simply because it is a serious issue for The
11 Defence.
12 JUDGE THOMPSON: You want it to be reflected in the record.
13 MR JORDASH: Indeed, Your Honour, yes.
14 JUDGE THOMPSON: And the question for me is that where you
15 make -- and indeed, the gravamen of your objection is
16 that here you have been taken by surprise.
17 MR JORDASH: Yes.
18 JUDGE THOMPSON: And so by way of some deterrence you are not
19 inviting the court to do anything about it.
20 MR JORDASH: No.
21 JUDGE THOMPSON: But just to reflect it on the record.
22 MR JORDASH: Your Honour, yes.
23 PRESIDING JUDGE: I just want to remark, you know, that I
24 think it is only fair that if an incident as serious as
25 this took place at all. But the witness has now
26 testified and there was a very duty, an obligation on the
27 part of the Prosecutor to disclose this. Because this
28 death is not just ordinary evidence and even though we
29 want to rely on the doctrine Of orality, it is contained

1 in our decisions, I think we took a very serious view,
2 you know, that an incident of such magnitude which was in
3 the knowledge and within the possession of the
4 Prosecution was not disclosed to the defence. This said,
5 the Defence is not pressing this matter and maybe --

6 JUDGE BOUTET: I think we should ask the Prosecution.

7 JUDGE THOMPSON: Maybe we should, for the records, hear from
8 the Prosecution in the interests of fairness.

9 MR ISCANDARI: Thank you very much, Your Honour, I am glad the
10 court has allowed me to be heard. With regards to
11 counsel's contention that there was some sort of
12 intentional act on the part of the Prosecution to deny or
13 not disclose the information about this witness's wife's
14 death, I do disagree. As the Court is aware, the initial
15 statement was not taken by me personally. The fact that
16 the initial statement did not clearly mention the death
17 of the wife is none of my fault. It is my fault,
18 however, because I did provide to the Defence a
19 supplemental statement and I did not include in that
20 supplemental statement and that was an oversight that the
21 witness's wife had died. I basically skipped over that
22 information, not that I didn't think that it was
23 important, but I thought that had been disclosed in other
24 forms, and I am responsible for not having disclosed it
25 later on. With regards to counsel's contention that I am
26 reading from a script.

27 JUDGE THOMPSON: No, let me just query you on the -- question
28 you on the first part. So in other words, what you are
29 saying, there's an admission here of lack of due care or

1 diligence on your part? Because you seem to be saying
2 "I", "I" all the time but of course I am sure you are
3 speaking representatively.

4 PRESIDING JUDGE: For the Prosecution, not you.

5 MR ISCANDARI: That is correct.

6 JUDGE THOMPSON: Are you admitting some lack of due care or
7 diligence?

8 MR ISCANDARI: No, I'm not. I am saying, it may have happened
9 that way. I did produce a statement to the Defence, but
10 the statement I produced to the Defence contained new
11 information which in my opinion was not already here.

12 JUDGE THOMPSON: But what was in the supplemental statement?
13 Was there any reference to the death of his wife?

14 MR ISCANDARI: No.

15 JUDGE THOMPSON: So is the Defence correct in contending that
16 this that it ought to have been disclosed to them?

17 MR ISCANDARI: Yes.

18 JUDGE THOMPSON: Even in a supplemental statement?

19 MR ISCANDARI: Yes, they are correct with regards to that,
20 there was no intentional lack on part of the Prosecution.

21 PRESIDING JUDGE: That's all right. We don't want to go to
22 that length.

23 JUDGE THOMPSON: No, the concept of lack of due diligence does
24 not necessarily import a kind of intention. It's just
25 a -- I'm thinking of -- as a matter of fact, could you
26 have acted a little more carefully in the situation.
27 That is all I'm asking, whether there is an admission, in
28 part or in whole, of some lack of due diligence.

29 MR ISCANDARI: To be fair, I will admit lack of due diligence

1 on with my own part with regards to the supplemental
2 statement, which I --
3 JUDGE THOMPSON: You are acting in a representative capacity.
4 MR ISCANDARI: Correct.
5 JUDGE THOMPSON: You're not here as Mr Iscandari just
6 [inaudible]; you are here as Mr Iscandari for the
7 Prosecution.
8 MR ISCANDARI: That is correct.
9 JUDGE THOMPSON: The next part you say.
10 MR ISCANDARI: And With regards to the next issue that I was
11 reading from some sort of a script; I am not reading from
12 a script. I did prepare an extensive direct of my
13 witness and I am going step by step on that. And I
14 apologise if counsel believes that I am reading from some
15 sort of a script.
16 JUDGE THOMPSON: Yes, well, I am not particularly bothered by
17 that. But counsel has indicated that he is merely
18 raising this issue for the purposes of the record, that
19 he does not invite the Court to take any reactive
20 position on this at this stage. And perhaps that is how
21 we should deal with it and we -- you have sensed the
22 feeling of the Bench.
23 MR ISCANDARI: That's correct.
24 JUDGE THOMPSON: And perhaps we should proceed.
25 JUDGE BOUTET: Mr Cammegh has a --
26 JUDGE THOMPSON: Yes.
27 MR CAMMEGH: Well, I take an extremely dim view of this and I
28 would venture to suggest that this amounts to an abuse of
29 the Court's process. It's quite cynical. I'm not

1 inviting Your Honours to take any action right now but if
2 I were to seriously argue this is an abuse of process in
3 relation to a witness that directly concerned my client,
4 I would argue that Your Honours did have a remedy and
5 that would be render this evidence inadmissible.

