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SCSL-11-02-T
(435-617)

435



SPECIAL COURT FOR SIERRA LEONE

TRIAL CHAMBER II

Before: Justice Teresa Doherty, Single Judge

Registrar: Binta Mansaray

Case No.: SCSL-2011-02-T

Date: 25 September 2012

Filed 1 October 2012

INDEPENDENT COUNSEL

v.

Hassan Papa BANGURA
Samuel KARGBO
Santigie Borbor KANU
Brima Bazy KAMARA

PUBLIC

JUDGEMENT IN CONTEMPT PROCEEDINGS

Independent Counsel:

Robert Herbst

Counsel for Bangura:

Melron Nicol Wilson

Counsel for Kargbo:

Charles Taku

Counsel for Kanu:

Kevin Metzger

Counsel for Kamara:

Abdul Serry Kamal

SPECIAL COURT FOR SIERRA LEONE	
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NAME	ZAINAB I. FOFANAH
SIGN	[Signature]
TIME	16:00

I, Justice Teresa Doherty, Single Judge of the Special Court for Sierra Leone (“Special Court”)

MINDFUL of the “Decision on the Report of Independent Counsel,” filed on 24 May 2011;¹

MINDFUL of the “Order in Lieu of Indictment” filed against Hassan Papa Bangura, Samuel Kargbo, Santigie Borbor Kanu, and Brima Bazzy Kamara on 24 May 2011;²

COGNISANT of the provisions of Article 17 of the Statute of the Special Court for Sierra Leone (“the Statute”) and Rules 77 and 88 of the Rules of Procedure and Evidence (“the Rules”);

DO HEREBY RENDER the Judgement:

INDICTMENT

1. Hassan Papa Bangura is charged with:

Count 1: Knowingly and wilfully interfering with the Special Court’s administration of justice by offering a bribe to a witness who has given testimony before a Chamber, in violation of Rule 77(A)(iv), that on or about 27 November 2010 to 3 December 2010 in Freetown, Bangura offered a bribe to protected witness TF1-334, who gave testimony before Trial Chamber II in the proceedings of *The Prosecutor v. Alex Tamba Brima et al.*, in return for recanting his testimony in that trial.³

2. Samuel Kargbo, Santigie Borbor Kanu, and Brima Bazzy Kamara are each charged with:

Count 1: Knowingly and wilfully interfering with the Special Court’s administration of justice by offering a bribe to a witness who has given testimony before a Chamber, in violation of Rule 77(A)(iv), that on or about 27 November 2010 to 16 December 2010 in Freetown, each Accused offered a bribe to protected witness TF1-334, who gave testimony before Trial Chamber II in the proceedings of *The Prosecutor v. Alex Tamba Brima et al.*, in return for recanting his testimony in that trial.⁴

¹ SCSL-04-16-ES-694.

² SCSL-04-16-ES-694.

³ SCSL-04-16-ES-694.

⁴ SCSL-04-16-ES-694.

3. Hassan Papa Bangura, Samuel Kargbo, Santigie Borbor Kanu, and Brima Bazy Kamara are each charged with:

Count 2: Knowingly and wilfully interfering with the Special Court's administration of justice by otherwise interfering with a witness who had given testimony before a Chamber, in violation of Rule 77(A)(iv) that on or about 27 November to 16 December 2010 in Freetown, each Accused attempted to influence protected witness TF1-334, who gave testimony before Trial Chamber II in the proceedings of *The Prosecutor v. Alex Tamba Brima et al.*, to recant his testimony.⁵ Kamara and Kanu are charged that each acted both directly and through Samuel Kargbo and Hassan Papa Bangura.

4. Brima Bazy Kamara is charged with a further count:

Count 3: Knowingly and wilfully interfering with the Special Court's administration of justice by disclosing information relating to proceedings in knowing violation of an order of a Chamber, in violation of Rule 77(A)(ii) that on or about 29 November 2010 from Mpanga Prison, Rwanda, Kamara disclosed confidential information in knowing violation of an order of Trial Chamber I (*The Prosecutor v. Issa Hassan Sesay et al.*, SCSL-04-15-T-180, Decision on Prosecution Motion for Modification of Protective Measures for Witnesses, 5 July 2004) by revealing the identity of protected witness TF1-033 to Samuel Karbgo during a telephone conversation.⁶

The Indictment refers to TF1-334. TF1-334 testified without protective measures and in the course of evidence was variously referred to as TF1-334, 334 and Sesay. This is reflected in this Judgement.

⁵ SCSL-04-16-ES-694.

⁶ SCSL-04-16-ES-694.

PROCEDURAL HISTORY AND BACKGROUND

5. On 17 December 2010, the Prosecutor filed a motion before the Office of the President of the Special Court alleging intimidation and bribery of and interference with witnesses who gave evidence in *The Prosecutor v. Alex Tamba Brima et al.* (“AFRC”) case before the Special Court.⁷ Following dismissal of that motion on jurisdictional grounds,⁸ the motion was filed before Trial Chamber II,⁹ who, pursuant to Rule 77(C)(iii), directed the Registrar to appoint an independent investigator to investigate the contempt allegations.¹⁰ On 24 May 2011, the Trial Chamber issued a decision on the report of the independent investigator, directing that Independent Counsel prosecute the four Accused - Hassan Papa Bangura, Samuel Kargbo, Santigie Borbor Kanu and Brima Bazzy Kamara - and assigning the hearing of the case to Justice Teresa Doherty as Single Judge. Attached was an “Order in Lieu of Indictment,” charging the four Accused.¹¹
6. On 15 July 2011, the four Accused appeared before me as the Single Judge to answer the indictments against them. Hassan Papa Bangura, Santigie Borbor Kanu and Brima Bazzy Kamara pleaded not guilty to all counts and Samuel Kargbo pleaded guilty to all counts preferred against him and was convicted.¹² At that hearing Counsel for Kanu raised his intention of challenging the jurisdiction of the Court to hear this case, asking whether the Court was “*functus officio* at the time that the offences were said to have been committed.”¹³ The Prosecution responded that the jurisdictional issue had been raised and decided upon by Trial

⁷ SCSL-04-16-ES-682.

⁸ SCSL-04-16-ES-683.

⁹ SCSL-04-16-ES-684; SCSL-04-16-ES-685.

¹⁰ SCSL-04-16-ES-691.

