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SCSL-04-15-T  
(18574 - 18667)

18574

**SPECIAL COURT FOR SIERRA LEONE**  
OFFICE OF THE PROSECUTOR  
Freetown – Sierra Leone

Before: Hon. Justice Pierre Boutet, Presiding  
Hon. Justice Bankole Thompson  
Hon. Justice Benjamin Mutanga Itoe

Registrar: Mr. Lovemore G. Munlo S.C.

Date filed: 3 May 2006

**THE PROSECUTOR**

**Against**

**Issa Hassan Sesay  
Morris Kallon  
Augustine Gbao**

Case No. SCSL-04-15-T

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**PUBLIC**  
**PROSECUTION NOTICE UNDER RULE 92bis TO ADMIT THE TRANSCRIPTS  
OF TESTIMONY OF TF1-256**

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Office of the Prosecutor:  
Mr. James C. Johnson  
Mr. Peter Harrison  
Ms. Shyamala Alagendra

Defence Counsel for Issa Hassan Sesay:  
Mr. Wayne Jordash  
Ms. Sareta Ashraph

Defence Counsel for Morris Kallon:  
Mr. Shekou Touray  
Mr. Charles Taku  
Mr. Melron Nicol-Wilson

Defence Counsel for Augustine Gbao:  
Mr. Andreas O'Shea  
Mr. John Cammegh

SPECIAL COURT FOR SIERRA LEONE	
RECEIVED	
COURT MANAGEMENT	
3 MAY 2006	
NAME	PROF WALKER
SIGN	<i>[Signature]</i>
TIME	15.00

## I. INTRODUCTION

1. The Prosecution gives notice pursuant to Rule 92bis of the Rules of Procedure and Evidence of the Special Court for Sierra Leone (the “Rules”), of its intention to submit the transcripts of evidence of TF1-256, whose testimony was given before Trial Chamber II in *Prosecutor v. Brima et al.*<sup>1</sup>
2. TF1-256 is a crime base witness. Upon admission into evidence of the transcripts of TF1-256, the Prosecution would not seek to examine-in-chief the witness. The Prosecution takes no objection to cross-examination of the witness subject of this Notice. If the witness is cross-examined the Prosecution relies on its right, stated in Rule 85(B)<sup>2</sup>, to re-examine the witness where such re-examination would be permitted as if the witness had given all of his evidence *viva voce*.
3. Copies of the transcripts of TF1-256 from the proceedings in *Brima et al* are attached at Annex A.

## II. PROCEDURAL HISTORY

4. TF1-256 was transferred from the Prosecution back-up witness list to the core witness list on 5 April 2006.<sup>3</sup>
5. TF1-256 testified before Trial Chamber II in *Prosecutor v. Brima et al* on 14 and 15 April 2005.
6. The transcripts of the witness in that case was disclosed to the Defence on 11 April 2006.

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<sup>1</sup> *Prosecutor v. Alex Tamba Brima et al*, SCSL-2004-16-T.

<sup>2</sup> Rule 85(B) states: “Examination-in-chief, cross-examination and re-examination shall be allowed in each case. It shall be for the party calling a witness to examine him in chief, but a Judge may at any stage put any question to the witness.”

<sup>3</sup> *Prosecutor v Issa Hassan Sesay et al*, Case No. SCSL-04-15-T-532, “Prosecution Notice to Transfer Witnesses from the Back-up Witness List to the Core Witness List”, 5 April 2006.

### III. ARGUMENTS

7. Rule 92bis of the Rules provides that:

Rule 92bis : Alternative Proof of facts (amended 14 March 2004)

- (A) A Chamber may admit as evidence, in whole or in part, information in lieu of oral testimony.
- (B) The information submitted may be received in evidence if, in the view of the Trial Chamber, it is relevant to the purpose for which it is submitted and if its reliability is susceptible of confirmation
- (C) A party wishing to submit information as evidence shall give 10 days notice to the opposing party. Objections, if any, must be submitted within 5 days.

8. The purpose of Rule 92bis, is to facilitate a fair, efficient and expeditious trial<sup>4</sup>.

9. Rule 89(B) provides that the Chamber: "... shall apply rules of evidence which will best favour a fair determination of the matter before it and which are consonant with the spirit of the statute and the general principles of law".

10. Commenting on the effect of Rule 92bis, the Appeals Chamber explained that:

The effect of the SCSL Rule is to permit the reception of "information"- assertions of fact (but not opinion) made in documents or electronic communications - if such facts are relevant and their reliability is "susceptible of confirmation". This phraseology was chosen to make clear that proof of reliability is not a condition of admission: all that is required is that the information should be *capable* of corroboration in due course.<sup>5</sup> [italics in original]

11. The Appeals Chamber made clear that: "... the weight and reliability of such 'information' admitted via Rule 92bis will have to be assessed in light of all the evidence in the case."<sup>6</sup>

<sup>4</sup> *Prosecutor v Sam Hinga Norman et al.*, SCSL-04-14-T-398, "Fofana – Decision on Appeal Against "Decision on Prosecution's Motion for Judicial Notice and Admission of Evidence"", 16 May 2005, para. 26; Separate Opinion of Justice Robertson, paras. 13 and 14.

<sup>5</sup> *Id.*, para. 26.

<sup>6</sup> *Fofana-Appeal Decision on Judicial Notice*, (majority decision) para. 27. See also Separate Opinion of

12. The provisions of Rule 92bis of the Special Court Rules deliberately differ from Rule 92bis of the ICTY and ICTR Rules. The Appeals Chamber of the Special Court for Sierra Leone has noted that:

The judges of this Court, at one of their plenary meetings, recognised a need to amend ICTR Rule 92bis in order to simplify this provision for a court operating in what was hoped would be a short time-span in the country where the crimes had been committed ...<sup>7</sup>

13. Whilst Rule 92bis of the ICTY and ICTR expressly limits the admission into evidence of the transcripts of evidence given by a witness in other proceedings to those which do not go to proof of the acts and conduct of the accused, the Special Court Rules do not have a similar restriction on the nature of the evidence that can be admitted under Rule 92bis. All that is required under the Special Court's Rule 92bis is that the evidence sought to be admitted is relevant and its reliability is susceptible to confirmation.

14. This Trial Chamber recently allowed the Prosecution's notice to admit the transcripts and exhibits from the AFRC trial for prosecution witnesses TF1-023, TF1-104 and TF1-169,<sup>8</sup> and in a later decision for TF1-081, where the witness' report was also admitted into evidence.<sup>9</sup>

15. The Prosecution submits that the current Notice should be accepted on the same basis. This Notice is intended to expedite the trial, and it will assist in achieving a fair, efficient and timely trial. This Trial Chamber in its Decision of 9 November 2005 recognised that "it is in the interest of justice that the trial proceeds fairly and

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Justice Robertson, para. 14.

<sup>7</sup> *Prosecutor v Sam Hinga Norman et al.*, SCSL-04-14-T-398, "Fofana – Decision on Appeal Against "Decision on Prosecution's Motion for Judicial Notice and Admission of Evidence"", 16 May 2005, para. 26; Separate Opinion of Justice Robertson, paras. 13 and 14.

<sup>8</sup> *Prosecutor v Issa Hassan Sesay et al.*, Case No. SCSL-04-15-T-448 "Decision on the Prosecution Confidential Notice under 92bis to Admit the Transcripts of Testimony of TF1-023, TF1-104, and TF1-169", 9 November 2005.

<sup>9</sup> TF1-081 was not tendered as an expert witness. *Prosecutor v Issa Hassan Sesay et al.*, Case No. SCSL-04-15-T-489, "Decision on the Prosecution Confidential Notice under 92bis to Admit the Transcripts of Testimony of TF1-081, 21 February 2006.

expeditiously....”<sup>10</sup> The Prosecution submits that expedient and fair trials are promoted where sworn testimony before the tribunal, which includes prior cross-examination, is admitted in a subsequent trial in lieu of the Prosecution carrying out a second examination-in-chief.

16. The evidence the Prosecution seeks to admit pursuant to Rule 92bis is background evidence of the matters alleged in the Indictment as opposed to evidence directly implicating any of the Accused person in the perpetration of a crime.<sup>11</sup> Therefore, the evidence does not go to prove acts and conduct of the accused. Examples of such ‘background’ evidence include evidence demonstrating the occurrence of crimes in a certain location, or in a widespread or systematic manner.
17. The transcripts and the Exhibits referred to in this motion are relevant and susceptible of confirmation. The witnesses can be cross-examined, and corroboration can be sought through other witnesses. At this stage the Prosecution is not required to prove that the evidence is in fact reliable, only that the reliability of the evidence is susceptible of confirmation.<sup>12</sup>
18. The transcript of TF1-256 contains testimony about unlawful killings and physical violence committed in Sierra Leone by the AFRC/RUF which evidence is relevant to the allegations stated in paragraphs 40-45, 53, 54, 60, 61, 68, and 69 of the Indictment and is susceptible of confirmation.

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<sup>10</sup> *Prosecutor v Issa Hassan Sesay et al*, Case No. SCSL-04-15-t-448 “Decision on the Prosecution Confidential Notice under 92bis To Admit the Transcripts of Testimony of TF1-023, TF1-104 and TF1-169”, 9 November 2005 at page 3.

<sup>11</sup> *Prosecutor v Natelitic*, ICTY-98-34, “Decision on the Prosecutor’s Motion to Take Depositions for Use at Trial (Rule 71)”, 10 November 2000, paras. 17-20.

<sup>12</sup> *Fofana-Appeal Decision on Judicial Notice*, (majority decision) para. 27.

#### IV. CONCLUSION

19. The Prosecution gives notice of its intention to tender in evidence, in lieu of examination-in-chief, the following evidence:

a) for TF1-256, the following transcripts from the proceedings of *Prosecutor v. Brima et al.*:

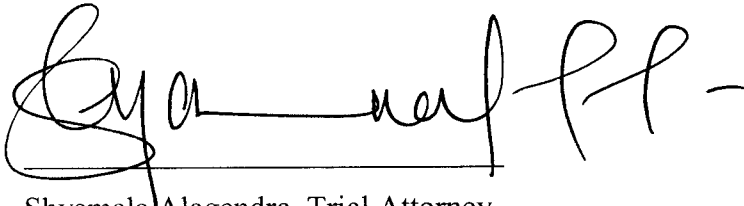
- i) transcript of 14 April 2005, pp. 45-109;
- ii) transcript of 15 April 2005, pp. 1-21;

20. With respect to TF1-256 the Prosecution does not object to cross-examination by the Accused, but the Prosecution reserves its right to re-examine.

Filed in Freetown,

3 May 2006

For the Prosecution,

A handwritten signature in black ink, appearing to read 'Shyamala Alagendra', written over a horizontal line. The signature is stylized and includes a long horizontal stroke extending to the right.

Shyamala Alagendra, Trial Attorney

## Index of Authorities

### A. Orders, Decisions and Judgments

1. *Prosecutor v Natelitic*, “Decision on the Proscutor’s Motion to Take Depositions for Use at Trial (Rule 71)” Case No. IT-98-34-PT, 10 November 2000, para. 17-20.  
<http://www.un.org/icty/naletilic/trialc/decision-e/001110.htm>
2. *Prosecutor v Sam Hinga Norman et al*, Case No. - SCSL-04-14-T-398, Fofana – Decision on Appeal Against “Decision on Prosecution’s Motion for Judicial Notice and Admission of Evidence”, 16 May 2005; Separate Opinion of Justice Robertson.
3. *Prosecutor v Issa Hassan Sesay et al*, Case No. SCSL-04-15-T-448 “Decision on the Prosecution Confidential Notice under 92bis to Admit the Transcripts of Testimony of TF1-023, TF1-104, and TF1-169”, 9 November 2005.
4. *Prosecutor v Issa Hassan Sesay et al*, Case No. SCSL-04-15-T-498, “Order on Prosecution Motion to Request Protective Measures for Witness TF1-041 and TF1-369”, 28 February 2006.
5. *Prosecutor v Issa Hassan Sesay et al*, Case No. SCSL-04-15-T-532, “Prosecution Notice to Transfer Witnesses from the Back-up Witness List to the Core Witness List”, 5 April 2006.
6. *Prosecutor v Issa Hassan Sesay et al*, Case No. SCSL-04-15-T-489, “Decision on the Prosecution Confidential Notice under 92bis to Admit the Transcripts of Testimony of TF1-081”, 21<sup>st</sup> February 2006.

### B. Rules of Procedure and Evidence

1. Rules of Procedure and Evidence of the Special Court, Rule 85(B), 89, 89(B), 89(C), 92bis, Amended 14 May 2005.

### C. Publications

7. ICTR Press Release ICTR/INFO-9-13-22.EN dated 8 July 2002, p.3  
<http://www.ictt.org/ENGLISH/pressbrief/2002/brief9-13-22.htm>

**Annex A**

1. Transcript of evidence of TF1- 256, before Trial Chamber II in *Prosecutor v. Brima et al* dated 14 April 2005, pp. 45-109, and 15 April 2005, pp. 1-21.



## THE SPECIAL COURT FOR SIERRA LEONE

CASE NO. SCSL-2004-16-T  
TRIAL CHAMBER I

THE PROSECUTOR  
OF THE SPECIAL COURT  
V.  
ALEX TAMBA BRIMA  
BRIMA BAZZY KAMARA  
SANTIGIE BORBOR KANU

THURSDAY, 14 APRIL 2005  
9.20 A.M.  
TRIAL

Before the Judges:

Teresa Doherty, Presiding  
Julia Sebutinde  
Richard Lussick

For Chambers:

Mr Simon Meisenberg

For the Registry:

Ms Maureen Edmonds

For the Prosecution:

Ms Lesley Taylor  
Ms Boi-Tia Stevens  
Mr Alain Werner  
Ms Jennifer Beckley (intern)  
Ms Maja Dimitrova (Case Manager)  
Mr Mark wallbridge (Case Manager)

For the Principal Defender:

No appearances

For the accused Alex Tamba Brima:

Mr Kevin Metzger  
Ms Glenna Thompson

For the accused Brima Bazy Kamara:

Mr Wilbert Harris  
Mr Mohamed Pa-Momo Fofanah

For the accused Santigie Borbor Kanu:

Mr Abibola Manley-Spaine  
Ms Karlijn van der Voort

1 the witness.

2 WITNESS: TF1-256 [Sworn]

3 PRESIDING JUDGE: Thank you.

4 EXAMINED BY MR WERNER:

11:54:19 5 MR WERNER: Good morning, Your Honours. Good morning

6 members of the Defence.

7 THE WITNESS: Good morning.

8 Q. Mr witness, just wait for me.

9 A. Okay. Good morning. How do you do?

11:54:32 10 Q. Thank you.

11 A. You're welcome.

12 Q. Mr witness, just listen to my questions.

13 A. Okay.

14 Q. I'm going to ask you a few questions, if you can just

11:54:49 15 answer my questions.

16 A. No problem. Okay.

17 Q. Mr witness, where were you born?

18 A. At Masimera.

19 Q. In which district, Mr witness?

11:55:10 20 JUDGE SEBUTINDE: Counsel, we did agree yesterday that --

21 THE WITNESS: Port Loko District.

22 JUDGE SEBUTINDE: -- you would spell these names for us

23 before you proceed.

24 MR WERNER: Yes, Your Honour, I wanted to have the district

11:55:23 25 first, but I will.

26 Q. Could you just tell us which district?

27 A. At Port Loko District.

28 Q. Which chiefdom?

29 A. Masimera Chiefdom.

1 Q. Are you able to spell the name of the chiefdom for the  
2 Court?

3 A. I?

4 Q. Would it be possible for you --

11:56:02 5 JUDGE LUSSICK: No, you do it, Mr Werner. You must have  
6 some instructions of the correct spelling.

7 MR WERNER: M-A-S-I-M-A-R-A, Masimera.

8 JUDGE LUSSICK: I think he said that is in the Port Loko  
9 District.

11:56:31 10 MR WERNER: Yes, Your Honour.

11 Q. Mr Witness, how old are you?

12 A. 42 years this year.

13 Q. What are you doing for a living, Mr Witness?

14 A. Farming.

11:56:54 15 Q. Mr Witness, do you remember the month of April 1999?

16 A. Yes.

17 Q. Could you tell this Court where you were in April 1999?

18 A. Yes. Yes, I will be able to tell them.

19 Q. Could you do so, Mr Witness?

11:57:31 20 A. I will be able to do so.

21 Q. Please do so.

22 A. In 1999 we were in our village at Masimera. We were always  
23 almost in the bush running away from the rebels.

24 Q. Just wait for a moment, Mr Witness. Just answer my

11:58:02 25 questions. What happened, Mr Witness, in Masimera in April 1999?

26 A. War was waged on us.

27 Q. What else happened?

28 A. They killed people and they burnt our houses and they  
29 locked and raped our wives and children and they punished us.