6 Now, I'm not going to push it because I think I
7 would rather dress this up as a shot across the
8 Prosecution's bows. But it's quite reprehensible and
9 it's quite clear that there is a script. Fault isn't
10 relevant; responsibility is. And I, for one, do not want
11 to see this happen again, because it is quite cynical in
12 my submission and I am quite happy to use strong words
13 like that because this must never happen again.

14 JUDGE THOMPSON: That is why I asked for some kind of advice
15 to the Bench as to what we should do as a deterrent
16 measure.

17 MR CAMMEGH: In this instance, I am quite happy that
18 Your Honours have made your position clear and it's quite
19 happy that's Your Honours are not happy with this. If it
20 should happen again, if it should happen in relation to a
21 witness -- well, if this affected my client, I would be
22 asking for this witness to be excluded in entirety.

23 JUDGE THOMPSON: In other words you invoke the extreme remedy.

24 MR CAMMEGH: Very much so, because I would suggest it's a
25 fairly extreme abuse. I am sorry to use such strong
26 language but we have to maintain boundaries here.

27 JUDGE THOMPSON: Speaking for myself, I do not want to enter
28 into any debate on the concept of abuse of process, but I
29 do have my own concern that this may well be -- this

1 particular conduct may well be due to lack of diligence.

2 And for which the Prosecution needs to be reminded of

3 their duty.

4 MR CAMMEGH: Indeed.

5 JUDGE THOMPSON: As ministers of justice also.

6 MR CAMMEGH: Indeed.

7 JUDGE THOMPSON: Learned counsel for the Prosecution proceed.

8 PRESIDING JUDGE: But the witness is not here.

9 MR ISCANDARI: The witness is not here, Your Honour, and as

10 soon as the witness is here we will proceed.

11 JUDGE THOMPSON: Right.

12 [The witness entered court]

13 PRESIDING JUDGE: Learned counsel, continue with the witness.

14 MR ISCANDARI: Thank you very much, Your Honour.

15 Q. Sir?

16 A. Yes.

17 Q. When you left your -- did there come a time when you had

18 to leave your house yourself?

19 A. Yes.

20 Q. When you left your house, where did you go?

21 A. I followed the crowd. I found myself within Tongoro

22 Bush.

23 Q. And how far away is Tongoro bush from where you started?

24 I mean your house.

25 A. About seven miles.

26 Q. Could you spell the name Tongoro bush for the court

27 please?

28 A. Yes.

29 Q. Please do.

1 A. Capital T-O-N-G-O-R-O B-U-S-H. Tongoro bush. Tongoro
2 bush.

3 Q. Thank you very much, sir. When you found yourself at
4 Tongoro bush, were you there with anyone else?

5 A. Yes.

6 Q. Were you there with more than one person?

7 A. There was only two of us.

8 Q. Do you recall the name of the other person you were with
9 at Tongoro bush?

10 A. Yes.

11 Q. What was that person's name sir?

12 A. He was called Aiah Abu.

13 Q. Where is Aiah Abu now?

14 A. He was killed.

15 Q. Do you know the circumstances surrounding his death?

16 A. Yes.

17 Q. Please tell this court the circumstances surrounding the
18 death of Aiah Abu?

19 [HS270105D 4.05 p.m. - EKD]

20 A. When those people came and I found myself in the Tongoro
21 bush, I didn't know where to go again, it was only me and
22 Aiah Abu in that bush. We hid ourselves. There was a
23 time when Aiah Abu said he was hungry, he was going to
24 look out for food. When he went in search of food, there
25 he was abducted.

26 Q. Mr Witness, would you slow down, please, because the
27 judges are writing that down. So are we at the point
28 where Aiah Abu left to go find some food. Is that your
29 correct testimony?

