

CHARLES TAYLOR TRIAL REPORT (August 18 – August 29, 2008)

Overview

Following the Court's scheduled summer recess from July 21 to August 18, the trial of Charles Taylor got off to a slow start. The accused refused to appear in Court for the first two days of trial, in protest of heightened security measures imposed on Mr. Taylor at the detention facility by the Dutch prison authorities. On Wednesday, the accused appeared in Court, yet the scheduled cross-examination of witness TF1-375 could not begin because Mr. Munyard, the cross-examining Defense attorney, was out ill. Instead, the Prosecution began its examination-in-chief of witness TF1-367, with the understanding that the Court would interrupt his testimony and Mr. Munyard would resume cross-examination of TF1-375 upon recovery from his illness. Mr. Munyard returned after two days of testimony by witness TF1-367. Witness TF1-375 concluded his testimony during the second week of the reporting period. Cross-examination of Witness TF1-367 continued into the next reporting period. The Prosecution has called 35 out of a planned 72 *viva voce* witnesses.

As with the previous reports, available online at <http://charlestaylortrial.org/trial-reports/>, this report summarizes witness testimony heard during this period and identifies legal and procedural issues that have arisen at trial.

Both witnesses called during this reporting period were linkage witnesses (insiders to the RUF command structure). Both witnesses were rigorously cross-examined by the Taylor Defense team. The witnesses are as follows:

1. TF1-367 (linkage)
2. TF1-375 (linkage)

These witnesses testified about the connections between Charles Taylor and the conflict in Sierra Leone, including the relationship between Taylor and the RUF and his influence over their operations. The witnesses included TF1-367, a former RUF high-level commander who had trained with Foday Sankoh and other top commanders in Liberia when the RUF was first created, and TF1-375, a former RUF commander in charge of 62 small boys in a "Small Boys Unit" (SBU), who claims to have been close friends with "Jungle," Charles Taylor's bodyguard. He also claims to have worked closely with Dennis Mingo ("Superman") and with Taylor's commander Benjamin Yeaten.

Prosecution Themes and Strategies

The Prosecution continued to present evidence that falls outside the temporal jurisdiction of the indictment in order to demonstrate long standing ties between Taylor and the RUF. For example, Witness TF1-367 testified about Taylor's support of Foday Sankoh's creation of the RUF, and his involvement in both training and provision of supplies for the RUF's earliest battles in Sierra Leone. The evidence presented by Witness TF1-367 described a long and involved relationship between the RUF and Taylor, from his initial backing of the RUF to later

provisions of ammunition for key battles (Kono) and his direct involvement in diamond mining and trading, such as Taylor's provision of diesel and machinery for diamond mining.

Defense Themes and Strategies

The Defense continued to focus on impeaching the Prosecution's witnesses with prior inconsistent testimony and sworn statements. The Defense also rigorously questioned the witnesses about whatever payments they may have received from the Office of the Prosecutor (OTP) or the Witness and Victim Support Unit (WVS). In its cross-examination of Witness TF1-367, the Defense began to draw out testimony about tensions between the RUF and AFRC by asking specifically about the junta and post-junta period. The Defense also asked this witness about "Top Final," an operation in which the RUF attempted to purge its ranks of NPFL commanders who had been fighting with the RUF during its early days in Sierra Leone.

Legal and Procedural Issues

Additional Security Measures and the Accused's Right to be Present

Charles Taylor was absent from Court when the session reopened on Monday, August 18, 2008. Taylor's Defense counsel informed the Court that Taylor objected to two heightened transportation security measures put into place by the Dutch detention facility authorities. These security measures involved sensory deprivation, which Taylor's Defense counsel would not discuss in detail (per his client's request), and a chain being placed around Taylor's waist during transport from the detention facility to the Court. Taylor's Defense counsel informed the Court that the latter security measure made Taylor feel like a leashed animal, which he found particularly degrading. The accused requested that the rationale for the additional measures be investigated by the Court. He initially refused to come to Court until the additional security measures had been removed. Defense counsel Griffiths argued that these measures would have an impact on a fair trial insofar as it may appear to the public that Taylor poses a particular threat. Griffiths further argued that the stress and anxiety caused by these security measures prevented Taylor from paying adequate attention to his proceedings, and detracted from the quality of instructions he could give his counsel. Griffiths requested that the proceedings be adjourned until the issue was resolved.