¹¹ SCSL-04-16-ES-694.

¹² Transcript 15 July 2011, pp. 1-64.

¹³ Transcript 15 July 2011, pp. 23-28.

Chamber II in their decision of 18 March 2011¹⁴ and the Single Judge ordered that the issue be raised as a preliminary issue by motion.¹⁵

7. On 25 August 2011, Counsel for Kanu filed a motion requesting permission to file an application for an extension of time in which to file preliminary motions, to raise the objection that the Trial Chamber was *functus officio* at the time when the proceedings commenced.¹⁶ The motion was dismissed, recalling Trial Chamber II's decision dated 18 March 2011 holding that the Chamber had jurisdiction to deal with contempt of court in cases that have already been completed.¹⁷
8. On 1 May 2012, a "Scheduling Order for Pre-Trial Conference Pursuant to Rule 73bis and Order for Submissions" was issued.¹⁸ On 15 May 2012, Independent Counsel filed the "Prosecutor's Additional Submissions Pursuant to the Scheduling Order of 1 May 2012,"¹⁹ and, on the 17 May 2012 he filed the "Prosecutor's Pre-Trial Brief and Filings Pursuant to the Scheduling Order of 1 May 2012."²⁰ In his submissions, Independent Counsel, *inter alia*, sought a subpoena to direct the attendance at the hearings of Andrew Daniels, Esq. and Claire Carlton-Hanciles, the Principal Defender.²¹
9. Counsel for the Accused filed submissions on issues raised in the scheduling order of 1 May 2012 on various dates between 21 to 29 May 2012.²² Counsel for Kanu, Bangura, and Kamara filed pre-trial briefs on behalf of their respective clients on dates between 29 May and 1 June 2012.²³ In his pre-trial brief, Counsel for Kanu again raised whether the Trial Chamber was

¹⁴ Transcript 15 July 2011, p. 25.

¹⁵ Transcript 15 July 2011, p. 24.

¹⁶ SCSL-11-02-PT-13, para. 3.

¹⁷ SCSL-11-02-PT-14.

¹⁸ SCSL-11-02-PT-15.

¹⁹ SCSL-11-02-PT-16.

²⁰ SCSL-11-02-PT-17.

²¹ SCSL-11-02-PT-17, paras. 41-52.

²² SCSL-11-02-PT-18; SCSL-11-02-PT-19; SCSL-11-02-PT-20.

²³ SCSL-11-02-PT-21; SCSL-11-02-PT-22; SCSL-11-02-PT-23.

functus officio at the time that the incidents took place.²⁴ Counsel for Kanu filed a further “Defence Submission Pursuant to Scheduling Order Dated 1 June 2012,” challenging the trial schedule.²⁵

10. The trial opened on 16 June 2012 with a pre-trial conference in Freetown, Sierra Leone and video link to Kigali, Rwanda. The Trial involved two Accused who were resident in Kigali and two Accused who were resident in Freetown. Clearly, the rights under Article 17 of the Statute apply equally to all four Accused. Neither of the Accused in Kigali could travel to Freetown nor to any other location and, likewise, the Accused in Freetown could not travel to Kigali. In order to have all four Accused hear the evidence, the trial was conducted by way of video link between Freetown and Kigali. Counsel and the Court also travelled between Freetown and Kigali in order to have evidence adduced in both locations.
11. At the pre-trial conference, Counsel for Kanu renewed his challenge to the jurisdiction of the Single Judge, on the grounds that the Trial Chamber was *functus officio* at the time the proceedings were commenced and thus Rule 77(A)(iv) could not form the basis for an Indictment.²⁶ The Single Judge issued an oral decision dismissing the motion.²⁷
12. On 18 June 2012, I, as Single Judge, issued an interim decision finding that the lawyer-client privilege provided by Rule 97 was not absolute; directing a subpoena to be issued to Andrew Daniels; and requesting an Amicus Curiae brief on the application of Rule 97 to the Principal Defender to be filed by Professor William Schabas.²⁸
13. Following various objections to the Defendant Samuel Kargbo being present whilst Prosecution evidence was being adduced notwithstanding that he was a Defendant in the trial, a ruling was made in relation to Rule 90(d) and the Prosecution evidence opened. The trial continued in

²⁴ SCSL-11-02-PT-21, para. 15.

²⁵ SCSL-11-02-PT-25.

²⁶ Transcript 16 June 2012, pp. 24-25.

²⁷ Transcript 16 June 2012, pp. 38-40.

²⁸ SCSL-11-02-T-27.

Freetown and Kigali between the 20 June and 4 July 2012, with numerous objections. Independent Counsel called five witnesses, including the Defendant Samuel Kargbo and Witness TF1-334, who elected to testify without protective measures.

- 14. The logistics of the video link involved frequent break downs for reasons outside the control of the Court and the Special Court’s technical staff. This led to innumerable delays and frustrating breaks in the normal flow of evidence. Likewise, time differences and the need for the detainees in Kigali to be returned to their detention centre meant there was a lack of flexibility in the hours in which the Court could sit. This restricted the time available for hearings.
- 15. In this regard, I wish to record and commend the many staff members, interpreters, transcribers, Court officials, technical and IT staff, as well as Counsel who worked diligently and cooperatively, including on many Saturdays, in these frustrating conditions. I also want to commend the cooperation and dedication of the staff of the Rwandan Prison Authority, who worked extra hours and over and above the remit of the agreement between the Rwandan Government and the Special Court. Without their hard work and perseverance this trial could not have occurred.
- 16. On 18 July 2012 Counsel for Kanu, Kamara and Bangura filed motions for judgement of acquittal pursuant to Rule 98,²⁹ and on 30 July 2012 Independent Counsel filed a brief in opposition to the Defence motions for judgement of acquittal.³⁰
- 17. On 13 August 2012 I rendered a decision dismissing the motions for judgement of acquittal,³¹ and on 14 August issued a scheduling order for recommencement of the trial, directing that it reopen in Kigali on 21 August 2012.³² On 15 August 2012, I issued a decision on Kanu’s urgent

²⁹ SCSL-11-02-T-35; SCSL-11-02-T-36; SCSL-11-02-T-37.
³⁰ SCSL-11-02-T-41.
³¹ SCSL-11-02-T-45.
³² SCSL-11-02-T-46.



motion requesting permission to instruct a handwriting expert.³³ Counsel for Kanu filed two further motions seeking a change to the wording of the Decision of 15 August 2012,³⁴ which were dismissed.³⁵

18. On 21 August 2012 the proceedings reopened in Kigali with a video link to Freetown. Following various procedural objections, the Accused Kamara elected to give sworn evidence. He was cross-examined, and subsequently called one witness in his defence in Freetown, Ahmed Keh Kamara (Keh For Keh.) The Accused Kanu also elected to give sworn evidence and was cross-examined. The Accused Bangura had initially stated he would rely on his un-sworn statement of 26 May 2012 annexed to his Defence pre-trial brief dated 30 May 2012. He subsequently filed an amending statement on 28 August 2012, then elected to give sworn evidence and was cross-examined in Freetown.
19. All Counsel elected to give oral submissions and made their oral submissions on 6 September 2012 when the case was closed in accordance with Rule 87(A).