1 JUDGE THOMPSON: He got to the point where he said he was
2 abducted.

3 THE WITNESS: Yes, we were hiding when Aiah Abu said he was
4 going out to find food because he was hungry.

5 MR ISCANDARI:

6 Q. And what happened after that?

7 A. He was captured.

8 Q. Where were you when he was captured?

9 A. I was at a same place that we hid ourselves under the big
10 stone.

11 Q. Could you describe the hiding place to the Court?

12 PRESIDING JUDGE: Under a big what? Under a big what? Stone?

13 THE WITNESS: Yes.

14 MR ISCANDARI:

15 Q. Please do so?

16 A. It was a valley. There were big rocks. It was under
17 those rocks that we hid ourselves.

18 Q. Did there come a time when you yourself were captured?

19 PRESIDING JUDGE: Can you reframe that question, please,
20 Mr Iscandari?

21 MR ISCANDARI: Certainly, Your Honour.

22 Q. After Aiah Abu was captured, what happened next?

23 A. They asked Aiah Abu, "Where were you hiding", then he
24 went and showed them.

25 Q. And what happened after that?

26 A. At that time I was thinking that we were alone in that
27 bush, but later on, down towards the valley, I heard
28 noise coming from the end. Then I heard a gunshot. When
29 I heard the gunshot I raised up my head. Then, having

1 raised my head up, I heard this voice from my back say,
2 "Stay as you are. If you go down again I will fire your
3 head." The man with a gun spoke in Krio. He said, "If
4 you put down your head I will burst your kannah. My life
5 was left stiffed until they came and caught me.

6 Q. How many people caught you?

7 A. Five people.

8 Q. What happened after that?

9 A. Then they brought us to Kania. There's a town called
10 Kania.

11 Q. Mr Witness, as of the date of your capture, how many days
12 or weeks had you stayed in the bush?

13 A. I took two weeks.

14 Q. Do you recall what month you were captured?

15 A. Yes.

16 Q. What month were you captured?

17 A. I was captured in March.

18 Q. Was it at the beginning of March or at the end of March
19 or the middle of March? Would you be able to tell this
20 Court when in March you were captured?

21 A. Yes.

22 Q. Please do?

23 A. It was in the third week of March.

24 Q. So what happened after your capture?

25 PRESIDING JUDGE: It was in the?

26 MR ISCADARI: Third week of March, Your Honour.

27 THE WITNESS: They carried us into a small village towards
28 Koidu, very close to Koidu, and that place was called
29 Kania.

- 1 MR ISCANDARI:
- 2 Q. Could you spell that for the Court, please?
- 3 A. Yes, yes.
- 4 Q. Go ahead, sir.
- 5 A. K-A-N-I-A, Kania. That is a spelling.
- 6 Q. And do you know what district Kania is in?
- 7 A. Yes.
- 8 Q. What district is Kania in?
- 9 A. Kono, Kono District.
- 10 Q. Could you tell this Court, sir, how far the distance was
11 from the point you were captured at Tongoro bush all the
12 way to Kania? How far is that distance?
- 13 A. I didn't measure it, but I guess it should be around
14 three miles.
- 15 Q. So when you got to Kania, what happened next?
- 16 A. They said, "From this point we'll be going into Koidu
17 Town now".
- 18 Q. And how far is Koidu Town from Kania?
- 19 A. It is short distance.
- 20 Q. So did you eventually leave to go to Koidu Town?
- 21 A. Yes.
- 22 Q. Did anything happen?
- 23 A. Yes.
- 24 Q. Did anything happen on the trip between Koidu Town --
25 Kania and Koidu Town?
- 26 A. Yes.
- 27 Q. Please tell this Court what happened on the trip between
28 Kania and Koidu Town?
- 29 A. When those people said that we should move from Kania to

- 1 Koidu Town, along the route we met men with guns in their
2 hand.
- 3 Q. Did anything happen when you met the men with guns in
4 their hands?
- 5 A. Yes.
- 6 Q. Could you tell this Court what happened when you met the
7 men with guns on the way between Kania and Koidu Town?
- 8 A. We who were abducted were many, and as we are going along
9 the road where we met those men with the guns, one of the
10 men said -- he said, "That other man there, I know him".
- 11 Q. Mr Witness, let me stop you at that point and ask you a
12 question. You just testified that you were many. Do you
13 have any recollection of how many of you were being
14 marched from Kania to Koidu Town?
- 15 A. Yes.
- 16 Q. How many of you by your estimation?
- 17 A. We are about 250.
- 18 Q. So did you count how many people there were?
- 19 A. Yes, I did that.
- 20 Q. So let us go back to when you met the men with the guns
21 on the way between Kania and Koidu. What happened?
- 22 A. As I have said earlier, one of the men with the gun
23 pointed at Aiah Abu and said, "That man, I know him". He
24 said, "We once abducted him and he ran away from us. Now
25 that I have seen him again", he said, "I'm going to kill
26 him".
- 27 Q. Did you hear him say that?
- 28 A. Yes.
- 29 Q. Would you tell this Court how far away you were from the