1 JUDGE LUSSICK: I wasn't quite sure. They did something  
2 and --

3 MR WERNER: I will try to clarify, Your Honour.

4 Q. Mr Witness, you said "they". Could you tell this Court who  
11:59:07 5 are "they"?

6 A. People who wore uniform -- in a soldier uniform.

7 [TB140405C-12.00-SGH]

8 Q. Did they belong to a group?

9 A. Well, from right from the start we are of the opinion that  
11:58:37 10 they were soldiers.

11 Q. Why did you think that?

12 A. Because they wore a soldier's uniform.

13 Q. Now, let me ask you the question again. Please try to  
14 listen as carefully as you could to my question.

11:59:15 15 A. Okay.

16 Q. What happened to you yourself in Masimera in April 1999?  
17 To yourself, starting from the start the beginning.

18 A. We ran away from the soldiers and we went into the bush.  
19 And they captured some of our colleagues in the bush while they  
11:59:46 20 were running after us.

21 Q. [Microphone not activated] You said, "we fled to the bush".  
22 Who are "we"?

23 A. Those people from whom we ran.

24 Q. No, you said "we", "we fled to the bush. We escaped to the  
12:00:25 25 bush." Now, who are "we"? What do you mean when you say "we"?

26 A. We ran away from the soldiers.

27 Q. Mr Witness, I understand it is difficult and I understand  
28 my --

29 A. Yes.

1 Q. Just try to listen to my question and to follow me. You  
2 say "we escaped". We understood that you escaped. You said, "we  
3 escaped to the bush". Could you just clarify?

12:00:59 4 MR METZGER: With respect, it is sort of an objection. I would  
5 just caution my learned friend to, as it were, put the words of the  
6 witness rather than using other terminology. I am sure it is difficult  
7 enough for the interpreter, but if we can stick with the words that he  
8 used.

9 MR WERNER: I apologise.

12:01:20 10 A. I.

11 Q. Mr Witness, you say we fled. Could you just clarify for us  
12 who are "we"?

13 A. My children and my brothers and sisters who ran away and  
14 went into the bush.

12:01:39 15 Q. Now, Mr Witness --

16 A. Yes.

17 Q. You said that they captured some colleagues. Who are these  
18 colleagues?

19 A. I said we ran away and went to the bush. Our own children  
12:02:19 20 and all of us in town, we ran away and went to the bush when the  
21 soldiers came. That is what I told you.

22 Q. Mr witness, you told us as well that then -- just listen to  
23 me. You told us as well --

24 A. I am listening to you.

12:02:41 25 Q. Okay. You told us as well that they captured some of your  
26 colleagues.

27 A. Yes.

28 Q. I understood you left and you and your family now. I am  
29 asking you about the colleagues. Who were these colleagues?

1 A. They captured Nyaday Sesay and her children. And they  
2 captured Adama Sankoh and her children. They captured  
3 Amie Conteh and their children and the rest of us were left in  
4 the bush.

12:03:33 5 MR WERNER: Do you want me to spell the names?

6 JUDGE SEBUTINDE: well, if you are going to ask the names,  
7 you have to spell the names.

8 MR WERNER: Yes, Your Honour. I am ready to do so. So  
9 Amie Conteh. First name: A-M-I-E. Family name: CO-N-T-E-H.

12:04:00 10 Adama Sankoh. First name: A-D-A-M-A. Family name:

11 S-A-N-K-O-H. Myalay Sesay. First name: M-Y-A-L-A-Y.

12 MS THOMPSON: Your Honour, I interrupt my learned friend  
13 now because I think the interpretation that came to us was Nyaday  
14 Sesay as opposed to Myalay as appears in the statement. That is  
15 the interpretation I got. Perhaps the witness can clarify  
16 because my learned friend is spelling words in the statement.

12:04:28

17 THE WITNESS: Nyaday, Nyaday.

18 MS THOMPSON: That is a different spelling. Secondly, can  
19 we just get clarification because we have a note down here that  
20 it is Adama Sesay, as opposed to Adama Sankoh, which appears on  
21 the statement. So can my learned friends --

12:04:47

22 A. No, no, Adama Sankoh.

23 PRESIDING JUDGE: For the purpose of the record, I have  
24 Adama Sankoh.

12:05:02

25 MR WERNER: I think it was my mistake and indeed it is  
26 Nyaday. So it will be N-Y-A-D-A-Y. Nyaday. Sesay, family name:  
27 S-E-S-A-Y.

28 Q. Mr witness --

29 A. Yes.

1 Q. You said Amie Conteh and her children; do you know how many  
2 children were captured on that day?

3 A. Amie Conteh, was with her own children. Three. And she  
4 was making the fourth.

12:06:09 5 Q. You said Adama Sankoh and her children; do you know how  
6 many children were captured on that day?

7 A. Adama Sankoh also had three children and she made up to  
8 four.

9 Q. Now, you said Nyaday Sesay and her children; would you tell  
12:06:42 10 us how many children were captured on that day?

11 A. She had four children and she made up to five.

12 Q. Now, Mr Witness, you said that you fled with your family.  
13 where did you go?

14 A. We were travelling when our colleagues had been captured.  
12:07:21 15 we were trying to go some other parts when we encountered  
16 soldiers.

17 Q. Mr Witness, I would like to explain to you that people are  
18 writing down what you are saying, so if you could just --

19 A. Okay. Okay.

12:07:50 20 Q. So, did you know exactly where did you go?

21 A. Yes, I go there.

22 Q. How far was it from where you left?

23 A. You mean in the bush or in the town.

24 Q. The bush?

12:08:12 25 A. In the bush and the garden.

26 Q. Mr Witness, just try to follow me. You said that you fled?

27 A. Yes. Yes.

28 Q. I am just trying to understand how far you went when you  
29 fled, wherever you went. But how far did you go?

1 A. That's from the town to the place where I fled to.

2 Q. Mr witness, just try to follow me. wherever you went, how  
3 far did you walk?

4 A. This is what I asked of you.

12:09:09 5 Q. Okay, I am trying another way. What happened after you  
6 fled to the bush?

7 A. When our colleagues had been captured who were trying to go  
8 to some other part.

9 Q. Where?

12:09:37 10 A. Because where we were we knew that they would have to  
11 capture us. So we went.

12 Q. I understood that, Mr witness. Where did you go?

13 A. So there we encountered the soldiers in the garden.

14 Q. Mr witness, try to answer my questions. You told us that  
12:10:02 15 you went. Where did you go? If you cannot remember, that is  
16 fine. Just try to answer my question. Do you remember where did  
17 you go?

18 A. We were on our way because we have already abandoned where  
19 we were, because they had captured our colleagues. So I want you  
12:10:24 20 to understand. So we are trying to go to some other part.

21 Q. Where were these other parts?

22 A. We were on our way going when we encountered the soldiers  
23 in the garden.

24 Q. From the day you fled to the bush, up to the day you  
12:10:59 25 encountered these soldiers, how long between these two dates?

26 A. The day they entered, we spent the night where we ran to.  
27 They were not able to capture us. Shall I continue?

28 Q. Yes.

29 A. The second day, that was the time that they captured our



1 colleagues. Shall I continue?

2 Q. Yes.

3 A. So we said, "Oh this place, we have to leave this place and  
4 go to some other part." Shall I continue?

12:11:54 5 Q. Yes.

6 A. When we were going to this other part that I was talking  
7 about, the road that we were supposed to use there was a garden  
8 and this was the place that we are supposed to pass and go to  
9 some other part.

12:12:18 10 Q. Mr witness, where is the garden?

11 A. Yes, this garden belonged to our town.

12 Q. Can you try to be more precise?

13 A. Shall I continue?

14 Q. Just answer the question. Where is this garden?

12:13:09 15 A. I said this garden belongs to our town and it is -- it is  
16 out of the town. It is just something like half miles -- half a  
17 mile from the town.

18 Q. What is the name of the town, Mr witness?

19 A. Rochendekom [phon].

12:13:36 20 Q. Okay, the name I have does not match exactly, but I will  
21 try. T-E-N-D --

22 MR METZGER: Sorry. I have a little concern that the sound that  
23 we heard seems to have been like a C-H, some different thing from that  
24 which is about to be spelt and I am concerned that we could be writing  
12:14:03 25 something completely different.

26 PRESIDING JUDGE: Give counsel a chance, Mr Metzger, to say  
27 what [inaudible]

28 THE WITNESS: Shall I say it again?

29 MR WERNER:

1 Q. Yes, yes, say it again.

2 A. About the town?

3 Q. Yes, yes.

4 A. Rochendekom Nonkoba.

12:14:33 5 MR WERNER: I shall ask for the first name, because it is not -- I  
6 can assist for the second name.

7 PRESIDING JUDGE: Please do so.

8 MR WERNER: Nonkobah. N-O-N-K-O-B-A-H.

9 JUDGE LUSSICK: I notice in the statement that it is spelt  
12:15:02 10 with no H on the end of it. If you look at the witness's  
11 statement, the second last line on the first page.

12 MR WERNER: Sorry, which statement, because we have two  
13 documents?

14 JUDGE LUSSICK: 30 October 2003. Page 6516.

12:15:29 15 MR WERNER: I take your leave. It was spelt, I think,  
16 actually differently on the proofing, but I should correct. So  
17 without H. I apologise for that.

18 JUDGE LUSSICK: I was not necessarily saying you were  
19 right, it could have been the statement that was wrong.

12:15:51 20 MR WERNER: I am led to assist further. I still don't know  
21 if there is an H or no H.

22 Q. Now, Mr Witness --

23 A. Yes.

24 Q. Could you tell this Court again what happened when you  
12:16:09 25 arrived in the garden?

26 A. Yes.

27 Q. Please do so, Mr Witness.

28 A. When we arrived at the garden, we met them there and we  
29 found some of our colleagues that they captured, something like

1 the day before.

2 Q. Just pause for a moment.

3 A. Okay.

4 Q. You said, Mr Witness, we met them. who did you meet in the  
12:16:58 5 garden?

6 A. we met the soldiers and our colleagues with whom we were in  
7 the bush.

8 Q. How many of them were in the garden?

9 A. You mean the soldiers?

12:17:28 10 Q. Yes.

11 A. I would guess because during that time I wasn't able to  
12 get -- I wasn't able to get the number, but I would say that  
13 there were 200, but there should be more than that. Because I  
14 wasn't able to count all of them. This is just a guess.

12:18:05 15 Q. Now, Mr witness, how big was this garden?

16 A. Yes, from the work that we do in our villages is something  
17 like two acres and if you are to sew seeds, say rice seeds on  
18 each, it will be something like two bushels.

19 Q. Now, Mr witness, you said that when you arrived --

12:18:39 20 A. Yes.

21 Q. You said that when you arrived in the garden you saw  
22 soldiers and your colleagues. Could you explain to this Court  
23 what you mean? Could you explain to this Court what you mean by  
24 your colleagues?

12:19:05 25 A. Our townspeople with whom we ran and those that were  
26 captured and these were the ones that I referred to as our  
27 colleagues.

28 Q. Could you give these colleagues names?

29 A. well, I had given you the names. I mean Nyaday Sesay,

1 Adama Sankoh and Amie Conteh. These are the ones we met there.  
2 These they are the ones that have been captured during the  
3 previous day before we encountered them.

4 Q. Mr witness, you said that you saw Amie Conteh. Did you  
12:19:52 5 speak with her?

6 A. Yes.

7 Q. Did she tell you anything?

8 A. She did not give me a report, but I saw a wound on her  
9 head.

10 Q. Could you describe the wound?  
12:20:14

11 A. I just saw it on the head.

12 Q. Could you describe the wound?

13 A. It was big.

14 Q. Mr witness, did you see anyone else injured?

15 A. Yes, the other child Alimamy was also wounded on the hand.  
12:21:01

16 Q. Just pause, Mr witness, please. Do you know the full name  
17 of Almany? Do you know his full name? Do you know his family  
18 name?

19 A. Yes. He was Kabia.

12:21:10 20 Q. Okay.

21 MR WERNER: So Almany. A-L-M-A-N-Y. Now it is spelt differently  
22 on one of the documents. But he said Almany and I have Alimamy. So I  
23 guess we should spell it A-L-M-A-N-Y. Now family name is Kabia,  
24 K-A-B-I-A.

12:22:11 25 MS THOMPSON: Your Honour, if it helps the court, the  
26 spelling in the second statement is actually the same name, that  
27 is the way to spelt. And I think there is an N there . It is  
28 spelt Alimamy. As in, the M should be an N and the I is in the  
29 right place.

1 MR WERNER: I am grateful for that.

2 Q. Did you speak with a Alimamy Kabia, Mr witness?

3 A. During that day one was not able to, you know, to talk to  
4 anyone because everybody was confused.

12:23:14 5 Q. In answering my question you said that Alimamy was injured.  
6 Could you say how?

7 A. Yes, I saw a wound on his hand.

8 Q. Could you describe the wound?

9 A. I saw it; it was big.

12:23:53 10 Q. Did you know what happened to him?

11 A. I wasn't able to ask him.

12 Q. Now, Mr witness --

13 A. Yes, sir.

14 Q. Did you see anyone else in this garden?

12:24:10 15 A. Somebody like whom?

16 Q. You told us, Mr witness, that when you arrived at the  
17 garden you saw soldiers and you saw the people who had been  
18 captured who belonged to your group. My question is: Did you  
19 see anyone else in this garden? It is a big garden.

12:25:01 20 A. We saw soldiers. We saw our own people. We saw some other  
21 civilians. But we were not able to -- shall I continue?

22 Q. Just in answer the questions. You said, "I saw other  
23 civilians". How many of them?

24 A. I will give a rough estimate of 100, because I wasn't able  
12:25:34 25 to count them.

26 Q. Do you know where they were coming from, these civilians?

27 A. Later we came to realise that they came from Koya.

28 MR WERNER: My spelling is K-O-Y-A. Koya.

29 Q. Mr witness, you told us that there were soldiers in this

1 garden. Was anyone in charge of these soldiers?

2 MR METZGER: Objection. I rise hesitantly to say groundwork and  
3 perhaps if he could just be asked if he was able to tell first of all,  
4 if you are asking that question?

12:27:07 5 THE WITNESS: Shall I speak?

6 MR WERNER: I am happy to rephrase.

7 PRESIDING JUDGE: Pardon?

8 MR WERNER: I am happy to rephrase.

9 PRESIDING JUDGE: Thank you.

12:27:18 10 MR WERNER:

11 Q. Mr witness, were you able to tell if anyone was in charge?

12 A. Yes, there was a leader. When we were in the garden he  
13 would come. There was one a captain about whom they said that he  
14 was the one that was responsible for the people that were in the  
15 garden.

12:27:50 16 Q. Do you know his name, Mr witness?

17 MR METZGER: Again, objection. Normally can we get groundwork as  
18 to who it was who said he was responsible before going towards his name?

19 MR WERNER: I am happy to.

12:28:18 20 Q. Mr witness, who told you that someone was responsible in  
21 the garden?

22 A. As one out of them.

23 Q. Could you be more specific, Mr witness?

24 A. Yes.

12:28:46 25 Q. Please tell us.

26 A. It's one out of them who speaks Temne just like I do, he  
27 was also a soldier. He was the one that told us that that there  
28 is one individual in town who was their leader.

29 Q. Okay. Abu Kanu?

1 MR WERNER: So I am going to clarify.

2 MR METZGER: With respect, the note I have is, "There was  
3 one who speaks Temne just like I do. He was the one who told us  
4 that there was one individual who was the leader." I don't know  
12:29:47 5 where my learned friend got the --

6 JUDGE SEBUTINDE: At least I have a note. Did allude to a  
7 soldier, a Temne speaking soldier who told them.

8 MR METZGER: That's correct. No name.

9 MR WERNER: That's my mistake. I may have been  
12:29:50 10 anticipated.

11 Q. Do you know the name of the Temne speaker who gave you  
12 the name of the person in charge? Do you know his name?

13 A. He was called Abu Kanu. That Temne speaking man was a  
14 soldier. He was the one that explained to us just like you the  
12:30:26 15 interpreter are talking to me in Temne.

16 Q. Okay, Abu Kanu. A-B-U K-A-N-U. Now, Mr Witness, did  
17 Abu Kanu tell you the name of the person in charge responsible  
18 for [overlapping microphones] in the garden?

19 A. Yes. He showed him to us.

12:30:50 20 Q. Mr Witness, I understand -- I really understand this  
21 difficulty, but just try to follow me. Did Abu Kanu tell you his  
22 name?

23 A. Yes, I know his name. The one that captured in the garden  
24 from -- that covered the town and the garden.

12:31:47 25 Q. I will try in a different way. Mr witness, do you know the  
26 name of the one in charge of the garden?

27 A. That is what I have told you. The man that stayed in town  
28 was the same man that covered the garden. I know his name.