APPLICABLE LAW

20. Rule 77 of the Rules sets out a regime to be followed in cases of contempt of court before the Special Court relating to a defined list of acts. Paragraph (A) of the Rules states *inter alia* that:

(A) The Special Court, in the exercise of its inherent power, may punish for contempt any person who knowingly and wilfully interferes with its administration of justice, including any person who:

[...]

(ii) discloses information relating to proceedings in knowing violation of an order of a Chamber;

[...]

³³ SCSL-11-02-T-48. See also SCSL-11-02-T-42 ("Public with Confidential Annexes Urgent Defence Application for Permission to Instruct Handwriting Expert").

³⁴ SCSL-11-02-50; SCSL-11-02-52.

³⁵ SCSL-11-02-T-60.

(iv) threatens, intimidates, causes any injury or offers a bribe to, or otherwise interferes with, a witness who is giving, has given, or is about to give evidence in proceedings before a Chamber, or a potential witness;

(v) threatens, intimidates, offers a bribe to, or otherwise seeks to coerce any other person, with the intention of preventing that other person from complying with an obligation under an order of a Judge or Chamber.

[...]

21. As these provisions note, the basis for this Rule is the inherent power of the Special Court to deal with cases of contempt before it. Indeed, it is well established that a court has an inherent jurisdiction to ensure that its administration of justice is not obstructed, prejudiced or abused.³⁶

SUBMISSIONS OF THE PARTIES

22. As noted, Counsel made oral submissions and, after the closing of the trial, sought permission to file supplementary written submissions. This was granted on condition they were filed by close of business on Tuesday 11 September 2012. Counsel for Samuel Kargbo did not make closing submissions, as Kargbo had pleaded guilty and been convicted.

Submissions of Independent Counsel

23. In accordance with Rule 86, Independent Counsel made the first submissions. Independent Counsel adopted his submissions on the elements of the offence as set out in his pre-trial brief.³⁷ This pre-trial brief stated that the *mens rea* required that the Accused acted “knowingly and wilfully,” which includes the requirement that the Accused acted with a specific intent to interfere with the administration of justice. Counsel noted in his oral closing submissions that a knowing violation means not just a deliberate violation but also deliberate failure to ascertain the circumstances under which a witness testified. Hence, where the alleged contemnor

³⁶ *Independent Counsel v. Margaret Fomba Brima et al.*, SCSL-2005-02, Sentencing Judgement in Contempt Proceedings, 21 September 2005, para. 11.

³⁷ SCSL-11-02-PT-17.



suspected that a fact or order existed, or was aware that its existence was highly probable, but refrained from finding out whether it did exist, so as to be able to deny the knowledge of it, there is a sufficient knowing and wilful *mens rea* to constitute the crimes charged.³⁸

24. The elements of offering a bribe are: an offer of money or something of value to a witness who has given evidence in proceedings or before a Trial Chamber, done with the requisite *mens rea*.³⁹

In relation to the second charge, of “otherwise interfering with a witness,” the Prosecution must establish that an accused otherwise interfered with a witness who has given evidence in proceedings before a Trial Chamber, again with the requisite *mens rea*.⁴⁰

25. Independent Counsel also referred to and incorporated the submissions made in his Response to Defence Counsels’ motions for judgement of acquittal. He submitted that substantial elements of the defences of the Accused were not put to Sesay/TF1-334 in cross-examination and thus he had no opportunity to address them.⁴¹ He submitted that there was “really incredible testimony, false denials ... from all three Defendants in this case [in comparison] to the credibility of TF1-334 and Samuel Kargbo.”⁴²

26. Independent Counsel submitted that the “unimpeachable testimony” of the lawyer Andrew Daniels showed that Kamara and Alex Tamba Brima were contemplating filing a petition for review of their conviction and sentence and that some witnesses were prepared to change their testimony.⁴³ He pointed to the longstanding relationships and friendships between Kargbo, Bangura and TF1-334, and submitted that there was no motive to falsely implicate Bangura or, in the case of Kargbo, to falsely implicate Kamara and Kanu.⁴⁴

³⁸ Transcript 6 September 2012, p. 2374.

³⁹ Transcript 6 September 2012, p. 2374.

⁴⁰ Transcript 6 September 2012, p. 2374.

⁴¹ Transcript 6 September 2012, p. 2375.

⁴² Transcript 6 September 2012, pp. 2375-2376.

⁴³ Transcript 6 September 2012, p. 2376.

⁴⁴ Transcript 6 September 2012, p. 2377.

27. Independent Counsel also responded to the testimony of each of the three Accused. He noted that Bangura was not questioned on the allegation by TF1-334 that Bangura had contacted TF1-334 in June 2012 seeking to have TF1-334 delete those portions of his statement relating to Bangura.⁴⁵
28. He referred to Bangura's evidence in cross-examination that he did not see or hear any statements that involved him (Bangura) when this statement was shown to him by his lawyers. Counsel also submits that Bangura's denial that he read his own statement filed in May 2012 (which was subsequently amended, as noted above,) his alleged inability to read or understand English and his false testimony goes not only to his credibility but his reliability as a witness.⁴⁶ Counsel further submits that Bangura's testimony that he was only aware that a witness would change his testimony when he accompanied Kargbo to the offices of the lawyer Mansaray and that Bangura neither questioned, commented, nor did anything about this proposed plan was "utterly ridiculous." These aspects of Bangura's evidence are not credible and are perjurious.⁴⁷
29. Independent Counsel points to Bangura's confirmation that TF1-334 was a deputy pastor in the prison, contrary to the evidence of Kanu; that he was able to speak to all three prisoners in Rwanda on a speaker phone; that he acknowledged that the people who normally called him were "these men and Bazy;" and that he could recognise the voices of the three men in Rwanda.⁴⁸ Counsel also notes the frequency of the calls to Bangura starting on 12 November 2010 and outlines the number and times of those calls.⁴⁹
30. In relation to the evidence of the Accused Kanu, Independent Counsel points to the conflict in Kanu's own evidence concerning the spelling of his name as "Kanu" or "Khanu" as ridiculous and indicative of a person without respect for the truth. He notes that Kanu acknowledges all

⁴⁵ Transcript 6 September 2012, p. 2377.