- 1 person who said that?
- 2 A. Yes.
- 3 Q. How far away were you?
- 4 A. I was within the surrounding, we were just together.
- 5 Q. What happened after this person said he was going to kill
- 6 Aiah Abu?
- 7 A. Then I saw he raised up the gun and pointed at Aiah Abu
- 8 and fired, pam pam.
- 9 Q. When you say "pam pam" do you want the Court to
- 10 understand that two bullets were shot?
- 11 A. Yes, the gun sounded twice.
- 12 Q. Would you tell the Court what part of Aiah Abu's body the
- 13 bullets were directed at?
- 14 A. Yes.
- 15 Q. Please do.
- 16 A. He was facing the man and so he was shot in the chest.
- 17 Q. Did both bullets hit the chest?
- 18 A. What I know, that a bullet entered into his flesh.
- 19 Q. To the best of your knowledge was Aiah Abu a participant
- 20 in the fight? Strike that. Let me rephrase that,
- 21 Your Honour. To the best of your knowledge was Aiah Abu
- 22 armed?
- 23 A. He was not armed at all.
- 24 Q. This group of people that you met on the way between
- 25 Kania and Koidu Town, could you describe them for the
- 26 Court, please?
- 27 A. Yes.
- 28 Q. What were they wearing?
- 29 A. Some, they were dressed in an ordinary clothes.

- 1 Q. Do you know what group they belonged to?
- 2 A. What I know is that they were rebels.
- 3 Q. Did you ever come to find out the name of the person that
4 shot Aiah Abu?
- 5 A. No.
- 6 Q. After the two shots what happened to Aiah Abu?
- 7 A. He fell down on the ground, struggling.
- 8 Q. Did you have an opportunity, sir, to observe the person
9 that shot Aiah Abu as he discharged his weapon?
- 10 A. Yes, because I was there, I did see him.
- 11 Q. Based on your observation of the person that shot Aiah
12 Abu, do you have any reason to believe that the discharge
13 of the weapon by the shooter of Aiah Abu was a mistake?
- 14 JUDGE BOUTET: Don't you think it's a bit leading.
- 15 PRESIDING JUDGE: What sort of a question is that.
- 16 JUDGE THOMPSON: [Overlapping speakers] extremely complex and,
17 not only argumentative, legalistic.
- 18 MR ISCANDARI: Thank you, Your Honour.
- 19 Q. Did it appear to you as if -- strike that.
- 20 PRESIDING JUDGE: What is the necessity for this detail? Can
21 you proceed, please, without that question.
- 22 MR ISCANDARI: Yes, Your Honour. I am trying to establish an
23 element and I am thinking of how I can do that and I'll
24 do that.
- 25 JUDGE THOMPSON: Yes, but not to put questions of law or also
26 trying to -- I mean, that kind of question, I would have
27 thought, would probably come from the other side.
- 28 MR ISCANDARI: Yes, it was a little bit convoluted, I would
29 agree.

- 1 JUDGE THOMPSON: Yes, go ahead.
- 2 MR ISCANDARI:
- 3 Q. The person that shot Aiah Abu, was he in a group of --
4 how many people were in the group?
- 5 A. The group from where he shot the gun, they were just two
6 in number. There were other soldiers behind him, but in
7 that particular group there were two in number.
- 8 Q. What did the person do after he shot Aiah Abu?
- 9 A. Those who were from the back shouted and the others began
10 to run away.
- 11 Q. What happened to Aiah Abu after he was shot and had
12 fallen down on the ground and was struggling?
- 13 PRESIDING JUDGE: Those at the back shouted and others began
14 to run away. What does that mean? Who shouted? Who
15 began to run away?
- 16 MR ISCANDARI:
- 17 Q. I think the judge wants some clarity on something you
18 just said. You said those who were at the back shouted.
19 To whom are you referring when you said those who were at
20 the back?
- 21 A. It was [inaudible] I came to know that those at the back
22 were wearing ORGA uniforms and it was they who asked in
23 that other language, "Who shot this gun?" Then the two
24 men ran away.
- 25 Q. What do you mean by ORGA uniform?
- 26 A. Well, to us there -- it was ECOMOG that were there and
27 they were Nigerians, so they were the people we're
28 referring to as the augers.
- 29 Q. What happened after Aiah Abu had been shot?

- 1 A. He died.
- 2 Q. Did it take a long time before he died?
- 3 A. It didn't take long.
- 4 Q. What happened to his body?
- 5 A. I can't tell because we are moved to go ahead.
- 6 Q. When you moved from that point to go ahead, where did you
7 go?
- 8 A. We went to Sunna mosque.
- 9 Q. Where is the Sunna mosque located at?
- 10 A. It is at the east part of Hill Station in Koidu Town.
- 11 Q. When you got to Sunna mosque, did you meet anyone there?
- 12 A. Yes.
- 13 Q. Did you go to Sunna mosque with the group of about 250
14 with whom you left Kania?
- 15 A. It cannot be so again, because one have already died.
- 16 Q. That's fair enough. So it was 249 of you that got to
17 Sunna mosque; is that correct?
- 18 A. Yes, I'll agree to that.
- 19 Q. When you got to Sunna mosque did you meet a different
20 group of people other than the ones you came there with?
- 21 A. We met other people there.
- 22 Q. Did you speak to anyone at the Sunna mosque?
- 23 A. Yes.
- 24 Q. Please tell this Court the essence of that conversation?
- 25 A. On arrival at Sunna mosque, the civilians we met there
26 began clapping and saying, "Oh, ECOMOG, thank you, thank
27 you", because the rebels were dressed in ECOMOG uniform,
28 so they thought they were ECOMOG fighters. They had the
29 ECOMOG badge on their uniform. The civilians we met