29 Q. Was Abu Kanu in charge of the garden?

1 MS THOMPSON: Your Honour, sorry, I rise at this -- I know there  
2 is going to be an objection to that last question. But something  
3 bothers me at this moment. My learned friend has mentioned the name  
4 Abu Kanu, which came from the witness. But before that name came from  
12:32:33 5 the witness, he alluded to that name which is the reason I got up the  
6 last time. Now, I think he got that name from a particular document  
7 which we do not appear to have here. So, I don't know, is there another  
8 document that my learned friend has which we do not have, such as  
9 another proofing? None of us have a document with the name Abu Kanu on  
12:32:53 10 it. I think it was a name that came from him in the first place.

11 A. That of Abu Kanu?

12 JUDGE SEBUTINDE: I don't think the name Abu Kanu came from  
13 counsel. The name came clearly from the witness.

14 MS THOMPSON: I think it did come from counsel. Before --  
12:33:13 15 counsel mentioned it before we objected saying --

16 JUDGE SEBUTINDE: No, I don't remember counsel initiating  
17 that name.

18 MS THOMPSON: Your Honour, can we check the records,  
19 please, just to be on the safe side?

12:33:26 20 MR WERNER: If I can just -- I heard in good faith Abu Kanu  
21 being translated in my head and that's the reason why I got the  
22 name.

23 JUDGE SEBUTINDE: What I recall is Mr Metzger stood up to  
24 object because counsel was about to lead a witness. He did not  
12:33:43 25 give him a chance to even ask anything, but for sure the name  
26 Abu Kanu did not come from counsel to my recollection.

27 MS THOMPSON: I stand corrected, Your Honour.

28 JUDGE SEBUTINDE: The name came from the witness. The  
29 spelling came from counsel.



1 MS THOMPSON: Yes, I know the spelling came from -- I think  
2 counsel mentioned the name. He may have -- he did say later that  
3 he pre-empted the next answer, that was his word that he  
4 pre-empted the next answer. The words Abu Kanu came from him  
12:34:10 5 before we then got up to say that he -- in the translation the  
6 transmission did not say Abu Kanu. Counsel said Abu Kanu and  
7 that name did not come from the translation and that's when he  
8 asked his next question. We can check the records if that is the  
9 case.

12:34:26 10 JUDGE SEBUTINDE: In any event, the name is now in the  
11 records. I am not sure at this stage what the objection is.

12 MS THOMPSON: Your Honour, I have not got an objection, I  
13 just needed to know whether there was another document that he  
14 has got that we have not.

12:34:45 15 MR WERNER: There is none. There is none.

16 PRESIDING JUDGE: Very well. Does that answer your  
17 question, Ms Thompson, that there is no other document? I know  
18 you are awaiting the four pages of 710.

19 MS THOMPSON: We have got that now.

12:35:06 20 PRESIDING JUDGE: We can now proceed. Please proceed.

21 MR WERNER: I understood there was going to be a second  
22 objection.

23 MR METZGER: It was my understanding that my learned friend  
24 was about to embark on a leading question and I was about to  
12:35:19 25 object to that.

26 PRESIDING JUDGE: I was about to comment on that also.  
27 Please do not lead the witness.

28 MR WERNER:

29 Q. Mr witness --

1 A. Yes.

2 Q. What was the name of the person in charge in the garden?

3 A. From the town to the garden what I understood he was called  
4 Captain Richin. He was their captain. That is what I was told  
12:36:10 5 by Abu Kanu.

6 Q. Captain Ritchie. R-I-C-H?

7 A. Richin.

8 Q. Okay.

9 JUDGE SEBUTINDE: Mr Interpreter, let the witness say this name  
12:36:27 10 again and then interpret it exactly as he said it.

11 THE WITNESS: Captain Richin.

12 MR WERNER: I have Ritchie and he said Richin, so I am  
13 going to spell Richin and it is not -- it is Ritchie in the  
14 statements. So Richin would be --

12:36:46 15 MR METZGER: No.

16 PRESIDING JUDGE: If you don't know the actual spelling,  
17 then we are all speculating on this spelling.

18 JUDGE SEBUTINDE: Does the interpreter -- perhaps if the  
19 interpreter is aware of this name? Is this a common name that  
12:37:02 20 you can spell for us, Mr interpreter?

21 THE INTERPRETER: Well, no, from the pronunciation it is  
22 Richin. R-I-C-H-I-N. Richin. Because the problem is that the  
23 Temne speaker they have these C-H sounds and that man I am  
24 sure speaks the Yoni dialect according to the understanding of  
12:37:26 25 the interpreter. So the only dialects have this C-H and that is  
26 what the witness used.

27 JUDGE SEBUTINDE: Now, counsel, would you more or less  
28 agree, Prosecution counsel that is, would you agree that this is  
29 a fair spelling?

1 MR WERNER: Absolutely.

2 MR FOFANAH: Just another point, Your Honours. If only  
3 counsel can refrain a bit to referring to the statement because  
4 that statement is not in evidence when spelling the names of  
12:37:50 5 those mentioned by the witnesses. I mean at least we -- yes,  
6 because often there are attempts made by counsel to at least  
7 refer to the statement in trying to spell out names of people  
8 mentioned by the witness.

9 PRESIDING JUDGE: Mr Fofanah, what other source would  
12:38:09 10 counsel have in the document compiled by him? He is spelling at  
11 the request of the Bench.

12 MR FOFANAH: Yes, I stand guided, but I think what the  
13 witness says is what the Court is guided by.

14 PRESIDING JUDGE: We have now recorded what the witness  
12:38:25 15 said.

16 MR FOFANAH: As Your Honour pleases.

17 PRESIDING JUDGE: Please proceed.

18 MR WERNER: Thank you, Your Honour.

19 Q. Mr Witness --

12:38:39 20 A. Yes.

21 Q. Did Captain Richin belong to a group?

22 A. I saw him -- I saw him uniform and the soldier's uniform.

23 Q. Let me ask you the question again. If you do not know, you  
24 do not know. Do you know if he belonged to a group or you don't  
12:39:13 25 know?

26 A. Well, I understood that he belonged to the group of  
27 soldiers.

28 Q. Now Mr Witness --

29 A. Yes.

1 Q. Where was Captain Richin staying?

2 A. He was at Rochendekom. That was where he was based.

3 PRESIDING JUDGE: I did not catch the name given by the witness.

4 JUDGE LUSSICK: It is the interpreter that we can't hear.

12:40:17 5 If you could only speak up, please, Mr interpreter.

6 THE INTERPRETER: Rochendekom. Rochendekom.

7 MR WERNER: The same name which appeared before and I was  
8 unable to assist the Court about.

9 JUDGE SEBUTINDE: Mr Interpreter, can you spell that name  
12:40:41 10 for us? Are you able to spell that name for us?

11 THE INTERPRETER: Yes. R-O-C-H-E-N-D-E-K-O-M.

12 Rochendekom.

13 MR WERNER:

14 Q. Now Mr Witness --

12:41:00 15 A. Yes.

16 Q. You said that you saw soldiers in the garden.

17 A. Yes.

18 Q. Now, how old were these soldiers?

19 A. They have there?

12:41:45 20 Q. I am happy to re-phrase. I am happy to rephrase. Mr  
21 Witness --

22 A. Yes.

23 Q. You told us that you saw soldiers. Now, how old were the  
24 youngest soldiers you saw in the garden?

12:42:05 25 MR METZGER: And now I rise to object. It may be just it is the  
26 hour and people are getting tired, but it would seem to me that my  
27 learned friend again has, as it were, by-passed the foundation and  
28 started trying to build a roof in this area. Perhaps it is that point  
29 where we ought to take our short adjournment.

1           PRESIDING JUDGE: Counsel, I have actually got two  
2 questions down here and I have no answer to either of them.  
3 which one are you putting and as soon as we clarify and have that  
4 on record and an answer we will adjourn because it is now time  
12:43:27 5 for the lunchtime adjournment. So I have two questions that I do  
6 not know which is which.

7           MR WERNER: Yes. My understanding that for question  
8 answered was that there were soldiers in the garden now. The  
9 question I wanted to ask was: "How old were the youngest  
12:43:44 10 soldiers you saw in the garden?" That is the question I wanted  
11 to ask.

12           MR METZGER: And that's the question I wanted to object to.

13           PRESIDING JUDGE: Is your objection on the grounds of  
14 foundation?

12:44:02 15           MR METZGER: My objection is on the grounds of foundation.

16           PRESIDING JUDGE: There is some validity in that because we  
17 have not ascertained yet that there was a range of ages of these  
18 soldier or they were the same age or anything else. So we will  
19 have to clarify that point before and since it is just after  
12:44:23 20 [sic] the lunchtime adjournment will adjourn now and allow you to  
21 rethink this out. Madam Court Attendant -- just pause please,  
22 Counsel. Mr Witness, we are going to adjourn for the lunchtime  
23 adjournment.

24           THE WITNESS: Yes.

12:44:34 25           PRESIDING JUDGE: Between now and the time that all of your  
26 evidence is told to the Court you should not discuss your  
27 evidence with anyone else.

28           THE WITNESS: Yes.

29           PRESIDING JUDGE: Do you understand? Did you understand

1 what I said?

2 THE WITNESS: Yes.

3 PRESIDING JUDGE: Thank you.

4 THE WITNESS: Okay.

12:45:11 5 [Luncheon recess taken at 12.48 p.m.]

6 [On resuming at 2.20 p.m.]

7 [TB140405D - RK]

8 PRESIDING JUDGE: Yes, please proceed. There are no

9 matters. Please proceed.

14:20:16 10 MR WERNER: Thank you. First I would like to apologise. I

11 was told by the Translation Unit there was a problem with my mic

12 and I was not always understood. I should have thought about

13 that. I apologise for that. I hope it will be okay now.

14 Q. Good afternoon, Mr witness?

14:20:39 15 A. Okay, good afternoon.

16 Q. Mr witness --

17 A. Yes.

18 Q. -- before the break you told us about soldiers in the

19 garden. Now, are you able to say, Mr witness, whether the

14:21:18 20 soldier you saw in the --

21 A. That was what I said.

22 Q. -- the soldier that you saw in the garden were roughly of

23 the same age or were they of different ages?

24 A. I cannot explain clearly on that.

14:22:04 25 MR WERNER: I'm sorry, Your Honour, I have a problem with

26 my -- I'm going to try to fix it now.

27 PRESIDING JUDGE: Mr Werner, do you require assistance from

28 the audio --

29 MR WERNER: Yes, yes.

1           PRESIDING JUDGE: Madam Court Attendant, would you ask  
2 someone to assist counsel, please.

3           MR WERNER: Would it be possible just to have the answer  
4 again?

14:22:46 5           PRESIDING JUDGE: Mr Interpreter, please repeat the answer  
6 for counsel.

7           THE INTERPRETER: would the attorney please put the  
8 question again.

9           PRESIDING JUDGE: Mr Werner, I have recorded "I cannot  
14:22:56 10 explain clearly on that."

11           MR METZGER: About the ages, I think.

12           PRESIDING JUDGE: About the ages.

13           MR WERNER:

14 Q. Now, Mr witness --

14:23:21 15 A. Yes.

16 Q. Before the break you told us that Captain Richin was in  
17 charge of the soldiers. Now, do you know if that group of  
18 soldiers had a name?

19 A. Yes, I later understood that they had another name.

14:23:56 20 Q. What is that name?

21           MR METZGER: Objection. The witness has given --

22           THE WITNESS: They were called the SLAs.

23           MR METZGER: On this occasion I wasn't quick enough. The  
24 objection again in relation to foundation, and I would urge my  
14:24:14 25 learned friend to use his best endeavours to elicit the evidence  
26 from his witnesses in proper and manner.

27           PRESIDING JUDGE: Mr Metzger, we note that in the form of  
28 an objection.

29           Please proceed, Mr Werner.

1 MR WERNER:

2 Q. Mr witness, you said you were told later, when were you  
3 told that they had another name?

4 A. Yes, yes.

14:24:58 5 JUDGE SEBUTINDE: Counsel, the witness did not say he was  
6 told by anyone. He said he understood, "Later I understood."

7 MR WERNER: I apologise.

8 Q. Mr witness, you said that you later understood that the  
9 group had another name. When did you understand that?

14:25:22 10 A. Yes. Because I was told later.

11 Q. Can you be a little bit more specific about when was later?

12 A. Yes, I can tell.

13 Q. Please do so, Mr witness?

14 A. That was the time when I was with the person that aided me  
14:25:56 15 to talk to them. That was the time that I knew they were called  
16 SLA.

17 Q. And who told you that?

18 A. He was called Mr Lamin.

19 Q. And just for the sake of clarity, what did he tell you?

14:26:13 20 A. He told me that they were SLAS.

21 JUDGE SEBUTINDE: Spelling please.

22 MR WERNER: Mr Lamin, L-A-M-I-N. I believe that is the  
23 name in the statement.

24 Q. Mr witness --

14:26:48 25 A. Yes.

26 Q. -- you told us that you arrived in this garden. Now, my  
27 question is: what happened then after you arrived?

28 A. When we went to the garden, the soldiers captured us.

29 Q. When you say "us," Mr witness, could you be more specific?



1 who are us?

2 A. What I meant by "us," we were many. That was why I said  
3 they captured us.

4 Q. Could you try to be more specific on the identity of us.

14:27:51 5 I understand you were many, but who was with you at that time.

6 A. I was with my wife, children. We were 55, we were 55.

7 Q. How do you know, Mr Witness, that you were 55 in the group?

8 A. At the time they captured us, they lined us and registered  
9 our names and they counted us.

14:28:47 10 Q. Mr witness, what happened after that?

11 A. After that I saw with one woman called Adama Sankoh. She  
12 was captured.

13 Q. And where was she staying?

14 A. All of us were in the bush, but they were the first people  
15 that were captured.

14:29:32

16 Q. Was she staying with anybody?

17 A. Yes, it was Mr Lamin who captured her.

18 Q. And who was Mr Lamin?

19 A. It was the man that I told you that he told me that they  
20 were the SLAs.

14:30:04

21 Q. And was he doing anything in the garden, Mr Lamin?

22 A. Well, they were the soldiers. They gave me what to do  
23 while I was under his control.

24 Q. Which work?

14:30:32

25 A. I built some booths for him.

26 JUDGE LUSSICK: I wonder if the interpreter is speaking  
27 directly into the microphone. The witness said he did some work.  
28 Did he say he was making boots?

29 MR WERNER: Yes, yes.

1 JUDGE LUSSICK: Boots, thank you.

2 THE WITNESS: Booths, booths, where people slept in.

3 MR WERNER: I think there was a confusion. It is booth.

4 Q. Mr Witness, did you build these booths by yourself?

14:31:46 5 A. Yes. Yes, I built them. That was the job Mr Lamin gave me  
6 to do.

7 Q. How long did it take you to build these booths?

8 A. We were two. We built two houses in two days.

9 Q. Who was the other one?

14:32:27 10 A. He too was captured.

11 Q. Now, what -- you said you did that for two days. During  
12 these two days, what did the other civilians in the garden do?

13 A. The day we started fetching sticks, we saw some of our  
14 colleagues. Abu Kanu came and called them to go to the direction  
14:33:25 15 of the town. They were going towards the town. As we were doing  
16 the building job, we did not know what he was going to do with  
17 them. We were in this job. We went into the bush to cut some  
18 sticks; the ones that we would use to build. Amongst the people  
19 that were captured, there I met seven people killed in the bush.  
14:34:12 20 That was where I met my child's corpse. During that time I came  
21 in a galaxy of confused thought where I was doing the building.  
22 We were about to run away, but there was no chance. Anywhere you  
23 go you meet them. We continued the job with in this galaxy of  
24 confused thought until we finished the job the other day.

14:35:03 25 Q. Yes, just pause for one second. I'm going to come back  
26 point by point to what you said. You said that some of your  
27 colleagues left the garden. Now, could you be more specific  
28 about that, please. Who were the people who left the garden?

29 A. The ones that they captured with us. They called them and

1 they asked them to go from among these people.

2 Q. I would like to clarify that point and to remind you about  
3 the protective measures in place and that you should not disclose  
4 your identity. Now, again, who were these people who left the  
14:36:07 5 garden?

6 A. The people with whom we were captured together, Abu came  
7 and called them. Do you understand me?

8 Q. Yes. Could you give some names or if the names are going  
9 to reveal in any -- if these names are going to reveal your  
14:36:47 10 identity, could you give us the first name of some of these  
11 people who left the garden.

12 A. Amongst our own people?

13 Q. Yes.

14 A. The ones that they asked to follow the road?

14:37:30 15 Q. No, the ones who left the garden.

16 A. You want to put me in a confused state.

17 Q. I'm sorry about that, Mr witness. Let me ask you that  
18 again. You told us that Abu Kanu left the garden with some of  
19 your colleagues. Now, I'm asking you if you can give this Court  
14:38:03 20 names of these colleagues?

21 A. Yes.

22 Q. Please do so, did you could, Mr witness.

23 A. The ones that I went with that I have never seen since  
24 then?

14:38:37 25 Q. Yes, who were they.

26 A. They went with Teomoh [phon], Pa Brima, Yaiye [phon],  
27 Mohammed, Sudan, Fatmata, Santigie, from amongst -- is it seven?  
28 Is it not seven? From among these seven, those are the ones that  
29 I met in the bush that they've already killed.