⁴⁶ Transcript 6 September 2012, pp. 2380-2381.

⁴⁷ Transcript 6 September 2012, pp. 2385-2386.

⁴⁸ Transcript 6 September 2012, pp. 2385-2386.

⁴⁹ Transcript 6 September 2012, pp. 2386-2387.



the signatures in Exhibit P15 as his, with the exception of the signature alongside the entries on 30 November 2010. Counsel also notes that Kanu wrote his name “Santigie” in the log book on two occasions in “his clearly identifiable handwriting,” but denied this because Kanu wants “nothing to do with that entry.”⁵⁰ He posits the question of why Kanu would distance himself from this entry alone if he was innocent. Counsel further points to the habit of Kanu of embolding entries in his diaries, and notes that the only entry in the log book that is bolded over is the 30 November 2010 entry.⁵¹

31. Counsel submits that allegations that the Independent Counsel and Sengabo manipulated the entries were not put to the witness Sengabo and the allegations relating to TF1-334 insulting Kanu’s mother were not put to TF1-334. He submits that the Court should consider that because these matters were not put to witnesses, the witnesses were not able to respond to them and invites the Court to consider them in the light of the rule in *Browne v. Dunn*.⁵²
32. Counsel notes that both TF1-334 and Kargbo had less to say about Kanu than the other Accused. Kanu participated in the early conversations with Kargbo, and was referred to as having spoken to TF1-334 in the email from Shyamala Alagendra, after Kamara sought to have Kanu speak directly to TF1-334.⁵³
33. Counsel additionally points out that while Kanu denies discussing the review of his conviction and sentence with anyone, the letters produced from the Registrar showed that this was discussed, and this also affects Kanu’s credibility.⁵⁴ Counsel notes that Kamara admitted that the Registrar discussed a review, but Kanu persisted in his denial. Counsel further submits that the cross-examination of Kargbo was of irrelevancies such as his employment and “his skills as an artist” and notes that Kargbo handled this without intent to evade or dissemble in a credible

⁵⁰ Transcript 6 September 2012, p. 2388.

⁵¹ Transcript 6 September 2012, p. 2389.

⁵² Transcript 6 September 2012, p. 2390.

⁵³ Transcript 6 September 2012, pp. 2396-2397.

⁵⁴ Transcript 6 September 2012, p. 2397.

and believable way. He contrasts, in his submission, the differences between Kanu's answers to questions in examination-in-chief and cross-examination, submitting that these indicate that his evidence is not credible or reliable.⁵⁵

34. In relation to Kamara's evidence, Independent Counsel submits that his testimony was also not credible and that he too told a story differently in examination-in-chief than in cross-examination. Counsel notes that Kamara did not remember the content of calls to persons such as Keh For Keh, but recalled the details of the call of 30 November 2010, including the persons whom he spoke to and what was said. However, in cross-examination he became inconsistent on when he said that the phone line was "breaking up"⁵⁶ and he asked Kargbo for his phone number to call back. In contrast, Bangura said in his evidence that Kamara had asked to speak to Kargbo in a call earlier than 30 November 2010, pointing to an inconsistency between the Accused. Counsel submits that Kamara testified that while speaking to Kargbo on 30 November, the other persons to whom he had already spoken asked to speak to Kanu and Tamba Brima. Kamara went to get Kanu and Tamba Brima and when they came, Kamara called Kargbo's number again. Counsel notes that Kanu did not give any of this evidence, saying that he was not even there, and that he was not called down to use the phone. Counsel points to other inconsistencies in Kamara's evidence, by referring to Andrew Daniels as a "brother" to him but then contradicting Daniels testimony by stating that a review of his conviction or sentence was never mentioned to Daniels.⁵⁷
35. Counsel submits that Kamara testified that there were only three important witnesses who testified against him in the AFRC trial and these included TF1-334 and TF1-033. Counsel notes that Kamara contacted Kargbo and requested that Kargbo ask TF1-334 about the whereabouts

⁵⁵ Transcript 6 September 2012, pp. 2398-2399.

⁵⁶ Transcript 6 September 2012, p. 2400.

⁵⁷ Transcript 6 September 2012, p. 2403.

of TF1-033 using TF1-033 name. This, in Counsel's submission, makes Kargbo's evidence of Kamara's request more credible than Kamara's denials.⁵⁸

36. Counsel submits that Kamara was also inherently contradictory when he said that he did not know who made the call to Bangura on 7 December 2010, but knew that he made the call to Kargbo afterwards. Kamara was also contradictory in his "confused" evidence concerning the house in Wilburforce Village.⁵⁹
37. Counsel submits that the three Rwandan prisoners were acting in concert and that, when a "group of Accused acts in concert each is responsible for everything else the others did or said in furtherance of the criminal plan or scheme."⁶⁰
38. In relation to issues put to TF1-334 on cross-examination, Independent Counsel notes that whilst TF1-334 said "he thought that it happened at that time" (on 29 November), Investigator Saffa explained that a mistake occurred in recording the statement and he did not have the Alagenda email which clearly showed that the call from Rwanda was made on the 30 November 2010. Counsel also notes that whilst there are no records of calls to Kargbo shown for the period of 1 to 30 November there is "plenty of evidence" as to other calls. For example, Bangura said that Kargbo was normally with him and that calls could have been made on Bangura's phone. In addition, it could be that only outgoing calls are recorded and that some calls may have been incoming.⁶¹
39. Finally, Counsel submits that the Defence contention that TF1-334 made this all up in order procure relocation is "ludicrous," as TF1-334 is still here and that proposition does not explain away either Daniel's testimony, or Kargbo's.⁶²

⁵⁸ Transcript 6 September 2012, pp. 2405-2406.