Prosecutor Brenda Hollis replied that Rule 60(a)(i) of the Rules for the Special Court for Sierra Leone¹ gives the accused the opportunity and right to come to Court, and that his voluntary refusal to do so constituted a waiver of his right to attend. She argued that the proceedings should not be "held hostage" to the will of Taylor.

Gregory Townsend, the head of the Special Court's The Hague Sub-Office informed the Court that, on August 13, 2008, Taylor was notified that security protocol would be altered due to a heightened security risk related to another ICC detainee. Townsend also informed the Court that Taylor had refused to sign a waiver of his right to attend Court.

¹ Special Court for Sierra Leone, Rules of Procedure and Evidence, Rule 60(a)(i).

After deliberations, the Court resolved to suspend proceedings pending a resolution of the matter raised by the accused. The bench indicated that it was willing to accommodate Taylor's request in part because he has conducted himself reasonably thus far and because the upgraded security measures were due to factors not related to his behavior. The Court directed the Registrar to investigate the situation with urgency.

When proceedings resumed the next morning, Townsend reported that DV&O (Dienst Vervoer & Ondersteuning, the transport service provided to the SCSL by the Ministry of Justice in The Netherlands) is also responsible for the transportation of detainees for the ICTY and ICC. During the second week of August, the security level had been raised to a maximum level, for reasons Townsend could not publicly disclose (he shared these reasons confidentially with the Judges in chambers). Townsend confirmed that the security measures had no relation to Taylor's behavior. He further explained that Taylor had been exempted from all maximum security measures except the two in question. Townsend could not report how long the security measures were expected to last. According to him, only the Dutch security authorities had that information, but they would not share it with the Special Court.

Continuing his protest of the security measures, Taylor did not attend the second day of proceedings. Griffiths informed the Court, however, that because his client wished to see the trial continue, Mr. Taylor planned to resume his attendance the following day, on the condition that the Registry proactively seek to remedy the situation. The bench directed Townsend to attempt to find a speedy resolution and report back to the Court on Monday, August 25, 2008. The Court adjourned early for a second day in a row.

On August 25, Townsend reported on the efforts of the Registry to resolve the security issue. The Dutch Department of Prisons had informed the Registry that they were unable to cease the two security measure to which Taylor objects. Defense argued that Taylor could not allow his humanity to be demeaned in this way, and that he would refuse to attend as long as these measures remained in place. The Defense would not accept Townsend's conclusion that the registry was powerless to act in this situation, and asked that further efforts be made to rectify the situation.

The Court noted that the Defense had the right to appeal with the President of the tribunal, and that pending the further resolution of the matter and the result of the appeal, Taylor would be required to attend the proceedings.

As of the end of the reporting period, no further discussion of the matter had arisen in Court.

Questions about Foundation and Relevance for Documentary Evidence

In its examination-in-chief of witness TF1-367, the Prosecution sought to introduce several documents that the Defense objected to for lack of foundation. On August 20, despite Prosecution arguments that it need only establish the facial relevance of a document, the Court sustained two such objections from the Defense. However, the Court gave no explanation as to what it meant by "foundation" when it sustained the Defense objections. On August 21, when

the Prosecution moved to introduce another document under Rule 89(c),² (containing mining records), the Defense again objected to the introduction of the documentary evidence. As with the documents on the 20th, counsel for the accused argued that the mining records lacked relevance and that the Prosecution had not laid a proper foundation before introducing the documentary evidence via witness testimony. Defense contended that the document was not relevant because the dates on the document fell outside the period under question. Counsel further insisted that the Prosecution lay a proper foundation about aspects of the mining records, such as where the document came from, who wrote it, where the original was, and whether that original was available for inspection. The Defense cautioned against allowing such a document into evidence under an overly broad reading of Rule 89(c), which states that the Chamber may admit any relevant evidence.³ Griffiths argued that Rule 89(c) cannot be used for admitting evidence without proper foundation. The Defense further argued that the Prosecution was attempting to use the broad language of Rule 89(c) to circumvent the requirements of Rule 92bis.⁴