1 Q. Mr Witness --

2 A. Yes, yes.

3 Q. -- I'm not talking now about what you saw in the bush later  
4 on. I'm talking about when the people in the garden while you

14:39:44 5 were building the booth when they left with Abu Kanu. I'm  
6 talking about that, not later. Do you understand me?

7 A. Yes.

8 Q. Now, let me try another way. You told us that your  
9 colleagues left with Abu Kanu. How many people -- how many  
10 people left the garden?

14:40:09 11 A. From the time we were captured they were 47. These are the  
12 people since then I've never seen them.

13 Q. So 47 people left the garden with Abu Kanu?

14 MS THOMPSON: Your Honour, that wasn't the evidence.

14:40:36 15 [Overlapping microphones]

16 THE WITNESS: Yes.

17 MS THOMPSON: My learned friend then put another question:  
18 "So 47 people left the garden."

19 MR WERNER: I will rephrase. I will rephrase.

14:40:46 20 MS THOMPSON: No, I think you ought to make clear for us as  
21 to whether in fact you and your witness are talking about the  
22 same thing.

23 JUDGE SEBUTINDE: Also - and to avoid interrupting you  
24 later - we have agreed in this Court that when you elicit an  
14:41:04 25 answer that has a name, counsel has a duty to spell that name for  
26 us, either through the witness himself or yourself. And if you  
27 are not able to, that is when we call on the interpreter.  
28 I really do not wish to interject every now and then, but my  
29 record is blank where the names are concerned.

1 MR WERNER: I hope to cover that ground again and to make  
2 that clear.

3 Q. Now, Mr Witness --

4 A. Yes.

14:41:28 5 Q. -- when did these 47 people leave the garden with --

6 MS THOMPSON: Your Honour, he's repeating the question  
7 again. We need to know whether or not the 47 people that the  
8 witness spoke about are the same 47 people my learned friend is  
9 talking about. I'm no more clearer than I was two or three  
10 minutes ago.

14:42:01

11 THE WITNESS: These were all our people in the town. They  
12 were the people captured with us.

13 PRESIDING JUDGE: Mr Werner, there is a reference to 47 and  
14 there is a reference to seven. I appreciate your -- is there a  
15 difference, first of all?

14:42:22

16 MR WERNER: Yes.

17 PRESIDING JUDGE: And we would really need to get a logical  
18 sequence of what happened and whether there are two different  
19 groups, whilst avoiding leading the witness.

14:42:37

20 MR WERNER: Yes.

21 Q. So, Mr Witness --

22 A. Yes.

23 Q. -- how many people did leave the garden with Mr Abu Kanu?

14:43:15

24 A. When they left, I said that they were 47 and these people I  
25 have not been able to see up until now.

26 Q. Just a minute. Now, when did these 47 people leave the  
27 garden with Abu Kanu, when?

28 A. In the morning.

29 Q. How long had you been working in the garden when they left

1 with Abu Kanu?

2 A. From the morning up to midday. I was not able to see them.

3 Q. Okay. Mr witness, you told us that you worked two days to  
4 build the booth; do you remember that?

14:44:35 5 A. Yes. Yes, yes that was what I said.

6 Q. Now, after how many days that you were working in the  
7 garden did these people leave with Abu Kanu?

8 A. It was three days, but I did not start to work on the day  
9 that I started working. The third day was the time that Abu Kanu  
14:45:15 10 came and took these people away.

11 Q. I will try to clarify that. You said the third day. Do  
12 you mean the third day after your arrival in the garden?

13 A. Yes, that was what I said.

14 Q. Now, did you know anyone out of this group of 47 people who  
14:45:58 15 left with Abu Kanu?

16 A. In fact, some of them were my children, some of them were  
17 my brothers and sisters.

18 Q. So could you tell this court the name of the ones who were  
19 part of your family, reminding that you should not disclose your  
14:46:42 20 identity.

21 A. Yes, I was just -- well I just want to tell you, give you  
22 general names. I wouldn't like to specify those of my family.

23 Q. Could you -- without specifying the full name, could you  
24 tell us the first name of anyone who was part of your family,  
14:47:30 25 only the first name, if you could.

26 A. Yes.

27 Q. Please do so.

28 A. well, I -- well, I the witness lost one of my child. I saw  
29 the corpse of that particular child.

- 1 Q. We'll talk about that. First, what is the name of your  
2 child, first name?
- 3 A. He was called Santigie.
- 4 Q. And did he leave the garden that day?
- 14:48:21 5 A. Yes, he was amongst the group that Abu Kanu took away.
- 6 Q. Just pause there. So Santigie, S-A-N-T-I-G-I-E. Now, out  
7 of these 47 people, were there anyone else from your family?
- 8 A. I had them there.
- 9 Q. Could you give their first names, please. Slowly?
- 14:49:23 10 A. My other brother had eight children.
- 11 Q. Wait, one second. What is the name, the first name of your  
12 elder brother.
- 13 A. Mr Abdul.
- 14 Q. Just pause for one second, A-B-D-U-L. Now, was there  
14:50:02 15 anyone from Abdul's family in this group?
- 16 A. His children and his wife and his mother-in-law were all  
17 staying together. These summed up to eight.
- 18 Q. How many children?
- 19 A. The children were six.
- 14:50:52 20 Q. So just to have that clear six children, one wife and one  
21 mother-in-law for Abdul's family?
- 22 A. Yes. Yes.
- 23 Q. Was there anybody else from your own family?
- 24 A. Yes.
- 14:51:19 25 Q. Could you tell this Court who he or she was?
- 26 A. Yes, I will tell this Court Pa Idrissa.
- 27 Q. I-D-R-I-S-S-A, Idrissa, and I believe he said Pa Idrissa.  
28 Was there anyone in this group of Pa Idrissa's family?
- 29 A. His four children and his wife.

1 Q. Now, was there anyone else from your own family in this  
2 group of 47?

3 A. Yes, there was another one.

4 Q. Could you tell us his name?

14:52:46 5 A. Almamie's children.

6 Q. Was Almamie in the group?

7 A. No, they took his children away. They did not take him  
8 away.

9 Q. So A-L-m -- sorry, I start again. A-L-M-A-M-I-E, Almamie.  
14:53:25 10 Now, just for the sake of clarity, because I want it to be  
11 absolutely clear. Mr witness, you told us that Abdul's family  
12 left with Abu Kanu. Did Abdul himself leave the garden with  
13 Abu Kanu.

14 A. No, he did not go with them; he remained. Up 'til now he  
14:54:12 15 is there.

16 Q. Now, you told us that Idrissa's family went with this group  
17 of 47. Did Idrissa go with the group?

18 A. No, he didn't go; he remained. It was only those five that  
19 left.

14:54:52 20 Q. Now, did you know anyone else in this group of 47 which  
21 left with Abu Kanu?

22 A. Yes, I knew them.

23 Q. How many of them did you know?

24 A. The other lady, Yaiye and her three children.

14:55:42 25 Q. Just pause here, Mr Witness. I do not know this name.

26 JUDGE SEBUTINDE: Can Mr Interpreter assist us in spelling  
27 the name the witness has just given?

28 THE INTERPRETER: Y-A-I-Y-E.

29 PRESIDING JUDGE: Thank you.



1 THE INTERPRETER: welcome.

2 MR WERNER:

3 Q. Now, Mr witness, I'm not asking about all the names,  
4 I would just like to know how many people -- sorry, I will  
14:56:30 5 rephrase. Did you know anyone else in this group of 47 which  
6 left the garden?

7 A. I knew all of them because all of us were together in town.

8 Q. Now, what happened -- did anything happen after the time  
9 when you saw these 47 people leaving with Abu Kanu? Did anything  
14:57:19 10 happen?

11 A. what I saw was what I started explaining and you said  
12 I should stop.

13 Q. Yes, I apologise for that, Mr witness. It is just that we  
14 need to go little bit by little bit.

14:57:52 15 A. well, I'm not angry about that.

16 Q. I'm grateful. Again, I'm repeating the question. So did  
17 you see anything after these 47 people left the garden?

18 A. Yes, something happened. I saw all that with my eyes in  
19 the bush.

14:58:26 20 Q. what happened?

21 A. when we went into the bush, you know, to cut the sticks,  
22 I found seven corpses who were killed in the bush.

23 Q. when did you go to fetch sticks in the bush? when?

24 A. The morning that they took them, it was in the afternoon  
14:59:08 25 that I went there.

26 Q. was anyone with you?

27 A. Yes, we were two working on these booths, so it was both of  
28 us that went into the bush and saw all that happened.

29 Q. what did you see?

1 A. Well, this confusion, that was why I did not, sir, accept,  
2 you know, to come and explain to these people. You see the  
3 feeling that I have today is just equal to the one that I had on  
4 the day that I saw these corpses. When I went through the bush,  
15:00:14 5 I found out that they had killed my son, plus six other people  
6 that were killed, you know from our village. I saw seven of  
7 them.

8 Q. Mr Witness, I understand how painful it is. Can you try as  
9 best as you can?

15:00:41 10 A. It is painful.

11 Q. Mr Witness, would you like to --

12 PRESIDING JUDGE: Would the witness like to have a short  
13 break?

14 THE WITNESS: Let's just continue. I'll go on, gradually,  
15:01:09 15 because once I'm finished, you see everything is finished. Let  
16 us go gradually.

17 PRESIDING JUDGE: Thank you, Mr witness. If you feel very  
18 distressed, you must tell us.

19 THE WITNESS: Let us just go gradually.

15:01:27 20 MR WERNER:

21 Q. I will do my best, Mr witness.

22 A. Okay, I will try.

23 Q. Now, you say you saw seven people and you talked about your  
24 son. Now, did you recognise anyone else? And again I have to  
15:02:07 25 warn you about not disclosing your identity.

26 A. I knew all of them.

27 Q. Mr Witness --

28 A. Yes.

29 Q. You told this Court about your son. What was his name?

1 A. I explained to you that he was called Santigie.

2 Q. Now, I'm not going to ask you about the names of the six  
3 other persons. What I would like to ask you is that was anyone  
4 else part of your family?

15:03:18 5 MR METZGER: At this point in time I do object. Apart  
6 from --

7 THE WITNESS: The ones that I met in the bush?

8 MR METZGER: Could the witness just wait for the moment,  
9 please. Apart from the long drawn-out nature of the  
15:03:35 10 cross-examination, I think he has given to the evidence. Unless  
11 my learned friend is again referring to another document that is  
12 not with us, I don't see why he is whipping this particular piece  
13 of evidence. If there is something else he's expecting to come  
14 out, perhaps we ought to know what it is.

15:03:57 15 PRESIDING JUDGE: For clarification, Mr Metzger, are you  
16 saying that this line of evidence was not disclosed?

17 MR METZGER: It certainly seems to me that from the  
18 documentation that I have now seen that up until the point that  
19 we have got has been disclosed, but I see no continuation and no  
15:04:19 20 point in asking this particular witness about names of other  
21 people amongst the seven. I could be wrong about that.

22 PRESIDING JUDGE: I'm just trying to ascertain the basis of  
23 your objection. It is because of disclosure or what is the  
24 basis, please?

15:04:38 25 MR METZGER: On the basis that this is a witness who is  
26 being examined-in-chief. This particular piece of evidence has  
27 been gone over on, I think, at least four occasions.

28 PRESIDING JUDGE: You're objecting on the grounds of  
29 repetition.

1 MR METZGER: One, on the grounds of repetition. Secondly,  
2 if he is seeking to elicit names, then I would object to that on  
3 the basis of nondisclosure.

4 PRESIDING JUDGE: Your reply, Mr Werner.

15:05:07 5 MR WERNER: On the first ground, I was just trying to have  
6 the witness going step by step, because it seemed to me that the  
7 first time he just gave his evidence, so that was not clear  
8 enough. There was a confusion between the 47 and the seven.  
9 That was the first ground. For the second ground, it was

15:05:28 10 disclosed in March 2005 that there was six other people he saw.

11 PRESIDING JUDGE: I may be wrong, but my understanding is  
12 that disclosure was relating to names. Is that correct,  
13 Mr Metzger?

14 MR METZGER: There was no disclosure relating to names, and  
15:05:59 15 also in any event, although we haven't taken objection to it thus  
16 far, sympathetically, if I can put it that way, said disclosure  
17 could only have been served on us after the 16th of March, which  
18 is under the 42-day period.

19 MR WERNER: I would just like to make clear that I said  
15:06:23 20 expressly that I did not want any names. I just trying to  
21 ascertain if there was any one of his family. I was going to  
22 stop there. There was nothing else I was going to elicit.

23 PRESIDING JUDGE: Mr Metzger, in the light of that  
24 clarification of counsel for the Prosecution, are you pressing on  
15:06:43 25 the point that he is questioning only in relation to family  
26 members?

27 MR METZGER: No, no, I won't press that.

28 PRESIDING JUDGE: Thank you. In the light of that, your  
29 statement, Mr Werner, you should limit yourself to that

1 particular point.

2 MR WERNER: I will, Your Honour.

3 Q. Now, Mr witness, you told us about seven --

4 A. Yes, yes.

15:07:14 5 Q. You told us about seven people. You told us about your son  
6 and you are gave us his name. was anyone else a part of your  
7 family in this group of seven people? And again, I'm not asking  
8 you for names. I just want to know if anyone else was part of  
9 your family.

15:07:37 10 A. Out of these 47.

11 Q. No, out of the seven people you saw when you were going to  
12 fetch sticks?

13 A. I said I knew all of them, the seven. In fact, the sixth  
14 was my son. I knew all of them.

15:08:22 15 MR WERNER: I will move on. I will move on.

16 Q. Mr witness --

17 A. Yes.

18 Q. -- did you look at these corpses?

19 A. The seven?

15:08:43 20 Q. Yes.

21 A. I looked at them.

22 Q. Did you notice anything about the corpses?

23 A. Yes.

24 Q. Could you tell this Court what you noticed?

15:09:10 25 A. Well, this is the purpose of my coming here, to explain to  
26 the Court.

27 Q. We're listening to you, Mr witness.

28 A. I saw blood on them. I saw sticks by them. Some -- there  
29 was one that was hit and by then he was struggling to die and the

1 other I saw blood oozing from his head. These are the things  
2 that I saw on the corpses.

3 Q. After having seen that, Mr witness, did you do anything?

4 A. I just went out weeping. In fact, I had to do it silently,  
15:10:16 5 because if they had seen me weeping, that would have been a  
6 problem.

7 Q. Did you try to do anything with the corpse of your son,  
8 Mr witness?

9 A. I did not have that opportunity.

15:10:38 10 Q. Why not?

11 A. Because I was -- I was also in a terrible fear. You see, I  
12 was very jittery.

13 Q. Now, Mr witness, you told us about 47 people leaving the  
14 garden.

15:11:10 15 A. Yes.

16 Q. Now you just told us about these seven -- let me rephrase.  
17 Let me rephrase.

18 MR WERNER: Can I take instructions for one second?

19 PRESIDING JUDGE: From -- oh, from senior counsel.

15:11:43 20 [Prosecution counsel confer]

21 MR WERNER: Thank you, Your Honour.

22 Q. Mr witness --

23 A. Yes.

24 Q. -- the seven people that you saw and you just told us  
15:12:36 25 about, did they belong to the group of 47 which left the garden?

26 MR METZGER: Objection. Asked and answered.

27 THE WITNESS: Yes.

28 MR WERNER:

29 Q. Now, do you know what happened to the other 40 people of

1 this group?

2 A. Well, we were not able to see them up to now. We saw the  
3 others that had been killed.

4 Q. Now, do you know what happened to them?

15:13:35 5 MR METZGER: Objection. Basis.

6 THE WITNESS: What did he say?

7 PRESIDING JUDGE: Just a minute, Mr Werner. You're asking  
8 him: "Do you know what happened?" He said: "We were not able  
9 to see them up 'til now." Are you asking him has he had any  
10 direct information or -- or what exactly are you asking him? We  
11 want to be clear on that. Something within his knowledge.

12 MR WERNER: Yes, I would like to know if he knows what  
13 happened to them.

14 PRESIDING JUDGE: Well, he said he didn't see them. So are  
15 you asking him was he informed or did he receive a report or how  
16 exactly can you elicit such evidence from the witness?

17 [TB140405E - CR]

18 MR WERNER: Should I explain to you what I am trying to  
19 elicit, or can I ask the question?

15:16:21 20 PRESIDING JUDGE: In fact, there has been an objection, so  
21 it would be proper to reply to the objection. Then we will rule  
22 upon it.

23 MR WERNER: I'm trying to know if the witness -- maybe the  
24 witness should have his earphones taken --

15:16:42 25 JUDGE LUSSICK: Look, you're going to tell him now what  
26 answer you're seeking to a question that's been objected to.  
27 There is a simple way to ask that question that could not be  
28 objected to. I suggest you rephrase the question. I think this  
29 objection should be upheld.