1 there began praising them. They never knew that they
2 were rebels. Then they began saying, "You delivered us
3 from those evil people. They burnt our houses. Now
4 you've driven them. Thank you." I was still. Then the
5 other one ask me, saying, "Who are you?" Then I said I
6 was a pastor. He asked me, "What can identify you to be
7 a pastor?"

8 Q. Mr Witness, I put my hand out there to stop you because
9 the judges are writing and you're going a little bit too
10 fast, okay?

11 A. Yes, sir.

12 JUDGE BOUTET: Mr Prosecutor, we'd like also to caution you
13 about the identity of the witness. I don't know how many
14 pastors there are in that location, but if you're moving
15 in a direction in which you will ask more questions about
16 his role and function you have to be careful.

17 MR ISCANDARI: Yes, Your Honour. I will ask the Court to go
18 into closed session at some point in time further down in
19 this witness's testimony when he has to make some
20 identification of who he actually is.

21 Q. What happened after that, sir?

22 A. Then I brought out the paper, I showed them.

23 Q. What happened after that?

24 A. Then they said they should carry up to igbaleh.

25 Q. Can you spell the word igbaleh for the Court?

26 A. I cannot spell that because I don't know what it is.

27 Q. Did you come to find out whether there was a place called
28 igbaleh.

29 A. Yes, but at that time it was doubtful to me.

- 1 JUDGE THOMPSON: They asked him? Would you get him to repeat
2 that piece of evidence, after producing the piece of
3 paper for identification purposes.
- 4 MR ISCANDARI:
- 5 Q. Sir, who told you to go to the igbaleh?
- 6 A. The rebel leaders.
- 7 Q. Do you recall the name of that rebel leader?
- 8 A. Yes. Later on I came to know the name. At first I
9 didn't know the name.
- 10 Q. And what was the name of that rebel leader?
- 11 A. He was called Colonel Rambo.
- 12 Q. After you had been told to go to the igbaleh, what
13 happened next?
- 14 A. When we reached at igbaleh we were separated from the
15 women and children. Everybody was placed in his or her
16 own area.
- 17 Q. How far is it from the Sunna mosque to the igbaleh?
- 18 A. The distance is just like from this Court to that school
19 which is over there towards the junction.
- 20 Q. On your way to the igbaleh did you observe anything else?
- 21 A. Yes.
- 22 Q. What did you observe?
- 23 A. Corpses. I went jumping over corpses, stepping in
24 bloods, pool of bloods.
- 25 Q. Do you have any recollection of how many corpses you saw?
- 26 A. I began counting them. Later on I couldn't go through.
- 27 Q. Do you have an estimate of how many you counted?
- 28 A. Yes.
- 29 Q. Please tell the Court.

- 1 A. There were about 50.
- 2 Q. How many of you were taken to the igbaleh?
- 3 A. We, that I know of, were about 249.
- 4 Q. How long did it take you to get to the igbaleh from the
5 mosque?
- 6 A. Huh, that I couldn't say, because I was now under
7 control.
- 8 Q. What do you mean you were now under control?
- 9 A. I was now being abducted and the [inaudible] that they
10 were going to kill us.
- 11 Q. Do you recall the location of this place called the
12 igbaleh?
- 13 A. Yes.
- 14 MR ISCADARI: At this point, Your Honour, I would like to ask
15 the Court to go into closed session with this witness. I
16 will be eliciting information from this witness that
17 would have the potential of revealing his true identity.
- 18 JUDGE THOMPSON: Learned counsel, the usual procedure is to
19 hear the application for closed session in closed
20 session, technical though this might sound. So on the
21 understanding that that is our standard practice and
22 there is no compelling reason to depart from it, we might
23 ask the technicians to make the necessary adjustments for
24 us to move from open session to closed session.
- 25 Before they make those adjustments may I ask the Prosecution
26 to indicate how long this particular exercise is likely
27 to take -- closed session exercise.
- 28 MR ISCADARI: Just a second, Your Honour.
- 29 JUDGE THOMPSON: Yes.