The Prosecution countered that the document was relevant because the witness's testimony would help corroborate the locations and names in the document. Counsel for the Prosecution argued that case law does not require the foundational elements requested by the Defense to be established before a document is introduced; there is no requirement that the author of a document be known, nor that a witness testify about how it was prepared or confirm that it is an original. The Prosecution noted that the Defense's position on the matter was inconsistent, as the Defense had previously admitted documents into evidence via witness testimony without tying it to the witness beforehand. Counsel for the Prosecution specifically referred to Sam Bockarie's autopsy report, which the Defense introduced during its cross-examination of Moses Blah. Prosecution argued that Trial Chamber II has previously held on several occasions that as a matter of procedure the authenticity of a document is a matter to be decided during deliberations, not during trial. Furthermore, pointing to an ICTY pre-trial decision in *Prosecutor v. Prlic et al.*,⁵ the Prosecution argued that documents may be admitted via witness testimony when the witness can testify as to the relevance, probative value, or authenticity of the document.⁶ Regarding application of Rule 92bis to this instance, the Prosecution argued that, based on ICTR and ICTY case law, Rule 92bis only applies to certain types of documentary evidence being introduced in lieu of oral testimony. The Prosecution directed the Court's attention to a prior Special Court ruling from *Prosecutor v. Fofana et al.*,⁷ where the Trial Chamber held that the Special Court's application of Rule 92bis differed from other international tribunals in order to avoid technical rules of evidence that may preclude relevant evidence from being admitted. Thus, according to the Prosecution, Rule 92bis should not make it more difficult to allow relevant evidence into the record.

The Trial Chamber ruled in favor of the Defense, resolving as a matter of procedure that a proper foundation must be laid prior to introducing a document via witness testimony under Rule 89(c).

² Special Court for Sierra Leone, Rules of Procedure and Evidence, Rule 89(c).

³ Special Court for Sierra Leone, Rules of Procedure and Evidence, Rule 89(c).

⁴ Special Court for Sierra Leone, Rules of Procedure and Evidence, Rule 92bis.

⁵ See *Prosecutor v. Prlic et al.*, IT-04-74-PT.

⁶ *Prosecutor v. Charles Taylor*, Trial Transcript, 21 August 2008, Page 14251 (Lines 26 – 29).

⁷ See *Prosecutor v. Norman, Fofana and Kondewa*, SCSL-04-14-T.

Because the Prosecution had laid no such foundation, the Court ruled that it could not seek to admit the documentary evidence via live witness testimony. The Chamber further held that if a document is to be tendered without a witness, then Rule 92*bis* applies. The Chamber issued its ruling without explanation or reflection on the arguments set forth by each side.

Witness Testimony

Protected Witness TF1-367 (linkage)

The Prosecution called Witness TF1-367 on the morning of August 20. The witness was from the Mende tribe. He testified in Krio.

RUF Recruitment and Training

The witness testified that he was living in Kakata, Liberia, when NPFL soldiers took over his town in 1990. The witness claimed that everyone who was not of Liberian descent was being killed, and that he survived by taking another name. The witness testified that he saw Charles Taylor in Kakata at this time. While the NPFL were still in Kakata, the witness met his “brother” Mike Lamin, a fellow Sierra Leonean who was an NPFL soldier. Lamin advised the witness that if he wanted to survive, he should join the NPFL. At a later meeting, Lamin told the witness about Foday Sankoh, who was going to fight and liberate Sierra Leone, and suggested that the witness join Sankoh.

The witness testified that he went to a meeting with Sankoh at the St. Agustin school compound in Kakata. Sankoh allegedly told the group there that a war would be fought in Sierra Leone much like the war in Liberia, and with the full support of Charles Taylor. The witness said that a week after this meeting, he and other recruits were taken to Camp Naama, near Gbarnga, for training. Around the same time, Sankoh was reportedly visiting prisons controlled by Charles Taylor subsequent to the attack on Kakata. The witness testified that Sankoh sought to free Sierra Leonean prisoners so they could join the fight in Sierra Leone.