⁵⁹ Transcript 6 September 2012, pp. 2405-2406.

⁶⁰ Transcript 6 September 2012, p. 2406.

⁶¹ Transcript 6 September 2012, pp. 2408-2410.

⁶² Transcript 6 September 2012, pp. 2410-2411.



40. In subsequent submissions in writing, Independent Counsel replies to the submissions of Counsel for the Defence saying that one cannot deny that this was a joint criminal plan, and once each Accused joined and participated in it he became guilty as co-schemers and criminally responsible for their acts as well as his.⁶³ He rebuts submissions on behalf of Bangura that the current contempt charges resulted from the desire of a person or institution to punish Bangura for declining to become a Prosecution witness in 2004 by pointing out that the recommendations relating to possible charges against Bangura were made only by Independent Counsel and only on the determination of the Trial Chamber.⁶⁴ He also rebuts the submission of Counsel for Kanu that “the goal posts” in the case were moved by pointing out that Defence Counsel was the person who first reviewed the prison log book and served noticed that he intended to introduce excerpts from that log.⁶⁵
41. He rebuts the submission that the Prosecution was equivocal or vague as to the date of the Kanu conversation with TF1-334 on 30 November by referring to the evidence of the Alagendra email and his opening statement. Counsel also notes that the phone records were also made available to counsel by way of Rule 66 disclosure in July 2011.⁶⁶ In relation to Kanu’s submission that he suggested in cross-examination to TF1-334 that he had something against Kanu, Counsel submits this far different from putting to TF1-3234 the incident in 2000 and the insult on Kanu’s mother and subsequent lifetime enmity.⁶⁷ In relation to submissions by Counsel for Kamara that no phone was found in the Mpanga Special Wing, Independent Counsel notes that a telephone charger and telephone air time were found.⁶⁸

Submissions of Hassan Papa Bangura

⁶³ SCSL-11-02-T-62, para. 13.

⁶⁴ SCSL-11-02-T-62, para. 20.

⁶⁵ SCSL-11-02-T-62, paras 23-24.

⁶⁶ SCSL-11-02-T-62, paras 24-26.

⁶⁷ SCSL-11-02-T-62, para. 28.

⁶⁸ SCSL-11-02-T-62, para. 34.

42. Counsel for Bangura made oral submissions, adopted the submission in his Motion for Judgement of Acquittal⁶⁹ and filed additional closing submissions.⁷⁰ He submits that “this is a case that has been conducted by the Prosecution on the basis of scare mongering and intimidation.”⁷¹ Counsel contends that Bangura was met with “false allegations” and that he has faced an indictment which seeks to “throw spanners into our fragile peace process.”⁷²
43. Counsel submits that the indictment imposes a *mens rea* obligation as elements of the crime and it must be proved beyond all reasonable doubt that Bangura knowingly and wilfully interfered with the Special Court’s administration of justice. He notes that in relation to this *mens rea*, there is no definition in the Rules of the Special Court or the International Criminal Tribunal for the Former Yugoslavia (ICTY) of this element of the criminal conduct in relation contempt. and submits that the ordinary meaning of “wilful” means “intentional and deliberate.”⁷³ He also relies on the case of *Wolmington v. DPP* to say that the standard of proof of guilt is beyond reasonable doubt.⁷⁴
44. Counsel submits that Bangura did not know about proceedings before the Special Court and never understood the concept of a protected witness. He notes that there is nothing criminal in seeking review of proceedings before the Court or merely seeking legal advice. In this regard, Bangura was used as “conduit” to get advice for Tamba Brima and he notes that Witness Daniels never mentioned Bangura.⁷⁵ Counsel rebuts the Independent Counsel’s submission that Bangura’s participation in the visit to Mansaray’s office indicates knowledge and submits that nothing was said by Bangura, and that Bangura did not consider it a crime for Kargbo to

⁶⁹ SCSL-11-02-T-37.

⁷⁰ SCSL-11-02-T-59.

⁷¹ Transcript 6 September 2012, p. 2414.

⁷² Transcript 6 September 2012, p. 2415.

⁷³ Transcript 6 September 2012, pp. 2416-2417; SCSL-11-02-T-59, paras 13-19.

⁷⁴ SCSL-11-02-T-59, para. 5.

⁷⁵ Transcript 6 September 2012, pp. 2423-2424; SCSL-11-02-T-59, paras 22, 24-25.

ask the lawyer of the legal implications of a potential review.⁷⁶ I note that there is no evidence of what Bangura thought about the visit to Mansaray.

45. Counsel reviews Bangura's evidence, submitting that Bangura only became aware of the reason for the visit to Mansaray's office during the course of the meeting there. He also notes that Bangura had originally stated to the Independent Counsel when he was investigating that it was Tamba Brima who had called him and asked him to accompany Kargbo to Mansaray's office. I note the statement says Brima as was put in cross-examination. I note the report was not tendered into evidence.
46. He argues that Bangura's subsequent written statement was a mistake, and his prior statement to the investigator is consistent with his sworn evidence. Counsel agrees that Bangura was friendly with both Kargbo and TF1-334. He seeks to rebut the submission of Independent Counsel that Bangura "is refusing to accept that he understands English" and submits that Bangura was not a senior commander of a peace-time army, but part of a group in the jungle and so he spoke Krio with the troops.⁷⁷
47. Counsel points to TF1-334's testimony that Bangura asked him "whether \$10,000 would be enough for him to recant his testimony" as unbelievable and not in his prior statements to officials at the Office of the Prosecutor.⁷⁸ He submits that TF1-334 has come to the Court to give evidence because he is seeking relocation and "wants to leave Sierra Leone at all costs."⁷⁹ He also submits that Kargbo's testimony is "full of a lot of doubts" and gives an example.⁸⁰
48. Counsel submits that Bangura's evidence that he met with Independent Counsel in 2004 and was asked to be a Prosecution witness in the AFRC trial demonstrates that some person

⁷⁶ Transcript 6 September 2012, pp. 2423-2424.

⁷⁷ Transcript 6 September 2012, pp. 2419-2420.

⁷⁸ Transcript 6 September 2012, p. 2421; SCSL-11-02-T-59, para 30.

⁷⁹ Transcript 6 September 2012, p. 2421.