1 MR ISCANDARI: It will be about 45 minutes to an hour.
2 JUDGE THOMPSON: About 45 minutes.
3 MR ISCANDARI: To an hour.
4 JUDGE THOMPSON: To an hour.
5 MR ISCANDARI: Correct.
6 JUDGE THOMPSON: In the circumstances then it may be wise to
7 ask, and we so do, the members of the public gallery to
8 retire and come back tomorrow. Our apologies.
9 PRESIDING JUDGE: I hope the Prosecution's reasons for the
10 closed session are compelling enough. I want to caution
11 that it is not matter of course that we must. I hope the
12 reasons are compelling enough. This said, we may have to
13 -- yes, the public gallery will have to come back
14 tomorrow.
15 JUDGE THOMPSON: Members of the public gallery, with our
16 regrets we would ask you to retire and come back tomorrow
17 at 9.30.
18 [At this point in the proceedings a portion of the
19 transcript, pages 118 to 139, was extracted and sealed under
20 separate cover, as the session was heard in camera]
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- 1 [Open Session]
- 2 MR ISCANDARI: Thank you very much.
- 3 Q. Can you state the names of the commanders you met at the
4 Sunna mosque when you returned there with Major Rocky's
5 bodyguard.
- 6 JUDGE THOMPSON: Have we completed this kind of lottery thing
7 that we are on?
- 8 MR ISCANDARI: We will get there, Your Honour.
- 9 JUDGE THOMPSON: Okay, because my notes are left at the
10 lottery.
- 11 MR ISCANDARI: We will get there.
- 12 JUDGE THOMPSON: For the pastor's life.
- 13 MR ISCANDARI: Yes.
- 14 Q. Do you recall the names of the commanders that you met
15 there?
- 16 A. Yes. I later came to know most of them. Some I know
17 their name up to this time.
- 18 Q. Please tell this Court the names of the commanders that
19 you met there.
- 20 A. I met Captain K S Banya. He was there. Alpha used
21 lottery. Break it down for him.
- 22 MR ISCANDARI: I will. I will.
- 23 PRESIDING JUDGE: Please.
- 24 MR ISCANDARI: I thought maybe the translation would do that,
25 but I will.
- 26 Q. When you got to the Sunna mosque some people wanted you
27 dead and some people didn't want you dead. That's
28 correct, right?
- 29 A. Yes. That lotto was casted.

1 Q. And as I recall your testimony, you had testified that
2 there were 30 commanders there at the scene; that's
3 correct, right?

4 A. Yes.

5 Q. Now, I am going to go through the names of each and every
6 one of the names of the commanders that you have named
7 and I will ask you to tell the Court whether that person
8 voted for you to die or to leave. What was Captain K S
9 Banya's vote? Did he vote for you to die or leave?

10 PRESIDING JUDGE: Let him name -- if you want to proceed that
11 way, you know. Yes, yes.

12 MR NICOL-WILSON: Your Honour, we are objecting to that line
13 of examination-in-chief.

14 PRESIDING JUDGE: For what reason?

15 MR NICOL-WILSON: Because there is nothing like that in the
16 statement by the witness. And we think if counsel wants
17 to elicit that kind of evidence it must be not done in
18 that direct fashion, which to a very great extent is
19 leading.

20 JUDGE THOMPSON: Let me seek clarification, learned counsel.
21 You mean there is nothing in the statement that --

22 MR NICOL-WILSON: About the names of those who voted in favour
23 and those who voted against.

24 JUDGE THOMPSON: [Inaudible]

25 MR NICOL-WILSON: Yes, Your Honour.

26 JUDGE THOMPSON: So in other words, you are saying that - and
27 again we revert to our principle of orality - so he is
28 not entitled -- he cannot in law explain how the process
29 is done by way of amplifying his evidence. I mean, if it

1 were completely a new thing, then I would be saying
2 myself I will vote for you. But there is reference that
3 [inaudible].

4 MR NICOL-WILSON: Yes, Your Honour.

5 JUDGE THOMPSON: So what would be the difficulty here if it is
6 part of the Prosecution's case to say who and who voted
7 which way and not?

8 MR NICOL-WILSON: Because there is a likelihood, Your Honour,
9 that evidence might come out which we do not have notice
10 about in terms of the statement.

11 JUDGE THOMPSON: But there is already disclosure there about
12 lots being cast for his life. So wouldn't the principle
13 of orality allow him to go into details? In other words,
14 provide some specificity?

15 MR NICOL-WILSON: Well, our own contention, Your Honour, is
16 not in that manner by leading the witness. He is
17 basically saying he will mention some names and ask how
18 the person voted. That is --

19 JUDGE THOMPSON: You are not saying that he cannot lead the
20 evidence as to the methodology?

21 MR NICOL-WILSON: Yes, Your Honour, he can lead the evidence,
22 but not in manner in which he wants to do it.

23 JUDGE THOMPSON: All right, I will restrain myself for the
24 time being.

25 PRESIDING JUDGE: What if he asks him to enumerate those
26 who -- employing the electoral terminology. Supposing he
27 asks to enumerate those who wanted him dead and those who
28 did not want him dead. Would that be a problem.

29 MR NICOL-WILSON, Already Your Honour, the witness said he

1 cannot recall the names of all that he met.