1 MR WERNER: So let me try to rephrase my question.

2 Q. Mr Witness, you told us that you never saw the 40 people  
3 again. My question is: have you got --

4 A. Up to now, I have not been able to see them.

15:17:25 5 Q. Just listen to my question. Have you got any information  
6 or any sort of information as to what happened to these 40  
7 people?

8 A. From the time that we came back, we saw some evidence.  
9 From the time that we went into the bush and saw those seven  
10 people, so we saw some evidence.

11 Q. Please tell us about this evidence.

12 A. We saw some heaps as though these heaps were potato leaves  
13 and we saw some sticks in these heaps. And the place was -- the  
14 order of the place was so bad.

15:18:50 15 Q. Now, Mr Witness, I'm going to take you back to the time  
16 that Abu Kanu was taking the 47 people from the garden. I have  
17 two questions about that. Were there any soldiers other than Abu  
18 Kanu with the group of 47 people?

19 A. Well, he was not alone. The only thing was that it was  
15:19:49 20 only he that I knew, but there were so many that were together.

21 Q. Could you try to be more specific? Could you give us a  
22 figure of how many of them were there.

23 A. I only guess. They should be around 100. I was very, very  
24 far. I just saw people going, going.

15:20:29 25 Q. Were they carrying anything?

26 MS THOMPSON: Your Honour, might I ask my learned friend  
27 who we are talking about. The answer was people just going. I'm  
28 not sure now whether we are talking about Abu Kanu and his  
29 cohorts, so the other 47. I just need some clarification.



1 PRESIDING JUDGE: The witness said there were around 100  
2 going and that is what is being asked.

3 THE WITNESS: The soldiers.

4 MR WERNER:

15:21:10 5 Q. So who were these 100 people leaving with Abu Kanu?

6 A. His fellow colleagues, his fellow colleagues. He was the  
7 only one whose name I knew. The soldiers.

8 Q. Okay, now I'm talking about the soldiers. Were they  
9 carrying anything, these soldiers?

15:21:36 10 A. They had sticks; they had machetes.

11 Q. Did you ever see those soldiers again?

12 A. Yes. Yes, I saw them back in the garden. Yes, I saw them.

13 Q. Did you see anything else when you saw them back in the  
14 garden?

15:22:18 15 A. Yes, the other they -- they captured another one who run  
16 into them in the evening.

17 Q. Who was he or she?

18 A. Well, they said I should not call any name. He was a man.  
19 He was beaten and they tied him around the waist.

15:22:50 20 Q. Can you tell us his first name, if you know it?

21 A. He was called Canabie. It was a false name.

22 Q. Can you pause for one second, Mr Witness.

23 A. Okay.

24 Q. Canabie is C-A-N-A-B-I-E. Now, when did you see Canabie?

15:23:29 25 A. He was captured in the evening, and they beat him  
26 throughout the night and the morning, they took him along the way  
27 leading to the village.

28 PRESIDING JUDGE: Yes, Mr Metzger?

29 MR METZGER: It is our application that anything relating

1 to this Canabie be struck from the record as it doesn't comply  
2 with the disclosure rules, it not being contained in any document  
3 that we are able to ascertain that was served on us before the  
4 42-day period.

15:24:20 5 MS TAYLOR: Your Honour, if I may respond to that. The  
6 rules of procedure and evidence place an ongoing obligation of  
7 disclosure on the Prosecution. There are a number of authorities  
8 from Trial Chamber I in relation to that obligation. That  
9 obligation continues right up until the moment that the witness  
15:24:41 10 enters the witness box. If that witness has told the Prosecution  
11 something additional, something in clarification, or something  
12 that contradicts an earlier statement, the Prosecution must  
13 disclose that information.

14 In my submission, having information struck is a rather  
15:25:06 15 excessive remedy. If my learned friend is saying that he has  
16 prejudice because he hasn't had this information in time, my  
17 submission would be that my learned friend would have to  
18 establish that to Your Honours' satisfaction. The remedy should  
19 be that my learned friend be given appropriate time to look at  
15:25:26 20 that information rather than have any information excluded.

21 I would note that this material was disclosed on 21 March  
22 2005. Although that is within the 42-day period, the bulk of  
23 this witness's evidence has been known to the Defence in an  
24 unredacted form for in excess of 42 days and in a redacted form  
15:26:18 25 for 18 months. In those circumstances, it would be my submission  
26 that my learned friend has not made out any prejudice.

27 PRESIDING JUDGE: On a point of law only, Mr Metzger?

28 MR METZGER: Well, on a point of information and then a  
29 point of law. First and foremost, this is new information; i.e.

1 it wasn't contained in any of the material beforehand. Secondly,  
2 and I would say this is a point of law, there is an issue as to  
3 relevance.

4 Now the Prosecution could, theoretically, on the basis of  
15:27:03 5 that which has been submitted by my learned friend, continue to  
6 serve material up until two minutes before the witness comes to  
7 give evidence as information comes to their knowledge. However,  
8 experience must be used, and good judgment, particularly when one  
9 is coming to consider what relevance that has on the indictment  
15:27:28 10 as against the accused persons as a whole. It would have, in our  
11 respectful submission, been more prudent for the Prosecution to  
12 seek to call evidence that they can link against the indicted  
13 persons. This does not really add, in my respectful submission,  
14 to this matter at all. Those are my further submissions.

15:29:00 15 JUDGE SEBUTINDE: Ms Taylor, did you say that you disclosed  
16 the evidence regarding Canabie to the Defence at the given time?

17 MS TAYLOR: Yes.

18 JUDGE SEBUTINDE: If you did, could you point us to the  
19 page?

15:29:11 20 MS TAYLOR: Yes, it's on page 7102, and the relevant  
21 paragraph number is 9. That document was filed with the court on  
22 8 April. There was that issue before lunch, Your Honour.

23 JUDGE SEBUTINDE: Did you say paragraph 9?

24 MS TAYLOR: Yes. Your Honours, if you will permit me, the  
15:29:55 25 last three sentences, "His nickname was Canabie, and I knew  
26 him" --

27 PRESIDING JUDGE: Ms Taylor, could you assist us. When do  
28 you say the second document was served electronically?

29 MS TAYLOR: Sorry, I don't think I did say the document was

1 served electronically.

2 PRESIDING JUDGE: When was it served?

3 MS TAYLOR: It was disclosed to the Defence on 21 March and  
4 it was filed with the Court on 8 April.

15:37:04 5 [Trial Chamber confers]

6 PRESIDING JUDGE: This is a ruling of the Court on an  
7 objection by Defence counsel on two grounds: one of relevance  
8 and certainly of this new information. We consider evidence was  
9 disclosed to the Defence and by way of paragraph 9 of 7102 on  
10 21 March 2005. I consider this is in fulfilments of the  
11 continuous duty to disclose. If the Defence is objecting on a  
12 ground of relevance, then this should be cured by allowing time  
13 and not by striking out. Therefore, a strike-out is refused.

14 Pause Mr Werner. In the light of that ruling, Mr Metzger  
15 might have something to say.

16 MR METZGER: I have very little to say. I think I said  
17 what I had to say in relation to the question of relevance. I  
18 think it would be wrong of me to say that I can't deal with any  
19 material that comes, except in so far as it requires us to get  
20 information in, and I hope that that won't be required with this  
21 witness.

22 PRESIDING JUDGE: Mr Werner, in the light of Mr Metzger's  
23 remarks, please proceed.

24 MR WERNER:

15:38:48 25 Q. Mr witness, you said that you saw Canabie being beaten up  
26 during the night, that's what you said. Now, my question is did  
27 you see --

28 A. That is what I said. I said I saw him being beaten in the  
29 evening.

1 PRESIDING JUDGE: I have a note in the evening as well.

2 Take care, Mr Werner, please.

3 MR WERNER: Yes, I apologise for that.

4 Q. Did you see Canabie again?

15:39:30 5 A. In the morning again, I saw them beating him and they took  
6 him along a road. From that time up to now, I have not been able  
7 to see him.

8 Q. Mr Witness, when you say they, they beating him again, who  
9 are they?

15:39:45 10 A. Yes, it was the soldiers that I saw beating him.

11 Q. Now, Mr witness, you told us that you stayed three days in  
12 the garden, and you told us that you saw a group of 47 people  
13 leaving the garden and that you knew all of them. Now, my  
14 question is: did anyone else you knew stay in the garden during

15:40:35 15 these three days?

16 A. Out of the 47?

17 Q. I'm not talking -- I'm leaving the 47 people now. I'm not  
18 talking any more about these 47 people. My question is did you  
19 know anyone else in the garden?

15:41:07 20 A. well, some of us remained there, those of us who were  
21 captured.

22 Q. Mr witness, do you know someone called AB?

23 A. Yes.

24 MR METZGER: With respect, I'm not sure that this is not  
15:41:31 25 leading the witness. A fine example of cross-examination, but I  
26 do remind my learned friend that this is his witness and it has  
27 happened more than once too often, in our respectful submission.  
28 I object to him cross-examining his witness.

29 JUDGE LUSSICK: Yes, I think it is quite clear that leading

1 will be objected to by the Defence. That question in that form  
2 is not allowed.

3 MR WERNER:

4 Q. Mr Witness, you said that some of you stayed in the garden.

15:42:32 5 Now, my question is were there men and women?

6 A. There were women. These were captured by the soldiers.  
7 There were three.

8 Q. Did you know any one of them?

9 A. I knew the three of them, these ladies that were captured.

15:43:09 10 Q. What were their names?

11 A. Well, they said I should not call names because of my life.

12 Q. Just first names, Mr Witness.

13 A. I knew Yebu.

14 Q. Just pause there, Mr Witness. Who was Yebu? Sorry, I  
15 apologise, I'm going to spell it. I apologise for that.

16 A. A woman.

17 MR WERNER: Y-E-B-U.

18 PRESIDING JUDGE: The question again, please, Mr Werner.

19 MR WERNER: Before understanding that I forgot what I  
20 should have done, I just asked who was Yebu.

21 Q. Mr Witness, who was Yebu?

22 A. She was a woman. She was the daughter of my brother.

23 Q. Did you speak with Yebu at that time?

24 A. We later discussed.

15:44:40 25 Q. When did you discuss with her?

26 A. When we have been released, that was the time that we  
27 discussed.

28 Q. What did she tell you? Sorry, did she tell you anything?

29 A. She told me something.

1 Q. Could you tell this Court what she told you?

2 A. She told me that the individual who captured her raped her  
3 and she gave me an example; she brought something to prove that.

4 Q. What was it?

15:45:24 5 A. She fell ill and her vagina got swollen.

6 Q. Mr witness, did she tell you anything else?

7 A. Well, the most acute problem was that of raping her. She  
8 was raped over and over again.

9 Q. Did she tell you who did that?

15:46:18 10 A. Yes. She showed me the name of the individual who did  
11 that.

12 Q. Who was he?

13 A. She said he was called Yellow Man.

14 Q. Now, did you know anyone else in the garden?

15:47:03 15 A. Yes, I knew them. I knew them amongst our own children who  
16 were captured, right up to my wife.

17 Q. Again, reminding you of the protective measure, could you  
18 tell us the first name of your wife?

19 JUDGE SEBUTINDE: Excuse me, counsel, I am getting a bit  
15:47:31 20 confused. You have so far asked this witness to start describing  
21 the people that remained after the 47.

22 MR WERNER: Yes.

23 JUDGE SEBUTINDE: Is that where we're still at?

24 MR WERNER: After --

15:47:45 25 JUDGE SEBUTINDE: After the 47 left the garden.

26 MR WERNER: During this three-day period.

27 JUDGE SEBUTINDE: You should make that clear. I no longer  
28 know what period we're talking about.

29 MR WERNER: I'm now going to clarify that. I apologise for

1 that, Your Honour.

2 Q. Mr Witness, did Yebu tell you when that -- what you have  
3 just described -- happened?

4 A. That was the time that we had been released. That is the  
15:48:32 5 time she explained to me what they did to her.

6 Q. I understand that now, Mr Witness. My question is she  
7 explained that to you after being released. Did she tell you  
8 when what she told you happened?

9 MR METZGER: I object. This time, I object --

15:48:56 10 THE WITNESS: This happened to her at the time that we were  
11 captured. The man who captured her was the one who raped her.

12 PRESIDING JUDGE: Just wait a little moment, Mr Witness,  
13 please.

14 MR METZGER: This time I object along the lines that we  
15:49:09 15 have an identified and identifiable person who, to all intents  
16 and purposes, is present, living and able to give evidence; that  
17 this is not the proper way to adduce evidence where it is  
18 available.

19 The idea of introducing hearsay evidence, in our respectful  
15:49:33 20 submission, is where, largely speaking, that evidence is  
21 unavailable or difficult to find. We have now been placed in a  
22 situation where someone has been identified. Evidence has been  
23 given about what that person said to this witness and, in due  
24 course, if my learned friend wishes to go any further than that  
15:49:59 25 which has so far been disclosed to us, then it would be open to  
26 the Prosecution to call that witness.

27 PRESIDING JUDGE: Aren't the rules relating to evidence and  
28 procedure permit the adducement of hearsay evidence, Mr Metzger?

29 MR METZGER: I accept that it does, and I thought that was



1 inclusive in the submission that I made. That is to say,  
2 although the rules include the adduction of hearsay evidence, and  
3 it really falls to the Trial Chamber to then attach what weight  
4 they will to that particular part of the evidence, it seems to me  
15:50:47 5 that once we have had the evidence, certainly that has been  
6 disclosed to us, that when further detail is being obtained -- I  
7 give as an example the Court will note that the name Yellow Man  
8 doesn't appear, it seems to me, in this disclosure about the  
9 person who has been raping this particular person at paragraph 20  
15:51:25 10 and 21 of the document that we've been looking at.

11 what I am concerned about, and I think it goes for all the  
12 Defence teams, is that particularly in the way in which the  
13 evidence of this witness is being led, that the Trial Chamber is  
14 not particularly being helped and a lot of room for error and  
15:52:10 15 confusion is creeping in. I'm concerned that with adduction  
16 further of hearsay evidence, where it is capable of hearing  
17 first-hand evidence, that one should be very, very careful,  
18 indeed. It is in the light of that that I make this particular  
19 submission.

15:52:35 20 JUDGE LUSSICK: Mr Metzger, correct me if I am wrong, but  
21 there is a case on this point, isn't there, in the ICTY, where  
22 the Court said if a witness is available and not called, it  
23 certainly attacks the weight of the evidence that the Court ought  
24 to give. Am I correct there?

15:52:59 25 MR METZGER: Your Honour's right. I don't have it to hand  
26 at this point in time, which is why I sought not to say it is  
27 supported by this particular authority. If the Court requires,  
28 we can look it up.

29 JUDGE LUSSICK: I can't remember the name myself, but I'm

1 mentioning that it's nothing new that you're bringing up.

2 MR METZGER: I'm very much obliged.

3 PRESIDING JUDGE: I will hear reply by Prosecution. At  
4 that point, we are about time for a brief adjournment. We will  
15:53:31 5 hear reply and then consider it.

6 MS TAYLOR: Your Honours, at least one point we seem to be  
7 in heated agreement about is hearsay is permitted in these  
8 proceedings. The issue for Your Honours is the weight that will  
9 be attached to any such evidence that is adduced in the Court.

15:53:53 10 The fact that a named person has been identified as having  
11 told this witness something does not ipso facto mean that that  
12 person is available and can be called in this Chamber. That is a  
13 leap of logic that just doesn't bear analysis. Further, one of  
14 the reasons hearsay is permissible in international proceedings  
15:54:21 15 is that the nature of the crimes dealt with by international  
16 Courts contain elements such as widespread and systematic. In  
17 those circumstances, the Prosecution bears a very, very heavy  
18 burden to prove all elements of the charges before the Court. To  
19 relieve the Prosecution from the need of calling hundreds, if not  
15:54:45 20 thousands of witnesses to substantiate its counts, it is  
21 permissible for witnesses to give not only direct evidence of  
22 what they saw, did or heard, but what they were told.

23 In circumstances where you have this witness and nearly all  
24 the other witnesses who have been called so far, being in a  
15:55:15 25 situation where they might have been subjected to what the  
26 Prosecution allege is criminal behaviour, and therefore can give  
27 direct evidence of that, they also heard about what the  
28 Prosecution alleged to be criminal behaviour that occurred in  
29 relation to someone else. In those circumstances, to say that

1 the Prosecution has an obligation to call each and every person  
2 that told the relevant witnesses something would mean that the  
3 trial would never end.

4 Your Honours, the Prosecution says that the hearsay  
15:55:55 5 evidence is admissible and Your Honours are professional judges  
6 who will be able to give the appropriate weight to the evidence  
7 depending upon the circumstances in which the hearsay arose, if  
8 Your Honours please.

9 PRESIDING JUDGE: Thank you, Ms Taylor. It is time for the  
15:56:17 10 afternoon adjournment. We will adjourn. We'll take an extra  
11 five minutes and make it a 20-minute adjournment.