⁸⁰ Transcript 6 September 2012, p. 2422.



contacted Bangura, and this person or institution still wants Bangura to pay a price for refusing to testify against the AFRC prisoners.”⁸¹

49. Counsel submits that TF1-334 told several lies and gives examples, including his evidence that Bangura is not a member AGPAD: the Action Group for Peace and Development. Counsel also asks why, if Bangura had such a good relationship with TF1-334, would he seek to speak to him through someone else’s mobile phone. Counsel further points to inconsistencies between TF1-334’s prior statements and his evidence in Court.⁸²
50. Counsel notes that there is no evidence relating to Bangura in either Daniels’ or Sengabo’s testimony. He further points to Kamara’s testimony that he never called Bangura and instructed him to go and see Mansaray and that he never contacted Bangura to ask him to contact witnesses who testified during the AFRC trial. Counsel notes that Kanu testified that he never called Bangura personally, but that they speak occasionally after Tamba Brima had called him.⁸³
51. Finally, Counsel for Bangura submits that any evidence led by the Prosecution outside the time frame of the Indictment, 27 November – 16 December 2010, should not be considered by the Trial Chamber.⁸⁴

Submissions of Santigie Borbor Kanu

52. Counsel for Kanu submits that the Independent Counsel is formulating an “intricate web of deceit” and conspiracy and submits that “the Prosecution have moved the goal posts in this case so much so that we stand ... on a different playing field – a completely playing field from that which the Prosecution started the game.”⁸⁵ He also contends that because the “case ... is built solely on guilt by association” it must fail because there is no evidence of *mens rea*, the guilty

⁸¹ Transcript 6 September 2012, p. 2422.

⁸² Transcript 6 September 2012, p. 2424; SCSL-11-02-T-59 para. 31.

⁸³ Transcript 6 September 2012, p. 2424. SCSL-11-02-T-59, para. 31.

⁸⁴ SCSL-11-02-T-59, para. 53; SCSL-11-02-T-37, paras 10-11.

⁸⁵ Transcript 6 September 2012, pp. 2427, 2434.

mind.⁸⁶ Counsel for Kanu accepts the law as set out by Independent Counsel, and submits that since the Prosecution bears the burden of proof, Kanu has nothing to prove. Counsel points to when Kanu was asked on cross-examination about details of telephone calls, he was not asked “real questions ... about his involvement in this plan other than one question that Kanu did speak to TF1-334 on the 30 November, which Kanu denied.” He stresses that there were no questions concerning the conversations with Kargbo.

53. Counsel also objects to questions being asked based on the interviews Independent Counsel conducted in the course of his investigations with, among others, the Accused in this case. He submits that there were no notes given to the Defendants to read and amend and no records were “given to people who he purported were their counsel so that they could counter-sign and say that is an accurate note” He further notes that these records are not in evidence.⁸⁷
54. Counsel refers to Independent Counsel’s reliance on the similarity of the handwriting in the prison call log, Exhibit P15, and, in particular, the entry for 30 November 2010 which Kanu had denied either signing or tampering with. He notes that in his opening statement the Independent Counsel had been “very vague about the date on which the incriminating phone call ... took place.”⁸⁸ Counsel submits that this evidence on the handwriting or the way letters are curved cannot be of assistance unless there is expert evidence adduced.
55. Counsel deals at length with TF1-334’s evidence in order to submit that though the witness stated the crucial phone call was made on 29 November 2010, the evidence in the logs indicates it was made on 30 November.⁸⁹ Counsel disputes the Independent Counsel’s submission that because Kanu has been shown to “bold” or “emphasise” his letters, the bolding of the entry for 30 November 2010 in Exhibit P15 can be ascribed to Kanu.

⁸⁶ Transcript 6 September 2012, p. 2431.

⁸⁷ Transcript 6 September 2012, p. 2432.

⁸⁸ Transcript 6 September 2012, p. 2434.

⁸⁹ Transcript 6 September 2012, pp. 2434-2436.

56. Counsel notes that the MTN call records were not served on the Defence but “were disclosed to the Defence through the Defence Office sometime in 2011.”⁹⁰ Counsel asks the rhetorical question why this was not used in the Independent Counsel’s case from the very beginning? Counsel further submits that if Kargbo’s evidence that he was using the same phone is correct, then the MTN call records should have shown calls to Kargbo that suggested that Kargbo had spoken to the men in Rwanda on 26 or 27 November, and at other times. This, he says, is sweeping evidence under the carpet.⁹¹
57. In relation to matters to which Kanu testified in his evidence-in-chief but were not asked about in cross-examination of TF1-334, Counsel submits that it was suggested that TF1-334 had “something against Kanu.” He argued that this was a fast-moving case and the evidence changed, and that he did not have “ready access” to his client.⁹² He points to the deep-rooted desire of TF1-334 to relocate to another country, but does not comment on the implications of this desire on the part of TF1-334.
58. Concerning Kanu’s credibility in relation to his evidence on the spelling of his name, Counsel suggest several implications and submits that this does not prove his guilt. In reply to the evidence of Kanu that the entry in the prison log book for 30 November 2010 was there as a result of manipulation of Independent Counsel and Sengabo, Counsel submits that effectively his defence is “I didn’t do it, somebody else must have done it, and if it was somebody else who did it, it must have been somebody who had control of the book.” He asks that this allegation not be held against him (Kanu).⁹³
59. Counsel submits that the “bolding over of the entry of 30 November and the MTN call record cannot stand together, as the MTN call record does not have the numbers recorded in the prison log, nor does it have times recorded in the prison log.” Counsel further notes that the

⁹⁰ Transcript 6 September 2012, p. 2437.

⁹¹ Transcript 6 September 2012, p. 2438.

⁹² Transcript 6 September 2012, p. 2440.