2 PRESIDING JUDGE: But he has recalled the names of some.

3 MR NICHOL-WILSON: Then it would not be fair on the part of
4 the witness, because he will not be able to say exactly
5 those who voted in favour and those who voted again
6 because he can't --

7 JUDGE THOMPSON: Well, I was inclined to say that if the
8 objection would not be fair on the part of your client,
9 it would be proper, but I mean the Prosecution is taking
10 care of the witness's interest. And my difficulty is
11 clearly how would this prejudice your client, because it
12 is part of the entire story. Remember, if it were not in
13 that statement then difficult. Yes, part of the entire
14 story. And here what we are having is specificity as to
15 how it all happened.

16 MR NICOL-WILSON: Well, Your Honour, I think even the
17 foundation has not been laid. The witness has not even
18 said whether the voting actually took place.

19 JUDGE THOMPSON: But he did say that they had indicated those
20 who wanted his life should go this way and -- go to
21 Rambo, those who wanted the other kind of thing. The
22 evidence is already -- the foundation has been laid.

23 MR NICOL-WILSON: We don't know if that was actually done,
24 Those who wanted him to die to move to one side, and
25 those who wanted him to live move to the side.
26 [Inaudible] has not been laid.

27 PRESIDING JUDGE: We do not know -- that's where we are moving
28 toward now. Yes, we do not know.

29 JUDGE BOUTET: The objection shall be denied. Let's move

1 ahead.

2 JUDGE THOMPSON: Yes.

3 PRESIDING JUDGE: Yes.

4 MR ISCANDARI: Thank you very much.

5 Q. Sir, you had named some of these commanders that you met
6 at Sunna mosque; correct?

7 JUDGE THOMPSON: Counsel, don't complicate the issue. You
8 were about to ask him who voted for him, his life to be
9 preserved and, you know, that is the line, otherwise you
10 will complicate it and the trial will [inaudible] to
11 which we have come from.

12 MR ISCANDARI: Then I will go back to where you want me.

13 JUDGE THOMPSON: [Inaudible] that lots were cast for his life.
14 So let's proceed from there and not complicate the issue.

15 MR ISCANDARI:

16 Q. What was Captain K S Banya's vote? Did he vote for you
17 to leave or die?

18 MR TOURAY: I raise objection.

19 JUDGE BOUTET: Please, it would be simpler to avoid all sorts
20 of objection if you ask the witness of the names that he
21 has given and whether any of them voted for against and,
22 if so, give the names. Mr Prosecutor, he has just given
23 you and the Court a list of names of people he identified
24 that were at the mosque.

25 JUDGE THOMPSON: Yes.

26 JUDGE BOUTET: And ask him of these names who did what,
27 without going -- without you going by each and every
28 name, ask him of those.

29 JUDGE THOMPSON: And we will get out of this.

- 1 MR ISCANDARI: I will do that.
- 2 Q. Sir, of the commanders that you have named that you met
3 at the Sunna mosque, could you tell this Court which of
4 them voted for you to leave?
- 5 PRESIDING JUDGE: Voted for him to be alive?
- 6 MR ISCANDARI: Yes.
- 7 PRESIDING JUDGE: Yes.
- 8 THE WITNESS: I will explain, but I will not be able to call
9 them all by name. But those I know I will call their
10 names. The first thing is Captain K S Banya, he said I
11 should die. He did vote to that end.
- 12 PRESIDING JUDGE: Then we have to start from to die, because
13 we started from to leave. Those who voted for me to die
14 are K S Banya.
- 15 THE WITNESS: He voted that I should die.
- 16 JUDGE THOMPSON: Yes, [inaudible].
- 17 THE WITNESS: Colonel Rambo -- Alpha Momo says I should not
18 die.
- 19 MR ISCANDARI:
- 20 Q. Just a second, Mr Witness. You mentioned Colonel Rambo,
21 could you tell the Court what Colonel Rambo's vote was?
- 22 A. Yes, he first raised his hand that I should die, that
23 they should kill me.
- 24 PRESIDING JUDGE: Tell the witness, you should tell us those
25 that said you should die. That's where we are. Don't go
26 to leave or die, leave or die?
- 27 MR ISCANDARI: Your Honours.
- 28 PRESIDING JUDGE: Yes.
- 29 MR ISCANDARI: This is exactly what I was trying to avoid.