12 [Upon adjourning at 3.58 p.m.]

13 [TB140405F-SGH]

14 [On resuming at 4.28 p.m.]

15 PRESIDING JUDGE: This is a decision of the Trial Chamber having  
16:25:53 16 heard both Defence and Prosecution concerning the evidence of this  
17 witness.

18 [RULING]

19 PRESIDING JUDGE: The Trial Chamber adopts and with the  
16:26:03 20 approval and cites part of a decision at paragraph 15 in the case  
21 of the *Prosecutor v Zlatko Aleksovski* from which I now cite: "It  
22 is well settled in the practice of the Tribunal that hearsay  
23 evidence is admissible. Since such evidence is admitted to prove  
24 the truth of its contents, a trial chamber must be satisfied that  
16:26:30 25 it is reliable for that purpose in the sense of being voluntary,  
26 truthful and trustworthy as appropriate and for this purpose may  
27 consider both the content of the hearsay statement and the  
28 circumstances under which the evidence arose. The absence of the  
29 opportunity to cross-examine the person who made the statements

1 and whether the hearsay is first-hand or more removed are also  
2 relevant to the probative value of the evidence. The fact that  
3 the evidence is hearsay does not necessarily deprive it of  
4 probative value. But it is acknowledged that the weight or  
16:27:09 5 probative value to be afforded to that evidence usually will be  
6 less than that given to the testimony of a witness who has given  
7 it in a form under oath." Accordingly, the Trial Chamber  
8 considers that this evidence is admissible and with a person  
9 being absent the matter will go to weight, but it allows the  
16:27:31 10 evidence.

11 MR WERNER: Your Honours, I was required to have my mic  
12 here now, so I hope it will keep improving the situation for the  
13 translators.

14 Q. Mr witness --

16:28:01 15 A. Yes, sir.

16 Q. Before the break you told this Court that Yebu told you  
17 that she had been raped. Now, my question is: Did Yebu tell you  
18 if it was before or after the 47 people leaving the garden with  
19 Abu Kanu?

16:28:28 20 PRESIDING JUDGE: I am a little confused. Are you saying -- Yes,  
21 just pause. She told you she was raped and was it before after the  
22 telling?

23 MR WERNER: No, no, no. He told her that he was told about  
24 that after the event. So now I am trying to answer a question, I  
16:29:05 25 am trying to know if that happened after or before the 47 people  
26 left the garden. If the rape happened after or before the 47  
27 people left the garden. So I will repeat the question.

28 Q. Mr witness --

29 A. well, I have heard. The day we came out of the bush that

1 we are captured, that was the time Yebu was captured by this man.  
2 when those other ones were taken away she was with this soldier.

3 Q. And did she tell you when the rape happened or occurred?

4 A. The very day the man captured him, that was the very day he  
16:30:02 5 started raping him -- raping her, sorry.

6 Q. Now, Mr Witness, before --

7 A. Yes.

8 Q. Before the break, you told us that some people remained  
9 when the 47 people left and that there were three women. Now,  
16:30:27 10 you have told us about Yebu. Did you speak to the other women  
11 about what happened to them in the garden?

12 A. Yes, I discussed with them. We had a talk.

13 Q. With whom did you discuss?

14 A. We discussed with Abie.

16:31:08 15 Q. What did she tell you? Did she tell you anything, sorry.  
16 Did she tell you anything?

17 A. She told me something.

18 Q. What did she say?

19 A. We slept in the same place. That was the place she was  
16:31:29 20 taken at during the night and a man raped her. When she came the  
21 following morning, she told me about it.

22 MR WERNER: So Abie is A-B-I-E.

23 Q. Did you speak with anyone else?

24 A. Yes, with Rugie.

16:32:16 25 MR WERNER: So Rugie is spelt R-U-G-I-E.

26 Q. Did she tell you anything?

27 A. She too, since the time we were captured, the man that  
28 captured her -- shall I continue?

29 Q. Yes.

- 1 A. The man that captured her, I don't know the man's name, the  
2 man continued raping her all the time. I don't know the man's  
3 name, but Rugie told me about that.
- 4 Q. Did anyone else tell you anything?
- 16:33:21 5 A. The other child Kadi-Kadi.
- 6 Q. Just pause for a moment. Could you tell the name again, Mr  
7 witness?
- 8 A. Kadija. Kadi-Kadi. We call her Kadi-Kadi. Kadiatu.
- 9 Q. So, K -- So, Your Honour, I have Kadija here. Kadijatu.
- 16:33:48 10 A. Kadija, Kadija.
- 11 Q. Okay. So Kadiatu. K-A-D.
- 12 MS THOMPSON: Can my learned friend ascertain whether we are  
13 talking about Kadijatu or Kadiatu? They are two different names.
- 14 PRESIDING JUDGE: The witness has given us a specific name.
- 16:34:24 15 MR WERNER: Kadija. I can spell Kadija. K-A-D-I-G-A.  
16 Sorry, G-A. I apologise for that. G-A.
- 17 Q. Now, what did, Mr Witness --
- 18 JUDGE SEBUTINDE: That was J-A, not G-A; right?
- 19 MR WERNER: Right. I apologise.
- 16:35:06 20 Q. Now, Mr witness, what did she tell you?  
21 A. She too told me that when she was captured she was raped.  
22 Q. Did she tell you anything else?  
23 A. well, they used to send them in different areas and they  
24 cooked for them.
- 16:35:39 25 Q. who are "them"?  
26 A. The soldiers.  
27 Q. Mr witness, did you speak with anyone else?  
28 A. Yes.  
29 Q. With whom did you speak?

1 A. Among those -- from those children I got those reports that  
2 this was what was done to them. Except what happened to me that  
3 I have not yet explained.

4 Q. So, let me ask you this question, Mr witness: You told us  
16:36:29 5 that you stayed three days in the garden. What happened after  
6 that?

7 MR WERNER: Sorry, I will re-phrase it.

8 Q. Did anything happen after that?

9 A. Within the three days, after those people had left, well  
16:36:55 10 somebody came and collected me from there.

11 Q. Who came to collect you, Mr witness?

12 A. [Inaudible] soldiers came with a paper saying that we were  
13 wanted at the headquarters.

14 Q. Who are "we"? You say we were wanted?

16:37:23 15 A. We are four in number. We, the people.

16 Q. What happened after that, Mr witness?

17 A. We are taken to the place which they call their  
18 headquarters.

19 Q. Where is it?

16:37:57 20 A. The big town we have there called Nonkoba.

21 Q. Just slow down, Mr witness. I already spelt this name  
22 earlier on.

23 A. Okay.

24 MR WERNER: Can I carry on?

16:38:27 25 PRESIDING JUDGE: Proceed.

26 MR WERNER:

27 Q. So what happened after that, Mr witness?

28 A. Well, they took us to Nonkoba. They made one house which  
29 they called NP office.

1 Q. Mr Witness, where is Nonkoba?

2 A. It is adjacent town. That was where I said Chendekom  
3 Nonkoba.

4 Q. Now, what is the distance, Mr witness, between Chendekom  
16:39:19 5 and Nonkoba?

6 JUDGE SEBUTINDE: No, no, Mr Interpreter, can you --

7 THE WITNESS: It was one mile and a half.

8 JUDGE SEBUTINDE: Please wait, Mr Witness. Mr Interpreter,  
9 can you spell that first name for us?

16:39:37 10 THE INTERPRETER: Do you mean Chendekom, My Honour? Do you  
11 mean Chendekom?

12 JUDGE SEBUTINDE: Yes. Yes.

13 THE INTERPRETER: C-H-E-N-D-E-K-O-M.

14 MR WERNER:

16:40:08 15 Q. Mr witness, is that the same place as the called  
16 Rochendekom?

17 A. Rochendekom Nonkoba. Nonkoba is separate; Chendekom is  
18 separate.

19 Q. Mr witness, just listen to my question. Is Chendekom and  
16:40:42 20 Rochendekom the same? Are they the same places?

21 A. It is the same town. Chendekom, yes.

22 Q. Now, are you able to say, Mr witness, what the distance  
23 between Chendekom or Rochendekom and Nonkoba?

24 A. Yes. Yes. We estimate the distance to be one and a half  
16:41:24 25 miles from Chendekom to Nonkoba.

26 Q. Thank you, Mr Witness. Now, Mr witness --

27 A. Yes.

28 Q. In Nonkoba, do you know if anyone was in charge?

29 PRESIDING JUDGE: In charge of what?



1 MR WERNER: Okay, so let me re-phrase.

2 Q. who was living in Nonkoba, Mr witness?

3 A. It was the soldiers. we met them there. They came and  
4 collected us.

16:42:25 5 Q. Do you know if anyone was in charge of those soldiers in  
6 Nonkoba?

7 A. when they took us there, we knew the man that was in charge  
8 of the NP office that we were taken to.

9 Q. what was his name?

16:42:53 10 A. we heard that he was RS Momoh. He was RSM Momoh, he was in  
11 charge of the NP office.

12 Q. Okay, so Momoh is M-O-M-O-H. Do you know what RSM stands  
13 for?

14 A. Yes.

16:43:16 15 Q. Could you tell this Court?

16 A. No, I cannot explain that precisely. I don't know. I only  
17 heard the name RSM. I don't know.

18 Q. Now, did RSM Momoh belong to a group?

19 A. He belongs to the group of the soldiers. we saw him in  
16:43:56 20 uniform and he had a gun.

21 Q. Mr witness, you said belonged to the soldiers. Did these  
22 soldiers have a name?

23 A. Yes.

24 Q. which name, Mr witness?

16:44:31 25 A. what type of name?

26 Q. I am asking you if you know if the soldiers had a name or  
27 if you don't know --

28 A. I came to understand later that when Mr Lamin told me that  
29 they were SLAs, but when I saw them before that time anybody that

1 was in uniform wore uniform, I knew he was a soldier. So when I  
2 saw Momoh in soldier uniform, I knew that he was a soldier. I  
3 never had the time to ask him again if he were a soldier. I knew  
4 he was because he was in military uniform.

16:45:20 5 Q. Now, listen to me, Mr witness, what happened?

6 A. Yes.

7 Q. What happened in Nonkoba?

8 A. When we arrived four of us they strip us naked and leaving  
9 us with only our pants. They took us and they placed us in one  
16:45:46 10 room which they referred to as a guard room and they locked us  
11 up. We are there round about seven or nightfall. They took us  
12 from the room and placed us in a box.

13 Q. Just pause for one second, Mr witness. When did they take  
14 you in the box?

16:46:26 15 A. Round about six o'clock. Round about six o'clock in the  
16 evening. That was the time they took us from the room and placed  
17 us in the box. We had those boxes in our places. Those are the  
18 boxes we put our harvested rice and the place bricks on us.

19 Q. Just pause for one second, Mr witness. How big was the  
16:46:42 20 box?

21 A. The box? That side was about six feet. The only thing --  
22 I don't have a tape. The other side about six feet. The length  
23 was about seven feet. Four of us were placed in there.

24 Q. Why were you put in this box, Mr witness?

16:47:33 25 A. Well, they took us from where we were. They never told us  
26 anything. When they place us in the guard room and strip us  
27 naked, they only told us to enter the box. The place was there.  
28 We had nothing we did to them. They never explained anything  
29 that we have done to them. Ah me. I feel so bad today.

1 Q. what happened after that, Mr Witness?

2 A. we were in the box until early morning round about four  
3 o'clock. At about down in the morning. what made us realise  
4 that it was four o'clock? There were guards. Those guards

16:48:38 5 were -- we are taken from where we are, then we are taken back to  
6 the guard room.

7 Q. Just pause here one second, Mr witness. Do you know,  
8 Mr witness, why you were released out of the box?

9 A. Yes, I know.

16:48:55 10 Q. [Microphone not activated]

11 A. Yes, I can explain.

12 Q. Please do so.

13 A. So, we were in the box. I heard that there was a paper  
14 that was sent from Lunsar. During that time Lunsar was under

16:49:31 15 Superman. He wrote to them that they should stop killing. When  
16 they arrived at our own area Masimera, food was plentiful. They  
17 ate our food. If they say they are going to kill us all during  
18 that time -- during which we were aided, they had a report from  
19 Lunsar that they have captured the speaker Alpha Lamin. It was  
16:50:03 20 for this reason that they sent a message to us that they should  
21 not kill anybody again. They are eating our own food. They  
22 should no continue to kill us all. we are in the box while the  
23 letter was read.

24 Q. Just pause. Some names were given and I have not forgotten  
16:50:17 25 this time, I was just going to take the witness back bit by bit  
26 and I will deal with the names as they come out. Now, you said,  
27 "He wrote to them a letter." who is "he"?

28 A. we are in the box. when we heard them reading the letter,  
29 they said it was Superman.

1 Q. Just pause there. So Superman -- Now, do you know  
2 anything about the content of this letter?

3 A. No, the only thing -- we only listened to where they said  
4 they should not kill people again. All that was in the letter we  
16:51:27 5 never heard all, but was it only that portion that we listened  
6 very attentively.

7 Q. Okay. You said they said they should not kill people  
8 again. Who are "they"? Who said "they"?

9 A. They said the letter came from Superman. He wrote the  
16:51:52 10 letter that they should stop killing people because they are  
11 eating our food. They should not continue killing everybody in  
12 the chiefdom.

13 Q. Just pause here one second, Mr Witness. Now you said  
14 Superman said they should stop killing the people. Who are  
16:52:09 15 "they"?

16 A. We, the people of Masimera.

17 Q. I do not think you answered my question, I am going to ask  
18 you again.

19 A. Oh, it was the soldiers that told us to stop killing us  
16:52:37 20 because they were eating our food. You understand me?

21 Q. Yes, Mr Witness. Now, did you hear anything else?

22 A. Yes, while we were in the guard room in the morning, that  
23 was the office they called NP office. Everybody that came in the  
24 morning they struck us with a whip and he reported that he has  
16:53:25 25 come to work.

26 Q. Who struck you with the whip?

27 A. The soldiers when they come to -- when they come to work in  
28 the office that was the area where they had their guard room.

29 Q. And was it after you were released out of the box?

1 A. Yes, after they have taken us from the box in the morning.  
2 In the morning they came and flogged us.

3 Q. Who came?

4 A. The soldiers. I cannot tell their names.

16:54:24 5 Q. Now, Mr witness, you talked about Superman. Do you know  
6 who was Superman?

7 A. I heard about him. I have never seen him. I don't know  
8 him. I only heard the name Superman.

9 Q. Mr witness --

16:54:36 10 A. Yes.

11 Q. What happened after that?

12 A. After that, when we have been flogged for so long, they met  
13 us and said -- and said if we wanted to work for them. The man  
14 that was the head in the office, that was RSM Momoh, the fellow  
16:55:09 15 with whom I was, well he was a little bit literate and he said he  
16 wanted a child. Well, for me one of the soldiers that was called  
17 RSM Mesiger, he said he wanted me.

18 Q. Just pause here. Pause here. I am going spell RSM  
19 Mesiger. Which is M-E-T-Z-I-K-E-L. Mesiger.

16:55:30 20 MS THOMPSON: Your Honour, we will be guided as to which spelling  
21 my learned friends are using because there are two spellings in the  
22 disclosed material to us.

23 MR WERNER: It may be wise to ask the booth because it is  
24 true indeed there is two spellings of the same name.

16:56:21 25 PRESIDING JUDGE: I will ask the interpreter to spell it  
26 and since he is a Temne speaker let us get that spelling.  
27 Mr interpreter, could you spell this name for us, please.

28 THE INTERPRETER: Yes, Your Honour, shall you please get  
29 the pronunciation from the witness?

1 PRESIDING JUDGE: Mr witness, please say Mesiger's name  
2 properly again to us. Thank you.

3 THE WITNESS: RSM Mesiger.

4 THE INTERPRETER: M-E-S-I-G-E-R. M-E-S-I-G-E-R.

16:56:54 5 PRESIDING JUDGE: Thank you.

6 THE INTERPRETER: Welcome.

7 PRESIDING JUDGE: I was just going to ask, Mr Werner, I  
8 notice it is just about 5.00 o'clock. Do you have many more?

9 MR WERNER: No.

16:57:18 10 PRESIDING JUDGE: well, perhaps if there are only a few, it  
11 would be neater to finish and --

12 MR WERNER: It it is difficult -- it will take 10 or 15  
13 minutes.

14 THE WITNESS: It will not take long, I will soon be  
16:57:37 15 finished.

16 MR WERNER: He could be released.

17 PRESIDING JUDGE: A few more, but we must not let it go too  
18 late. Everybody has other work to do.

19 MR WERNER: I am happy to stop here.

16:58:03 20 PRESIDING JUDGE: If it is a few questions, then let us  
21 have them.

22 MR WERNER:

23 Q. So, Mr witness, you told us --

24 A. Yes.

16:58:15 25 Q. You told us about RSM Mesiger. what happened after that?

26 A. So, he had -- I was in his control. The other two  
27 children, the person under whose care they were, I did not know  
28 him and we were free from the guard room.