⁹³ Transcript 6 September 2012, p. 2442.



calls in the MTN call record are the first calls to Kargbo recorded and that “these numbers attributed to Mr. Kanu do not equate to that number.” He refers to the evidence of Kamara as to the content of these calls.⁹⁴

60. Counsel for Kanu submits that the email to Alagenda has no “status” and that it shows a difference between what TF1-334 said to Alagenda in the email and what he said in his statement to investigator Saffa and others.⁹⁵ Counsel submits that the Independent Counsel’s submissions on the correspondence with the Registrar concerning review under Rule 120 cannot be used, because there is no reference in this document to a witness changing his or her evidence. He contends that TF1-334 was in effect acting as an *agent provocateur* in December 2010 by asking the Prosecution not to file a motion so that he could get additional evidence. Counsel argues these incidents were a figment of TF1-334’s imagination in an attempt to achieve his relocation.⁹⁶
61. Counsel also points to inconsistencies between TF1-334’s evidence and Kargbo’s, for example, use of the words recount/recant and TF1-334’s evidence under cross-examination that he “understood that they wanted (him) to lie.” Given these inconsistencies, Counsel submits that TF1-334 “is an incredible witness, as is Mr. Kanu, [sic] in view of the inconsistencies as between themselves.”⁹⁷ (Given the context I am assuming that counsel mis-spoke and intended to refer to Kargbo, not Kanu). He submits that there was no evidence of the offer of a bribe or of interfering with witnesses.
62. Counsel submits that whilst “we haven’t argued about duplicity in this case,”⁹⁸ if the two counts are founded on the same facts but are not alternatives, this is not permitted in law. In his subsequent written submissions, Counsel refers to evidence outside the temporal scope of the

⁹⁴ Transcript 6 September 2012, p. 2444.

⁹⁵ Transcript 6 September 2012, p. 2445.

⁹⁶ Transcript 6 September 2012, p. 2449.

⁹⁷ Transcript 6 September 2012, pp. 2449-2451.

⁹⁸ Transcript 6 September 2012, p. 2453.

indictment and submits that though the Single Judge may consider these matters for historical purposes or information the Single Judge may not rely on the events as an independent basis of any count.⁹⁹

63. He submits that material obtained in the course of investigation that has been destroyed is in breach of Rule 41(a) of the Rules and that none of the five provisions of Rule 43 have been complied with.¹⁰⁰ Counsel submits that there was no audio or video recording of the interview between Independent Counsel and the Accused in contravention of Rule 63(b) and therefore no reliance can be placed on material that comes from interviews with the Accused.¹⁰¹ Concerning matters not put to TF1-334 in cross-examination, and the application of the rule in *Browne v. Dunn*, Counsel submits that the essential elements of Kanu's case were put to the witness, that no issue arises that should cause the application of the rule in a manner adverse to Mr. Kanu."¹⁰²

Submissions of Brima Bazy Kamara

64. Defence Counsel for Kamara incorporated his Motion for Judgement of Acquittal submissions into his closing oral arguments. Counsel submitted that contrary to assertions that Kamara made phone calls to Kargbo, Prosecution Exhibit P15, the prison call log, does not list a phone call in November or December 2010 from the prison mobile phone to Kargbo, and Kamara's only means of communication was the Mpanga Prison mobile phone.¹⁰³ Independent Counsel did not provide evidence of the telephone numbers that Kargbo or TF1-334 used in November or December 2010, or Kargbo's mobile phone records. Counsel contends that the Prosecution

⁹⁹ SCSL-11-02-T-61, para. 6.

¹⁰⁰ SCSL-11-02-T-61, paras 7-8.

¹⁰¹ SCSL-11-02-T-61, paras 9-10.

¹⁰² SCSL-11-02-T-61, para. 12.

¹⁰³ SCSL-11-02-T-36, paras 5-8, 17.



has not proven the *actus reus* of the crime – interfering with the administration of justice, as Kamara contacted Kargbo “out of the blue.”¹⁰⁴

65. Counsel for Kamara also notes that no mobile phone records were provided to prove that the alleged phone call between Kamara and Kargbo on the way to PWD Junction took place.¹⁰⁵ In addition, the Prosecution has also not established that Kamara called the lawyer Mansaray’s office when Bangura and Kargbo were there. The Prosecution has not linked the Accused to the alleged crime or the crime scene.¹⁰⁶ Regarding TF1-334, Kamara’s testimony confirmed that he never contacted, spoke to or dealt with Kamara.¹⁰⁷
66. Defence Counsel submits that Andrew Daniels was on “very good terms” with Kamara but Daniels was never told of a criminal enterprise, and he did not suspect that anything criminal was being planned when he spoke to Kamara.¹⁰⁸ Finally, Counsel contends that the evidence from Joseph Saffa and Hillary Sengabo did not prove the allegations against Kamara, and Sengabo, who produced the call log book from Mpanga Prison, was “not aware of any criminal enterprise or plan to subvert justice.”¹⁰⁹
67. In oral closing arguments, Counsel for Kamara submitted that though Kamara is charged independently of the other Accused in the indictment, their names appear in only one indictment. Thus, he contends, the Indictment must “mention” conspiracy, and yet the Accused did not conspire to commit the crimes alleged. Count 3 is a different offence than Counts 1 and 2, in that Count 3 comes under Rule 77(A)(ii), while Counts 1 and 2 come under Rule 77(A)(iv). “Threatens, intimidates or causes an injury,” as per rule 77(A)(iv) are, if you apply the *jus dem generis* rule, one offence.¹¹⁰

¹⁰⁴ SCSL-11-02-T-36, para. 10

¹⁰⁵ SCSL-11-02-T-36, paras 9-10, 18.

¹⁰⁶ SCSL-11-02-T-36, para. 10.

¹⁰⁷ SCSL-11-02-T-36, paras 11, 20.

¹⁰⁸ SCSL-11-02-T-36, para. 12.

¹⁰⁹ SCSL-11-02-T-36, paras 13-14.

¹¹⁰ Transcript 6 September 2012, p. 2455.

68. Counsel also submits that Count 1 of the Indictment - offering a bribe to a witness - is another way of committing the offence, is vague and does not specify to which witness the bribe was offered, and thus must be dismissed. "Interfering" is not defined, and an Accused must know the case he has to meet.¹¹¹
69. Counsel for Kamara contends that the only conversation between Kamara and Kargbo listed in the prison call log is on 30 November 2010, and this phone call has "been explained." There is no telephone call between Kargbo and Bangura and any of the other Accused on 29 November 2010, which is the date charged. In addition, neither the MTN call records nor the prison call log show phone calls from Kamara at PWD Junction, Sarolla, or Newton.¹¹² Finally, though the Independent Counsel contends that the prisoners in Rwanda had access to other telephones, no evidence of these alleged other phones was presented.¹¹³ Counsel for Kamara also intimated that the Independent Counsel had purposefully withheld giving the MTN call records to Witness Keh For Keh, but when Counsel had insisted on Keh having them, Independent Counsel ceased in his questioning the witness on these records.¹¹⁴
70. In his own testimony, Kamara himself denied that he made a call on 7 December, and there is no evidence that he did make this call, or any call before 30 November. Further, though these phone calls were allegedly made in front of prison officers, none were called to testify to these calls.¹¹⁵
71. Counsel submits that because the evidence showed several calls in the MTN call records that did not appear in the prison log book, the log book is an unreliable record which should not be

¹¹¹ Transcript 6 September 2012, pp. 2455, 2463.