1 What I had envisaged was to go through each and every --
2 PRESIDING JUDGE: It is -- you don't take us back, please. We
3 are making progressing. Mr Iscandari, we have progress.
4 MR ISCANDARI: I just didn't want the witness to be confused.
5 PRESIDING JUDGE: We have said we would not adopt the
6 procedure that you want us to adopt. So, let us get to
7 somewhere adopting this position which is neater.
8 MR ISCANDARI: Fair enough.
9 PRESIDING JUDGE: Can you lead your witness?
10 MR ISCANDARI: Yes.
11 PRESIDING JUDGE: [Inaudible] who wanted him dead. Yes, he
12 mentioned K S Banya, Rambo. Who else?
13 JUDGE THOMPSON: Why not keep to that?
14 MR ISCANDARI: Because I believe the witness would keep going
15 from this person wants me to leave, this person wants.
16 PRESIDING JUDGE: If you lead him, he will not. If you lead
17 him, he will not.
18 MR ISCANDARI: Okay.
19 JUDGE THOMPSON: We have rules of this Court and the witness
20 must conform.
21 MR ISCANDARI:
22 Q. Sir, what the Court wants is for you to tell them of the
23 commanders that you had mentioned which one wanted you
24 alive, voted for you to be alive.
25 PRESIDING JUDGE: We are starting with death.
26 MR ISCANDARI:
27 Q. Okay, let's turn it the other way around. Of the
28 commanders that you had named, which one of them wanted
29 you dead, voted for you to be dead?

- 1 PRESIDING JUDGE: Tell him after that you will come back to
2 mention those he remembers voted for him to be alive.
3 Please tell him.
- 4 MR ISCANDARI:
- 5 Q. The judge wants you to mention those who voted for you to
6 die first, then after that mention those who voted for
7 you to be alive. Do you understand?
- 8 A. Yes. As I began earlier, those who lotted for me to die
9 I said K S Banya, Captain K S Banya, let me die. Colonel
10 Rambo said I should die. Morris Kallon alias Bilai Karim
11 say I should die. Hungry Lion say I should die.
12 Kailondo say I should die. On this side that could be in
13 my memory. The other person is Amara Peleto.
14 [Inaudible] those names. Those who voted for me to be
15 alive, Rocky, Major Rocky. He said I should not die.
16 Alpha Momo. Captain Ranger. Amara ambush commander.
17 Then I can again remember that man whom they called Staff
18 Alhaji voted that I should die.
- 19 Q. Sir, at the end of the vote would you tell this Court how
20 many of the commanders you met at Sunna mosque voted for
21 you to die?
- 22 A. Yes.
- 23 Q. Please tell the Court.
- 24 A. 15 said I should die.
- 25 Q. Could you tell the Court how many of these commanders you
26 met at Sunna mosque voted for you to be alive?
- 27 A. Yes.
- 28 Q. Please tell the Court.
- 29 A. 15.

1 MR. PRESIDENT:

2 Please tell the Court exactly how you felt when the vote
3 was being taken.

4 A. There was now an argument over my -- there was now an
5 argument over my leaving or being dead. I became
6 confused. I became discouraged. I didn't know what to
7 do again because already people are taking decision on my
8 life. Then they thought of a small boy who was among the
9 commanders. They sent somebody to call him. He was
10 Sylvester Kieh.

11 Q. And what happened after Sylvester Kieh came into the
12 group?

13 A. Rambo explained to him that he the Rambo had decided I
14 should die and Rocky and his own men had decided that I
15 should not die. He had wanted to talk, they shut him up.

16 Q. Who shut him up?

17 A. His boss who was Colonel Rambo.

18 Q. What happened after that?

19 A. Then he looked up and looked up in the sky then he gave
20 me his back. Then he raised up his hand and walked
21 towards Rocky's side and said, "I don't want this man to
22 die." Then the figure went this way, those who said I
23 should leave went to 16, and those who said I should die
24 were now 15.

25 Q. What happened after the vote became 16 to 15 for you to
26 leave?

27 A. Colonel Rambo took me and gave me to Major Rocky. He
28 said you have signed that this man should not die. You
29 should take care of this man's life until he and Mosquito

1 see themselves. They gave me to him. Then Rocky took me
2 to Wendedu.

3 MR ISCANDARI: Your Honours -- Your Honour --

4 PRESIDING JUDGE: Your Honours.

5 MR ISCANDARI: Yes, Your Honours, I did say that. At this
6 point in time there is going to be quite a lot of
7 testimony of what happened at Wendedu. If it is okay
8 with the Bench, I think this would be a fine time to take
9 a break.

10 PRESIDING JUDGE: We agree with you.

11 MR ISCANDARI: Thank you.

12 JUDGE THOMPSON: We invite no responses from the other side.

13 PRESIDING JUDGE: Since the polling stations have closed and
14 voting has come to an end, I suppose we will rise and
15 resume tomorrow at 9.30 a.m. The Court will rise,
16 please.

17 [Whereupon the hearing adjourned at 6.10 p.m. to be
18 reconvened on Friday, the 28th day of January 2005 at
19 9.30 a.m.]

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EXHIBITS:

Exhibit No. 21 24

WITNESSES FOR THE PROSECUTION:

WITNESS: TF1-071 1

CROSS-EXAMINED BY MR CAMMEGH 1

RE-EXAMINED BY MR HARRISON 74

WITNESS: TF1-015 85

EXAMINED BY MR ISCANDARI 85