At Camp Naama, the witness was trained for three months by Liberians (including Isaac Mongor) and Sierra Leoneans (including Mohamed Tarawalli, Rashid Mansaray, and Mike Lamin). He reported received physical and ideological training alongside Sam Bockarie, Issa Sesay, Morris Kallon, Peter Vandi, and others who eventually became top RUF commanders. According to the witness, Charles Taylor provided food and supplies for the training, and Sankoh told the trainees that Taylor would fully support bringing the war to Sierra Leone.

Early Connections between Sankoh and Taylor, RUF Presence in Sierra Leone

The witness returned to Sierra Leone later in 1990, after an NPFL attack on Koidu. Under the command of Isaac Mongor, the witness stayed in Koindu for two or three months before returning to Liberia to serve as Sankoh’s “ground commander” in Gbanga. As part of Sankoh’s inner circle, the witness claimed to have received information from Sankoh and traveled with him occasionally to Sierra Leone, when Sankoh would bring food, ammunition, and arms supplied by Charles Taylor for the fighters. The witness testified that he would also accompany

Sankoh to Taylor's home to use the radio to communicate with Sankoh's commanders in Sierra Leone. He often saw Taylor and Sankoh together.

In 1992 the witness returned to Sierra Leone, based in Pendembu. According to his testimony, at the end of 1992 Rashid Mansaray was falsely accused by Issa Sesay and Sam Bockarie of "conniving." Mansaray was arrested, detained, and later killed. The witness testified that many others in Kailahun Town and Giehun, including Sankoh's girlfriend Jande, were similarly accused and killed for the crime of "conniving," or having connections with government troops. The witness says he was spared because he was with Sankoh.

The witness also testified that the RUF would obtain cacao, palm oil, and coffee through contributions from various towns in the area. These items were sold for food and supplies for the RUF soldiers.

AFRC Coup, changing relationship between AFRC and RUF

In 1997, about a week after the AFRC coup in Freetown, the witness left his station in Koindu, was transferred to Buedu, and later, with Sam Bockarie, moved to Freetown. In Freetown, the witness reportedly became head of logistics, responsible for receiving and distributing condiments and allowances to RUF soldiers. After the ECOMOG forces retook Freetown, the witness fled with his family to Makeni with the help of Mike Lamin and Rambo. In Makeni, the witness participated in "Operation Pay Yourself." The witness testified that after the ECOMOG forces had retaken Freetown, the AFRC's relationship with the RUF began to change. According to him, Johnny Paul Koroma did not have much respect for the RUF until the AFRC and RUF forces were forced into the bush, and the RUF began to give commands to the AFRC forces.

Buying Ammunition from ULIMO in Liberia

The witness testified about a bank robbery that took place in Koidu in 1997. According to TF1-367, when Superman heard about the robbery, he arrested those responsible and searched their homes for the money. The money recovered, 56 million leones, went to Superman, who informed Bockarie about what had happened. The witness testified that Superman gave him the money to turn over to Bockarie in Buedu, along with a 12 carat diamond and 200 million additional leones the witness had received from Johnny Paul Koroma in Freetown as part of his job as a logistics officer.

Sometime shortly before the rainy season in 1997, Bockarie reportedly took 25 million of the money, and traveled with the witness to Foya. In Foya, they met NPFL police commander Ma Mary, who allegedly took them to Guinea border to exchange the money for Guinean Francs. They took these francs to Voinjama, where the witness stayed to negotiate ammunition purchases with deserted ULIMO soldiers. Sam Bockarie went to Monrovia. Meanwhile, an NPFL commander in Voinjama helped the witness load the items bought out in the bush and bring them back into town. The witness testified that he went to purchase ammunition from these ULIMO soldiers four times, sometimes staying for as long as 2 weeks. According to him, Bockarie provided the money to purchase the ammunition.