29 Q. You said you were under his control, so what did you do?

1 A. The work I used to do for him, I used to fetch water for  
2 him. Then I boiled the water when he wanted to wash. That was  
3 the work that I had for him. I had no other work to do.

4 Q. How long did you work for him?

16:59:12 5 A. Seven days.

6 Q. How did you feel about that?

7 A. I was not comfortable. I was not comfortable because I had  
8 my wife. It is for me to be controlled by my fellow man, so I  
9 fled from him when I went to Lunsar.

16:59:52 10 Q. Now, Mr witness, you told us that Nonkoba you saw soldiers.  
11 Now let me ask you this question.

12 A. Yes.

13 Q. How old were the soldiers you saw in Nonkoba?

14 A. Well, they had uniform.

17:00:01 15 Q. Were the soldiers you saw in Nonkoba, were they from the  
16 same age or different ages?

17 MR METZGER: Objection. Vague.

18 MR WERNER: Just wait, Mr witness. Wait. I will  
19 re-phrase.

17:00:27 20 Q. Mr witness, the soldiers you saw in Nonkoba, were all  
21 the soldiers about the same age or were they soldiers of  
22 different ages?

23 A. I was not able to distinguish because I was not able to  
24 talk to any of them with the exception of the man who captured  
17:01:35 25 me. You see, it was difficult for me to say that this and this  
26 are equal in ages. So it was difficult.

27 Q. What happened after that, Mr witness?

28 A. When we were in Nonkoba, they also -- that was the time  
29 that they are -- that they were ousted. Both of them, we and

1 they, went to Lunsar. When we arrived at Lunsar, that is the  
2 time that I had the opportunity of escaping from him. That was  
3 the time that I left him. So I arrested, you know, from his own  
4 part.

17:02:12 5 Q. Mr Witness --

6 A. Yes.

7 Q. You said they were ousted. What do you mean? Who are  
8 they -- what do you mean by that? Sorry, the first question, who  
9 were ousted?

17:02:34 10 A. These soldiers when they were there, then another group of  
11 soldiers came. And we saw them running and both of us that were  
12 captured ran away and all of us went to Lunsar, but the group  
13 that came and attacked them, we did not know the type of group.  
14 So we all ran away. So when we came to Lunsar -- Lunsar is a  
17:02:58 15 very big town, so I also ran away from Mesiger because, I mean, I  
16 wanted to free myself from this punishment.

17 Q. And what happened in Lunsar?

18 PRESIDING JUDGE: [Inaudible]

19 MR WERNER:

17:03:05 20 Q. Mr Witness, just pause for one second.

21 PRESIDING JUDGE: We didn't hear, Mr Werner.

22 MR WERNER: Yes, I am going to ask the question again.

23 Q. What happened in Lunsar?

24 A. This is what I explained. I said when we came to Lunsar  
17:03:23 25 that was the time that I had the opportunity of escaping, you  
26 see, and from that point I did not know anything concerning them.

27 Q. I have one final question and I will be over with this  
28 witness. Mr Witness --

29 A. Yes.



1 Q. You told us at the beginning of your testimony that all  
2 these events happened in April 1999. How do you know that?

3 A. Well, how I came to know? Because I had a watch and second  
4 and we had -- there was a particular time that we used to do our  
17:04:07 5 work. You see every type of month I know has a particular type  
6 of work that you do. You see, in it, and that was the time.  
7 That was how I came to know all these things. That was the time  
8 that we used to plant our groundnut. It was at the end of that  
9 particular month that was the time that we used to plant cassava,  
17:04:26 10 cassava sticks.

11 MR WERNER: I have no further questions for this witness.

12 PRESIDING JUDGE: Thank you, Mr Werner. We will adjourn  
13 until tomorrow. Mr witness --

14 THE WITNESS: Yes, sir.

17:04:53 15 PRESIDING JUDGE: We are going to finish --

16 THE WITNESS: Yes, sir.

17 PRESIDING JUDGE: -- the Court for today. Tomorrow you  
18 will have to come back to the Court as the other lawyer will have  
19 some questions. Between now and the time all of your evidence is  
17:05:06 20 finished, you should not discuss or talk about your evidence with  
21 anyone else. Do you understand? Do you understand me?

22 THE WITNESS: Clearly.

23 PRESIDING JUDGE: Thank you, Mr witness. Madam Court  
24 Attendant, please adjourn the Court until 9.15 a.m. tomorrow  
17:05:22 25 morning.

26 [Whereupon the hearing was adjourned at 5.08 p.m. to be  
27 reconvened on Friday, the 15th day of April 2005 at 9.15 a.m.]

28  
29



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

FRIDAY, 15 APRIL 2005  
 9.25 A.M.  
 TRIAL

TRIAL CHAMBER II

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Before the Judges:	Teresa Doherty, Presiding Julia Sebutinde Richard Lussick
For Chambers:	Mr Simon Meisenberg
For the Registry:	Ms Maureen Edmonds
For the Prosecution:	Ms Lesley Taylor Mr Mohammed Bangura Mr Alain Werner Ms Jennifer Beckley (intern)
For the Principal Defender:	Ms Claire Carlton-Hanciles
For the accused Alex Tamba Brima:	Mr Kevin Metzger Ms Glenna Thompson
For the accused Brima Bazy Kamara:	Mr Wilbert Harris Mr Mohamed Pa-Momo Fofanah Mr Abdul Rahman Mansaray
For the accused Santigie Borbor Kanau:	Mr Abibola Manley-Spaine

1 Friday, 15th April 2005

2 [Open session]

3 [The accused entered court]

4 [Upon commencing at 9.25 a.m.]

09:22:37 5 PRESIDING JUDGE: Good morning. Unless there is some  
6 preliminary matter, I will remind the witness of his oath and we  
7 will proceed to cross-examination. Mr witness --

8 THE WITNESS: Yes.

9 PRESIDING JUDGE: -- you may remember yesterday you  
09:22:48 10 promised to tell the truth and I want you to remember that  
11 promise.

12 THE WITNESS: That is what I said.

13 PRESIDING JUDGE: That promise is still binding on you  
14 today and you must answer the questions truthfully. The other  
09:22:59 15 lawyers will have some questions for you. Do you understand?

16 THE WITNESS: Yes.

17 PRESIDING JUDGE: Good. Please proceed.

18 MR METZGER: I am very much obliged.

19 WITNESS: TF1-256 [Continued]

09:23:12 20 CROSS-EXAMINED BY MR METZGER :

21 Q. Good morning, Your Honours. Good morning, Mr witness. My  
22 learned friends, good morning to you.

23 A. Good morning. How do you do?

24 Q. Mr witness --

09:23:21 25 A. Yes.

26 Q. I am going to ask you some questions in about six areas of  
27 the evidence you have given.

28 A. Yes.

29 Q. I will try not to take too much of your time.

1 A. Okay.

2 Q. And I want to say certainly that we sympathise with the  
3 troubles that you found yourself in during the time that you have  
4 told us about.

09:24:02 5 A. Yes.

6 Q. So, the questions I am going to ask you, Mr witness --

7 A. Yes.

8 Q. -- are questions just to clarify some of the things that  
9 you have told us.

09:24:31 10 A. Well, I am listening to you, sir.

11 Q. If the Court will bear with me, I think I have the wrong  
12 connection on my -- Mr witness, you told us about a time in April  
13 of 1999 --

14 A. Yes.

09:25:01 15 Q. -- when you were in your village in Rochendekom --

16 A. Yes.

17 Q. -- and some rebels came and captured people.

18 A. That is how it happened.

19 Q. You have said or described those rebels as soldiers.

09:25:25 20 A. That is what I said.

21 Q. Now, would I be right in saying that you yourself have no  
22 knowledge or experience of the military?

23 A. I?

24 Q. Yes, that you have no knowledge or experience, other than  
09:26:08 25 this incident, of the military?

26 A. The time that I was captured that is the time that I knew  
27 that these people are soldiers.

28 Q. Now, Mr witness, when you say they were soldiers --

29 A. Yes.

1 Q. -- you were asked about what group they belonged to.

2 A. They -- where I belonged -- the group to which I belonged.

3 Q. No, Mr Witness, the group to which the soldiers belonged  
4 and you stated that they were SLA.

09:27:06 5 A. Yes, one of them told me that they were SLA. That is what  
6 I said yesterday.

7 Q. Thank you very much, Mr Witness. That is what I want to  
8 ask you about.

9 A. Welcome.

09:27:18 10 Q. The person who told you that these soldiers were SLA was  
11 one Mr Lamin; is that correct?

12 A. That is what I said. He was the one that told me that they  
13 were SLA; Mr Lamin.

14 Q. Can I ask you, please, Mr Witness, if you know the first  
09:27:40 15 name for Mr Lamin?

16 A. Well, his other name by which he was known was RSM Lamin.

17 Q. Now, all the soldiers that you spoke to, were they RSMS?

18 A. Except the one who was in town who was called Captain  
19 Richin, but all the others were called RSM and that was the first  
09:28:25 20 name, then they complete it his own name.

21 Q. Thank you very much, Mr Witness.

22 A. Welcome.

23 Q. So that information, did you get it from the soldiers  
24 themselves?

09:28:48 25 A. Well, I heard it from them. Whosoever was called, they  
26 start calling him RSM and they ended with his name. What I heard  
27 from them is what I have brought to this Court.

28 Q. Indeed, Mr Witness. But other than that, you yourself have  
29 no knowledge of rank within the military?

1 A. No, I couldn't distinguish between them because by then I  
2 was in trouble.

3 Q. And just to make it absolutely clear, you accepted their  
4 rank according to what they told you?

09:29:51 5 A. Well, that was how I saw them. And if somebody were to  
6 tell you that, "This is my own position. This my own rank," how  
7 would I have defied that? So I had to accept.

8 Q. Thank you very much, Mr Witness.

9 A. Welcome.

09:30:06 10 Q. Now, I just want to ask you this about this Mr Lamin before  
11 I move on. Were you ever told that his first name --

12 A. Okay.

13 Q. Sorry. I will repeat that. Were you ever told that his  
14 first name was Mike, or something like that?

09:30:21 15 A. No.

16 Q. The second thing I want to ask you please --

17 A. Yes.

18 Q. -- it comes towards the end of the time when you were in  
19 captivity --

09:31:02 20 A. Okay, let's move onto that.

21 Q. And when you were taken to Nonkoba --

22 A. Yes.

23 Q. -- there you were imprisoned, but later released on the  
24 order of Superman?

09:31:35 25 A. Yes, we were free. We are freed because of some  
26 information that is sent.

27 Q. Did you understand that Superman was in charge of the  
28 people who were at the guard room in Nonkoba?

29 A. We are not able to understand that. The only thing that we

1 understood was that he sent a letter saying that we should be  
2 released, but we are not able to know all the details.

3 Q. But what you do know is after they received the letter that  
4 you should be released you were released?

09:32:34 5 A. Yes, we were released. But we were asked to continue  
6 working for them. They started sending us to do household  
7 chores.

8 Q. But they released you from, shall we call it, imprisonment  
9 after the letter?

09:32:55 10 A. Certainly, yes, I was released. When the letter had been  
11 read, I was released.

12 Q. Thank you, Mr witness.

13 A. Welcome.

14 Q. Now, Mr witness, let me take you just a little bit before  
09:33:06 15 that. When you were in Rochendekom, you were taken there from  
16 the guard room; that is correct, is it?

17 A. Okay.

18 Q. Those people who came and took you from Rochendekom, could  
19 you tell whether they were the same group -- in the same group of  
09:33:25 20 soldiers as those who had captured you in Rochendekom?

21 A. Well, how I came to know that they were the same, those at  
22 Nonkoba sent a message and they said we were to be taken. And  
23 when we taken to this other place, we still met soldiers. So I  
24 took it for granted that they were the same.

09:33:57 25 Q. Thank you, Mr witness.

26 A. Welcome.

27 Q. Now, I want to take you to the time when happily you  
28 managed to escape from captivity as you were being taken from  
29 - is it Nonkoba to Lunsar?

1 A. So how I managed to escape, is that what you want to ask  
2 about?

3 Q. That is correct.

4 A. You have still not asked the question. I am waiting for  
09:34:40 5 the question.

6 Q. Yes. I just want you to understand that is what I want to  
7 ask you about now.

8 A. welcome. I am listening to you, sir.

9 Q. Thank you very much, Mr witness. You told us yesterday  
09:34:54 10 that other soldiers came and attacked the people and that is how  
11 you managed to escape. Is that correct?

12 MS TAYLOR: Your Honour, I don't wish to interrupt unnecessarily,  
13 but that is not my recollection of what the witness said. My  
14 recollection is --

09:35:11 15 MR METZGER: we should check the record and I would really  
16 appreciate it if my learned friend would not interrupt, as it  
17 were, unless she was absolutely sure. It does somewhat affect  
18 the flow of the cross-examination. But I stand by my note in  
19 that particular regard. If I may assist the Court, it was  
09:35:54 20 probably not a long time before we rose yesterday. And my record  
21 or my note of it is that in Nonkoba, "that was the time they were  
22 ousted". They being the soldiers he was with in Nonkoba. "we  
23 and them went to Lunsar and I escaped. Another group of soldiers  
24 came and we saw them running. But the group that came and  
09:36:18 25 attacked them, I don't know."

26 PRESIDING JUDGE: [Microphone not activated] another record  
27 "we were asked if I had the chance to [inaudible] ousted."

28 THE WITNESS: Yes.

29 PRESIDING JUDGE: [Microphone not activated] "the soldiers



1 came there. I saw them running. I do not know -- I do not know  
2 the group who attacked. I do not know the group who attacked."

3 MS TAYLOR: Yes, Your Honour, my objection was to the  
4 question, which seemed to indicate that he ran away from Nonkoba.  
09:36:44 5 The note said that they ran away from Nonkoba to Lunsar, and it  
6 was from Lunsar that he escaped. It was the implication that he  
7 escaped from Nonkoba that I was objecting to.

8 JUDGE SEBUTINDE: Could we maybe say or point out at this  
9 stage, when one counsel stands up to object, could we have  
09:37:09 10 courtesy around the table in listening to what that person has to  
11 say and let the Bench rule on whether the objection is worthy or  
12 not. Because really Ms Taylor stood up and apologised that she  
13 was constrained to stand up and object to what she thought was a  
14 deviation from the evidence - and I think that was well within  
09:37:33 15 her rights. Really, for matters of courtesy, I think it would  
16 help if all around the table we showed courtesy to each other.

17 MR METZGER: I am very much obliged.

18 PRESIDING JUDGE: On a point of clarification on your  
19 question, Mr Metzger, I have written down, "You escaped while  
09:37:56 20 being taken to Lunsar." That is what I have written. Have I got  
21 it incorrectly recorded?

22 JUDGE LUSSICK: No, no. I have got a similar note. I have  
23 got that the question began, "when you managed to escape from  
24 captivity, as were you being taken from Nonkoba to Lunsar," et  
09:38:12 25 cetera.

26 MR METZGER: Yes, I apologise.

27 JUDGE SEBUTINDE: what I have is, "We all proceeded to  
28 Lunsar where I had an opportunity to escape from Mesiger."

29 MR METZGER: Then I do apologise if I erroneously used the

1 word Nonkoba having been obviously recently ensconced in it. I  
2 did mean when he escaped from captivity.

3 PRESIDING JUDGE: Perhaps we will refresh the witness's  
4 memory by putting the question again, Mr Metzger, please.

09:38:44 5 MR METZGER:

6 Q. Mr witness, let me ask the question again. When you  
7 managed to escape from captivity - and I make it clear that that  
8 is when you escaped from Lunsar - is it correct that that was  
9 because another group of soldiers came and attacked the people  
09:39:14 10 you were with?

11 A. It was not at Lunsar, it was Nonkoba that they were  
12 attacked and when they were attacked they moved on to Lunsar.

13 Q. Thank you, Mr witness --

14 A. Welcome.

09:39:43 15 Q. When you were attacked at Nonkoba, do you know what group  
16 of soldiers or what group the soldiers who attacked belonged to?

17 A. I didn't know it. I only saw people running away and I  
18 heard gunshots and all of us ran together. I did not know the  
19 group that attacked.

09:40:13 20 Q. Mr witness --

21 A. Yes.

22 Q. Do you know or did you receive information that Superman  
23 was a member of the RUF?

24 A. Yes. I have been hearing the name Superman, but I did not  
09:40:56 25 know him. I did not see him. I did not know how the people were  
26 fighting. I did not know him at all.

27 Q. Thank you, Mr witness.

28 A. Welcome.

29 Q. Would you agree with this, however: The soldiers who

1 attacked the people you were with at Nonkoba, they were not in  
2 the same group as those soldiers that you were with?

3 A. Yes. They are not the same, because if they were the same  
4 they shouldn't have attacked the others.

09:41:36 5 Q. Thank you, Mr witness.