Trip to Monrovia: Advise from Taylor to protect Lofa County

The witness also testified that he had accompanied Sam Bockarie on a trip to Monrovia after they had retreated from Freetown and were based in Buedu. In Monrovia, he testified, they were lodged by Jungle, Taylor's bodyguard. They stayed for 2 – 3 days. According to the witness, Benjamin Yeaten and Charles Taylor asked to see Bockarie. During the meeting with Taylor, Taylor told Bockarie that he should not forget about the security of Lofa County, which was one of the main RUF supply routes leading into Liberia. The witness recounted how he and Bockarie left Liberia with a truck full of munitions.

Operation Free Foday Sankoh

According to the witness, near the beginning of 1998, the commanders and soldiers held a meeting to discuss "Operation Free Foday Sankoh." The objective of the attack was to suppress the government by taking the stronghold of Kono, and thus pressure the government into releasing Sankoh. Instructions were given that the mission was "do or die," and that the RUF should do everything possible so that Sankoh could be released. The soldiers were advised to make the operation "fearful" so that they could conquer the enemy. The witness testified that Issa Sesay came to Kono with ammunition from Charles Taylor for the attack.

Position as Mining Commander: Civilian labor, mining process, and diamonds sent to Taylor

In 1998, after the successful attack on Kono, the witness was assigned by Bockarie and Issa Sesay to serve as a mining commander. He claimed to have held the position until 2000. His duties included overseeing all of the mining sites in the Kono district and Tongo fields. The witness described in detail the mining process, and testified that Bockarie provided brand new mining tools and fuel from Monrovia. The witness explained that workers would collect diamonds, give them to the witness's men working at the sites, and then the diamonds would be parceled and taken to him in Koiquima. The witness and other members of his team would sort and weigh the diamonds using an electronic scale and other tools. He testified that the quantity and weight of the diamonds would be recorded by an adjutant, and many individuals on the witness' team apparently kept their own separate records as well. The diamonds were then delivered to Issa Sesay, who reportedly passed them on to Sam Bockarie. Bockarie, according to the witness, would take the diamonds to Charles Taylor in Monrovia. The witness claims that Sankoh had instructed Bockarie and Sesay to give the diamonds to Taylor for "safe keeping."

The witness explained that the RUF depended on the diamonds to achieve their goals. He testified about a specific conversation he claims to have had with Sam Bockarie, where Bockarie told him to put pressure on the civilian diamond workers so that the RUF could get ammunition and weapons from Charles Taylor. Bockarie would advise the witness to "double and redouble" his efforts.⁸ According to the witness, civilians were used to do the mining, and they were not paid for their labor. He testified that the civilians were captured from the bush and brought from Makeni or Magburaka by Issa Sesay and Morris Kallon. The witness explained that because so many civilians had escaped from the Kono area, they had to travel to more populated areas to get

⁸ *Prosecutor v. Charles Taylor*, Trial Transcript, 21 August 2008, Page 14231 (Lines 2 – 3).

civilians to work in the mining fields. The witness testified that he had approximately 200 – 300 civilians working at the sites under his command, and that there were other mining sites that the RUF high command, such as Sesay, Kallon, and Superman, managed.

The witness's tenure as mining commander reportedly ended in 2000, in the same month that the Guinea war started. He testified that Sesay, who was high commander at the time, replaced him with Amara Salia, or "Peleto." Sesay allegedly told the witness that he had made the decision with Kallon, who thought the witness was not using enough force and threats against the civilians. According to the witness, Kallon told Sesay to put someone in charge that would be more aggressive and use force on the civilians "so they would get a lot more money, what they actually wanted."⁹

Position as Advisor in Guinea War

The witness further testified that he had been in Guinea in 2000 at the end of the dry season. He testified that he went on an order from Issa Sesay to serve as an advisor to the troops, responsible for ensuring that the troops followed orders from their commanders. Sesay, the witness claimed, had come from Monrovia with Mohamed Turay, a rebel leader who was going to take the war into Guinea because Lansana Conte, president of Guinea, was conniving with the Sierra Leonean government and allowing "enemies," (STF and Kamajors) to use his territory to enter Liberia through Lofa County. Sesay reportedly told the witness that the purpose of the fighting was to assist Turay with RUF manpower. The witness testified that the result was bad for the RUF, and that soldiers were discouraged and disgruntled. The witness claimed that the soldiers became upset when they realized it was Sesay's "quest for money" that had led them to Guinea. According to the witness, in spite of Sankoh's position that it was not the RUF's responsibility to enter Guinea, Turay had paid Sesay for his support.

Bockarie's sister-in-law told the Witness that Taylor had ordered Bockarie to be Killed

At the end of his examination-in-chief, the witness stated that he had seen Kadi (Sam Bockarie's wife's older sister) in Freetown in 2004 after the disarmament. Kadi told the witness that Bockarie, his wife, children, and his older brother were dead. The witness testified that Kadi told him Charles Taylor had given the order for them to be killed, and that she was spared because she had been away from home visiting her husband the night they were taken away. She said she had subsequently escaped to Sierra Leone.

Cross-Examination

Cross-examination of Witness TF1-367 began after a day and a half of direct examination. The cross-examination of this witness went into closed session on several occasions when the testimony would have revealed identifying information about the witness.

During his cross, Defense counsel Griffiths began by establishing that the witness had never personally given diamonds to or received arms or ammunition from Charles Taylor. He then focused on the witness's participation in crimes, including killing civilians and looting. The

⁹ *Prosecutor v. Charles Taylor*, Trial Transcript, 21 August 2008, Page 14237, (Lines 14 – 15).

witness claimed that he had not deliberately killed or raped any civilians, nor had he looted anything other than mining equipment. The witness testified that he had never been ordered to kill, rape, amputate limbs, or burn or loot any houses. Nor had he heard from any other soldier that they had been commanded to commit these crimes. The Defense sought extensive testimony about the RUF's implementation of law and order over their combatants. The witness testified that at Camp Naama, he had learned the RUF ideology that they should respect law and order, and to respect the civilian population. The witness agreed that the RUF tried to "win the hearts and minds" of the people of Sierra Leone, but that "not everybody was perfect [...] some people went out of the ways and did things that were against the law, but they were disciplined. They were punished."¹⁰

The Defense then turned to questioning details about the witness's chief testimony, including purchasing ammunition from ULIMO, his relationship with Mike Lamin, and his time in Freetown after the junta. The Defense also questioned the witness about whether he had thought about leaving the RUF after the 1996 democratic elections. Counsel established that the witness was happy that Bockarie had been given control of the RUF. Griffiths then focused his questioning on the mood of RUF soldiers after the junta when they were in Freetown, their unhappiness with the Nigerians for handing over Sankoh to the Sierra Leone government, and the problems between Issa Sesay and Johnny Paul Koroma. The witness testified that he had heard that Sesay had raped Koroma's wife in Buedu and that after this incident Charles Taylor had called for Johnny Paul and his family to be sent to Monrovia.

After the witness's testimony was interrupted for the cross-examination of Witness TF1-375, the Defense recommenced its cross-examination Witness TF1-367. The Defense asked the witness about his visit with Augustine Gbao in the Special Court's detention center, and whether the witness had known when he visited Gbao that he was going to testify against him in the RUF trial. The witness testified that he had gone to see Gbao reluctantly at the request of Gbao and the other accused. He claims he did not know at that time that he was going to testify in the RUF trial. The Defense then began in earnest attempting to discredit the witness with prior inconsistent statements. In particular, the Defense presented notes from the witness's first interview with the OTP investigators, when he had told the investigators that he had been captured in Bo Gendema by the RUF and taken to Zimmi for training. The witness admitted that he had lied during that interview, but had only done so because he feared arrest by the Special Court. The Defense subsequently went through several pages of this initial interview, attempting to undermine the witness's credibility and honesty. The witness consistently maintained that the inconsistencies were later clarified and that he had initially lied because of his fear of arrest. The inconsistencies largely seemed to center around how the witness came to join the RUF; later portions of his story were largely consistent with his testimony in this trial.