6 A. welcome.

7 Q. Now, there are two other things I want to ask you about, Mr  
8 witness. First of all, there was a time yesterday when you said,  
9 "This confusion, that is why I did not accept to come and explain  
09:42:07 10 to these people". Do you remember saying that?

11 A. Yes, I said that. That is what I said yesterday.

12 MR METZGER: Mr witness, wait, I think there is an objection.

13 MS TAYLOR: Your Honour, might there be some context for  
14 the question. The witness said many things yesterday and I am  
09:42:36 15 not exactly sure what my learned friend is referring to.

16 PRESIDING JUDGE: Mr Metzger, it would assist me also if we  
17 could. I do recall him, the witness, saying or using the word  
18 confusion, but it would assist if I had --

19 JUDGE SEBUTINDE: I remember just before he broke down, and  
09:42:58 20 just before we went for the break to allow him to compose  
21 himself, he said those exact words that Mr Metzger has said.

22 MR METZGER: But the words were said, as it were, in  
23 vacuum. And I am simply reminding him exactly of the words he  
24 spoke and asking him to explain what he meant. Now, with the  
09:43:15 25 greatest respect to my learned friend, I do not understand her  
26 objection. But so that I can clarify what it is I am seeking to  
27 do, I have explained what it is, and I shall wait for --

28 PRESIDING JUDGE: In the light of that I will allow the  
29 question.

1 MR METZGER: I am very much obliged.

2 PRESIDING JUDGE: Could I have the quotation again, Mr  
3 Metzger, please?

4 MR METZGER:

09:43:44 5 Q. Mr witness, let me just remind you of what I noted you  
6 said yesterday, "This confusion..."

7 A. Yes. Okay.

8 Q. "...that is why I didn't accept to come and explain to  
9 these people." First of all, Mr witness, do you remember saying  
09:44:10 10 that yesterday?

11 A. Yes, that was what I said. I said so because I have some  
12 reasons behind that.

13 Q. It is the reasons behind that, Mr witness, that I want to  
14 ask you about. But before I do so, when you say that you did not  
09:44:34 15 accept to come, who is it that you were not accepting to come to?

16 A. Those who went and met me and asked me to come to this  
17 place and explain what happened to me.

18 Q. Thank you, Mr witness.

19 A. Welcome.

09:45:16 20 Q. I want to ask you if you can help us with who those people  
21 were. How did they identify themselves to you?

22 A. They said they were people from the Special Court. They  
23 said you should explain all that happened to us. To them.  
24 Sorry, let me take it again. They said we should explain to them  
09:45:58 25 all that happened to us.

26 Q. Do you know how it was that they came to meet you to ask  
27 you about what happened?

28 A. Well, they said they understood that something happened to  
29 us. That is why they went there in order to get the information

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1 from us.

2 Q. Thank you, Mr witness.

3 A. welcome.

4 Q. Now just this, Mr witness, when you said those words, you  
09:46:32 5 just told us there was a reason behind it. Now, I am going to  
6 give you the opportunity to explain the reason what did you mean?

7 A. Yes, that was why I did not want to come.

8 Q. why was it that you did not want to come?

9 A. Should I start?

09:46:57 10 Q. Yes, please.

11 A. why I did not want to come. when something happens to  
12 you -- when something happens --

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

09:47:20 15 PRESIDING JUDGE: Mr witness, could you go a little bit  
16 slower so that we can hear?

17 THE WITNESS: welcome. The reasons why I did not want to  
18 come here and explain. when something happens to you and they  
19 start explaining, in fact you would feel the pain as though it  
09:47:41 20 just happened to you anew. That is why, in fact, even a  
21 discussion I have not even discussed it with people. That was  
22 the reason I did not want to come. well today, I am feeling the  
23 pain just like the time that I saw all these things happening,  
24 but if you do not say anything to anybody, well, I mean, you will  
09:48:00 25 start forgetting little by little.

26 MR METZGER:

27 Q. I understand, Mr witness, and again I sympathise with  
28 you. I want to ask you just one other area and then I will be  
29 finished with you.

1 A. Okay.

2 Q. You mentioned yesterday when you gave evidence, I think,  
3 three ladies. Yebu, Rugie and I think it was Kadiatu or Kadija.

4 A. Yes.

09:48:40 5 Q. Those three young ladies, do you know whether they are  
6 still around today?

7 A. One of them is there. The one that -- the one who was  
8 raped is there, but I do not know the specific place, from the  
9 time she was raped.

09:49:14 10 Q. Which one of them is that? Just give us the name.

11 A. She is called Kadi-Kadi. We do not know her whereabouts.

12 Q. But you have information that she is -- when you say there  
13 or still there, what do you mean? In the village?

14 A. She is no longer there. We do not know her whereabouts.

09:49:42 15 Kadi-Kadi.

16 Q. Let me take the other two then individually. What about  
17 Yebu; is she still around?

18 A. Yebu is there, but she's no longer with us. She is  
19 married. She is married and she is no longer with us.

09:50:02 20 Q. But do you know where Yebu is?

21 A. Yes, I know where she lives.

22 Q. Were you ever asked to show where Yebu lives to the people  
23 from the Special Court?

24 A. No, they did not ask me that question.

09:50:24 25 Q. Thank you. Can I ask you, please, the same question about  
26 Rugie? Do you know where Rugie lives?

27 A. Rugie was there. I left her there she was a suckling  
28 mother.

29 Q. So you know where she lives, in other words?

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- 1 A. Yes, I know where she live.
- 2 Q. were you asked by people from the special Court to show  
3 them where Rugie is?
- 4 A. Rugie?
- 09:50:57 5 Q. Yes, Rugie.
- 6 A. Yes, even she herself spoke to them.
- 7 Q. Thank you very much.
- 8 A. welcome.
- 9 Q. Just one last question. As far as Kadiatu or Kadi-Kadi is  
09:51:17 10 concerned, did people from the special Court ask you to show them  
11 when she lives?
- 12 A. They did not ask me about her.
- 13 Q. Thank you.
- 14 A. They did ask her about her, but I told them that she was  
09:51:33 15 not there and she was not there at all.
- 16 Q. Thank you very much, Mr witness. Just give me a moment,  
17 please.
- 18 A. welcome.
- 19 Q. Mr witness, I know it does not make things easier for you,  
09:51:52 20 but I do not have any more questions for you and once again I am  
21 sorry about what happened to you.
- 22 A. Yes, it is very painful. It is painful, it hurt. It is  
23 heart rending. Okay.
- 24 Q. Thank you.
- 09:52:00 25 A. welcome.
- 26 PRESIDING JUDGE: Thank you, Mr Metzger. Mr Manley-Spaine.
- 27 CROSS-EXAMINED BY MR MANLEY-SPAINE :
- 28 Q. Good morning. Good morning, Mr Witness.
- 29 A. Good morning. How do you do?

1 Q. Fine. Mr Witness --

2 A. Yes.

3 Q. You mentioned Abu Kanu. Was he also called RSM Abu Kanu?

4 PRESIDING JUDGE: Please pause, Mr Manley-Spaine.

09:52:43 5 THE WITNESS: Yes, that was the name he was called.

6 PRESIDING JUDGE: Mrs Justice Sebutinde, we cannot hear.

7 Could the Court Attendant see if there is anything that can be  
8 done? Mr Manley-Spaine, if you wish to have a seat.

9 MS EDMONDS: AV are just checking. AV have asked if you  
09:55:00 10 could rise for ten minutes while they sort the problem out.

11 PRESIDING JUDGE: Mr witness, there is a problem with  
12 hearing.

13 THE WITNESS: Yes.

14 PRESIDING JUDGE: [Microphone not activated] to allow the  
09:55:27 15 mechanics to fix it. Please adjourn, Madam Court Attendant.

16 [Break taken at 9.58 a.m.]

17 [Resuming at 10.10 a.m.]

18 PRESIDING JUDGE: We will try again, Mr Manley-Spaine.

19 MR MANLEY-SPAIN: Yes, Your Honour. Your Honour, the  
10:08:33 20 question I asked is, was Abu Kanu also referred to as RSM, which  
21 he said yes.

22 JUDGE SEBUTINDE: What was the answer?

23 JUDGE LUSSICK: Well, I would like the question again. I  
24 missed what you said.

10:08:52 25 MR MANLEY-SPAIN:

26 Q. Witness, Mr Witness --

27 A. Yes.

28 Q. Was Abu Kanu also referred to as RSM?

29 A. Yes. We heard them call him the name RSM Abu.



1 Q. Witness --

2 A. Yes.

3 Q. were you [Microphone not activated] Mr Lamin?

4 A. well, among them there was my friend. He was the person  
10:09:41 5 that helped me out. I never knew him before.

6 PRESIDING JUDGE: I think we are having some trouble.

7 MR MANLEY-SPAINE: Let me try the other mic.

8 PRESIDING JUDGE: Thank you, Mr Manley-Spaine.

9 Mr Manley-Spaine, I am going to ask the witness to repeat his  
10:10:47 10 answer because we didn't hear it properly. Mr witness, would you  
11 please repeat what you have just said?

12 THE WITNESS: Yes. what --

13 MR MANLEY-SPAINE:

14 Q. Lamin, your friend?

10:11:14 15 A. I never knew him before. But he helped me out the time  
16 they captured me. He gave me some job -- some work to do, but he  
17 never bothered me much.

18 Q. Have you seen Lamin before? Have you seen Lamin after  
19 that?

10:11:47 20 A. we have never met since then.

21 Q. where did you part with Lamin?

22 A. It was the time I was taken from the garden to Nonkoba.

23 Q. Mr witness, can you remember --

24 A. Yes, sir.

10:12:31 25 Q. -- how long you spent at Lunsar before you escaped from  
26 Mesiger?

27 A. when we arrived in Lunsar, that was the time I escaped from  
28 him. It was only one day. But from Nonkoba to Lunsar we spent  
29 about seven days.

1 Q. After you had escaped from Mesiger, did you stay in Lunsar?

2 A. Yes. I spent there for some days.

3 Q. Did you know then who were in charge of Lunsar?

4 A. During that time I cannot precisely explain that, because  
10:14:10 5 during that time I was hiding. During the period that I am  
6 discussing now they were in control.

7 Q. Who do you mean by "they"?

8 A. I said all of them, the soldiers, were in control of  
9 Lunsar. They were in uniform. We saw them in uniform. You  
10:14:54 10 cannot talk to anybody, but I heard that they were -- we knew  
11 that they were in charge of Lunsar.

12 Q. Did you know who the top commander was?

13 A. I don't know him.

14 Q. Do you know whether Superman was there at that time?

10:15:47 15 A. Yes, during that time they said he was there, but we had  
16 never saw. I never saw him. The time we were there, I heard  
17 that he was there.

18 Q. Did you hear that he was the top commander at Lunsar?

19 A. It is difficult for me to testify because I was not close  
10:16:26 20 to them, so I never knew what was happening amongst them. During  
21 that time I was not in good condition.

22 Q. Mr witness, when you were at Nonkoba you said that --

23 A. Yes.

24 Q. -- the letter came from Superman. Do you know where  
10:16:58 25 Superman was when he sent that letter?

26 A. Well, they said it was from Lunsar. It came from Superman.

27 Q. Do you agree with me that when the letter was read the  
28 people who had locked you up had carried out the instructions in  
29 Superman's letter?

1 A. Well we that were captured that were under punishment.  
2 There was a reduction in the punishment simply because of the  
3 letter that he wrote.

4 Q. Mr witness, before you were captured, did you know the  
10:18:28 5 words or the letters SLA?

6 A. Yes.

7 Q. Do you know what it meant?

8 A. Even now I don't know their meanings. Since then I don't  
9 know what is meant by SLAS. I don't know anything. I am not  
10:19:01 10 literate, I am a farmer.

11 Q. Did you know, Mr witness, that the government of Sierra  
12 Leone had an army at that time?

13 A. Yes, I knew that. There were soldiers. They had a  
14 government. If I saw people in uniform, I knew that they were  
10:19:45 15 soldiers. That was the way I was able to distinguish them.

16 Q. No, please clarify the question for me. My question was:  
17 Did you know that at the time he was captured the government or  
18 Sierra Leone had its army?

19 A. Okay, ask me the question.

10:20:11 20 Q. Did you know at the time you were captured that the  
21 government of Sierra Leone had its army?

22 A. I knew, yes, that there were soldiers in our country.

23 Q. Do you know how the government army was called?

24 A. We only heard they were called soldiers. We never knew the  
10:20:46 25 difference. We are not literate, we only heard the name  
26 soldiers.

27 MR MANLEY-SPAINE: That is all, Your Honour.

28 PRESIDING JUDGE: Thank you, Mr Manley-Spaine.

29 THE WITNESS: Welcome.

1 PRESIDING JUDGE: Mr Fofanah.

2 MR FOFANAH: Thank you.

3 CROSS-EXAMINED BY MR FOFANAH :

4 Q. Mr Witness, good morning.

10:21:13 5 A. Good morning. How do you do?

6 Q. You have already been asked a lot of questions, so I will  
7 try to be as brief as possible. Mr Witness, do you know when you  
8 were born?

9 A. Yes.

10:21:38 10 Q. When was that?

11 A. That was shown to me.

12 Q. When was that?

13 A. It was in 1964, my father told me that that was the time I  
14 was born. That was the time that they introduced the new money.

10:21:59 15 Q. 1964. And did you say you are now 42 years old?

16 A. 42 years, this year.

17 Q. Are you sure about that, Mr Witness?

18 A. Well, wherever I go, that is what I say.

19 Q. Mr Witness, will you agree with that if I tell you that  
10:22:40 20 from 1964 to this year is 41 years?

21 MS TAYLOR: Your Honour, I do object. I wonder what is the  
22 relevance of this line of question is?

23 PRESIDING JUDGE: So do I. What is the relevance?

24 THE WITNESS: Well, except if I was not able to make the  
10:22:56 25 correct calculation, but I want you people to help me out.

26 MR FOFANAH: With that answer, I will leave that. I will  
27 move forward.

28 Q. Now, Mr Witness, apart from the soldier uniforms you  
29 said you saw the soldiers wearing, I mean those who captured

1 you, did they wear any other clothes at Rochendekom?

2 A. well, others used to wear civilian clothes, but they had  
3 uniform.

4 Q. By others do you mean some of the soldiers?

10:23:45 5 A. well, sometimes they would wear civilian clothes.

6 Q. By "they", do you mean some of the soldiers?

7 A. Yes, some of them would wear civilian clothes.

8 Q. What about those at Nonkoba; were they always in soldier  
9 uniforms?

10:24:03 10 A. Some had uniforms, some would not wear.

11 Q. And those who did not wear uniforms, what did they wear?

12 A. They used to wear civilian clothes.

13 Q. Those who wore civilian clothes, were they armed?

14 A. Some did not have guns.

10:24:58 15 Q. Now, just one last bit. The last counsel asked you a  
16 question about Superman's letter. I just want a clarification  
17 from you regarding that letter. You said in your testimony that  
18 what you heard -- some of the bit of the letter that you heard  
19 whilst you were in the box, was to the effect that Superman said  
10:25:22 20 that the soldiers should stop killing people because they were  
21 eating your food in the chieftom; correct?

22 A. That is how it was.

23 Q. Now, to the best of your knowledge, after that letter, are  
24 you aware if any more people were killed?

10:25:40 25 A. I wasn't able to know.

26 MR FOFANAH: Your Honours, may I take just a moment? Your  
27 Honours, that is all for the witness. Thank you very much, Mr Witness.

28 PRESIDING JUDGE: Thank you, Mr Fofanah.

29 THE WITNESS: welcome.

1 PRESIDING JUDGE: Is there any re-examination, Mr Werner?

2 THE WITNESS: Welcome.

3 MR WERNER: Your Honour, there is no re-examination for  
4 this witness.

10:26:28 5 THE WITNESS: Please allow me to rest now because it is  
6 really, really painful.

7 PRESIDING JUDGE: Thank you very much, Mr witness. That is  
8 all the questions you will have here.

9 THE WITNESS: You are welcome.

10:26:46 10 PRESIDING JUDGE: And we are sorry for your pain. The  
11 witness should be released.

12 [The witness withdrew]

13 MS TAYLOR: Your Honours, the next witness is TF1-021. He  
14 will give evidence in Krio and he will be led in evidence by  
10:27:55 15 Ms Stevens.

16 MR METZGER: Before that happens there is an objection to  
17 the adduction of this evidence. Might I put it very simply on  
18 this basis --

19 PRESIDING JUDGE: Let us get the number again, Mr Metzger.  
10:28:15 20 It was TF1?

21 MS TAYLOR: 021.

22 MR METZGER: 021.

23 PRESIDING JUDGE: Please proceed, Mr Metzger.

24 MR METZGER: It seems to me, Your Honour, that this is a  
10:28:25 25 trial involving members of the AFRC. The evidence of this  
26 witness is contained at pages 6378 or certainly the witness  
27 statement through to 6381 and in the whole of that evidence, it  
28 seems to me, there is no mention of the AFRC. Therefore, the  
29 objection to the adduction of this evidence is based on