On the final day of this reporting period, the defense counsel began his cross-examination by asking the witness about the meaning of "Top 20," "Top 40," and "Top Final." The witness testified that these referred to the Liberian RUF commanders, starting with Top 20 and later expanding to Top 40. The witness claimed that these Liberian commanders were "wicked" and committed several atrocities. He further testified that after several complaints by Sankoh to

¹⁰ *Prosecutor v. Charles Taylor*, Trial Transcript, 21 August 2008, Page 14274, (Lines 21 – 23), and Page 14275, (Lines 3 – 5).

Charles Taylor, Taylor decided to withdraw Pa Jim, a Top 40 commander based in Sierra Leone, and other NPFL soldiers. The witness claimed that these NPFL soldiers were unhappy at having been withdrawn, and relocated to the Sierra Leone/Liberia border where they continued to commit atrocities. Top Final referred to the operation undertaken by the RUF to expel these NPFL fighters from the RUF. The witness testified that after the Top Final operation, the RUF was under the control of Sankoh, and backed by Taylor. This testimony could possibly assist the Defense counsel in establishing that Charles Taylor took measures to stop or punish the atrocities committed by the NPFL forces under his direct control, going against the command theory of liability.

Protected Witness TF1-375 (linkage)

The cross-examination of Witness TF1-375 began, after multiple delays, on August 22, 2008 with voice and facial distortion in place.¹¹ The cross-examination lasted four and a half days, with much of the testimony given in private session.

In open session, the Defense rigorously questioned the witness about monies he had received from the Prosecution. The Defense attempted to establish that the Prosecution payments were in exchange for information and to secure the witness' ongoing cooperation. The witness, however, repeatedly stated that the money he received was for travel related expenses. The Defense went through each payment made by the Prosecution as well as payments made to the witness by the Witness and Victim Support unit (WVS) of the Special Court. Of note were payments from the WVS of 3.5 million leones for "miscellaneous" expenses, and payments for computer classes in Sierra Leone. The Defense repeatedly insinuated that the witness had profited from his participation in the trial through these payments by the Prosecution and the Court. The witness consistently denied this suggestion. The Defense also confronted the witness with prior inconsistent statements in an attempt to impeach the witness's credibility.

Witness security: Open v. Closed Sessions

As noted above, significant portions of TF1-375's cross-examination were conducted in closed session. The witness had originally requested that his entire testimony be conducted in closed session, but the Court denied the request. As such, the Prosecution decided to dispense with a particular line of questioning it deemed too sensitive to address in open Court. When Defense later sought to cross examine on the topic, the Prosecution objected on the basis that this was outside the line of direct examination. Counsel for the Prosecution asked to provide further evidence to the Court about why TF1-375 was at grave risk if portions of his testimony were heard in open session. The Court reminded the Prosecution that the Rules of the Special Court do not limit cross-examination to topic covered on direct. The bench ruled that cross examination could continue in open session, with judgments about going into closed session being made on a question by question basis. The Prosecution sought immediate appeal, citing

¹¹ In June, the Trial Chamber granted Defense a one-month delay in cross-examination, due to the fact that the direct examination testimony included new information that the Prosecution had obtained from a proofing session conducted just one day prior to the witness' appearance in Court. Cross-examination of TF1-375 was further delayed nearly a week when the defendant temporarily refused to attend Court and his Defense counsel subsequently became ill.

likelihood of irreparable harm to the witness and his family if this line of questioning were broadcast in open session. Counsel for the Prosecution asked to put on record, in private session, the witness' reasons for wanting a closed session. Despite of Prosecution's insistence that the question itself would contain compromising information, the Court instructed counsel for the accused to proceed with his questions. Defense continued, asking whether the witness had seen Blah around the time that Sam Bockarie was killed. The witness refused to answer the question in open session. The Prosecution moved for a closed session in order to formally object to the question. The Court granted the motion, and moved into closed session to hear the witness' answer.

Witness's demeanor

Also of significance during this cross-examination was the demeanor of the witness. At one point, the witness laughed in response to a question by the Defense, prompting the bench to take formal notice of his demeanor, including his frequent laughter on the stand under direct and cross-examination. Throughout TF1-375's cross-examination, the interpreters and the bench frequently had to request that the witness slow down his speech, speak more loudly, or stop mumbling.



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