¹¹² Transcript 6 September 2012, pp. 2455, 2457, 2458, 2462.

¹¹³ Transcript 6 September 2012, pp. 2457-2458.

¹¹⁴ Transcript 6 September 2012, pp. 2458-2459.

¹¹⁵ Transcript 6 September 2012, pp. 2459-2461.

trusted. There is no evidence that Kamara talked to TF1-334/Sesay so “how could he have offered him a bribe, much less have him recant his testimony?”¹¹⁶

72. Finally, there is no evidence that a conversation in which Kamara inquired about Witness TF1-033 occurred between Kargbo and Kamara on 26 November, and Count 3 is “the most ridiculous count.” Counsel for Kamara did not file supplementary submissions.¹¹⁷

PRELIMINARY ISSUES

73. Both the Independent Counsel and the Defence have adduced evidence outside of the Indictment period. Independent Counsel submits that “there is a clear case law that such evidence is admissible pursuant to Rule 89(C), as it is relevant to context” and refers to it as “background evidence”¹¹⁸ Counsel for Kanu submits that “while reference may be made to events outside the temporal scope, the Trial Chamber ought only to consider such matters for historical purposes or as information and may not rely on any event as an independent basis of any count before it in this case.”¹¹⁹
74. A Court may convict an accused only where all the elements required to establish his guilt are present during the temporal jurisdiction of the court.¹²⁰ But a Trial Chamber may rely on evidence that falls outside the temporal scope of the indictment to clarify a given context, to establish by inference the elements, in particular the *mens rea*, of criminal conduct during the material period, and/or to demonstrate a deliberate pattern of conduct.¹²¹ Given that Rule 89(C) permits the Court to admit any relevant evidence in considering evidence outside the temporal scope of the Indictment, I will consider and assess it only in accordance with the foregoing principles.

¹¹⁶ Transcript 6 September 2012, pp. 2461-2462.

¹¹⁷ Transcript 6 September 2012, p. 2464.

¹¹⁸ Transcript 6 September 2012, p. 2373.

¹¹⁹ SCSL-11-02-T-61, para. 6.

¹²⁰ *The Prosecutor v. Charles Ghankay Taylor*, SCSL-03-01-T-1283, Judgement, 18 May 2003, para. 99.

¹²¹ *The Prosecutor v. Charles Ghankay Taylor*, SCSL-03-01-T-1283, Judgement, 18 May 2003, para. 101.



75. The issue of the weight and admissibility of evidence adduced by one witness concerning another witness when such matters were not put to the witness concerned in cross-examination has also arisen in this case. What is commonly referred to in some common law jurisdictions as “The Rule in *Browne v. Dunn*”¹²² is not specifically provided for in the Rules of Procedure and Evidence of the Special Court for Sierra Leone and I have not been referred to nor found any reference to such a rule in the other international tribunals. I stress from the outset that the Rules of the Special Court govern the admission and assessment of the evidence in the instant case. Evidence adduced, whether in examination-in-chief, cross-examination or re-examination, may be admitted if relevant and is admissible notwithstanding the fact that it relates to the actions, words or character of another witness and that other witness was not given the opportunity to comment upon it in cross-examination. These are matters of weight and credibility, they are not matters of admissibility, and the Court may not ignore the evidence merely because it was not put to a witness. The Court may, however, bear in mind that a witness was not given the opportunity to respond to allegations or statements made about him in evidence when assessing the weight this evidence will be accorded and the credibility of the witnesses who testified to the evidence.
76. As noted above, Defence Counsel for Bangura, Kamara and Kanu have each submitted that Independent Counsel has sought to adduce evidence that amounts to evidence of a conspiracy between the three accused and the Defendant Kargbo and that this conspiracy that was not charged in the Indictment. In the words of Counsel for Kamara, “the Accused are charged independently though their names appear in one Indictment, and if there is a question of a conspiracy with another person it must be mentioned in the Indictment.”¹²³ Independent Counsel in his written response states that he accepts that no Accused can be found guilty solely

¹²² See *Browne v. Dunn* (1893) 6 R. 67 H.L.

¹²³ Transcript 6 September 2012, p. 2445.



by association, and that each must be proved to have joined and participated in the charged contemptuous criminal plan or scheme with the requisite *mens rea* (i.e. knowingly and wilfully), but submits that this was a joint criminal plan.¹²⁴

77. Each of the Accused was indicted on counts of offering a bribe and interfering with a witness as provided by Rule 77(A)(iv) and they have not been charged with another or different count of conspiracy to pervert the course of justice, and the evidence will be assessed accordingly.

78. In the course of both hearings and submissions, Defence submitted that the Prosecution had moved the goal posts in this case and variations between the evidence adduced orally from witness and that shown in the exhibits is “sweeping evidence under the carpet.”¹²⁵ If Counsel are in fact submitting that the Accused do not know the case they had to meet or that the indictment has changed, I note that there has been neither an application to amend the indictment nor was an objection raised based on a defect in the form of the Indictment. The objections relate to the evidence of the alleged phone calls emanating from the Accused in Rwanda to Kargbo and/or Bangura and/or TF1-334 and the dates on which these calls were made and received. The particulars of the Indictment provide that on or about 27 November to 16 December 2010 each of the Accused offered a bribe to protected witness TF1-334 and attempted to influence protected witness TF1-334. The temporal jurisdiction of the Indictment is on or about 27 November and extends to the 16 December 2010.¹²⁶ Issues relating to evidence on the dates of the phone calls will be dealt with in deliberations.

79. In the course of Bangura’s evidence he was asked if he knew that Sesay was a protected witness. Bangura stated that he did not.¹²⁷ Likewise, Sesay himself agreed in cross-examination that he had not told Kargbo or Bomb Blast that he was a protected witness.¹²⁸ In the course of

¹²⁴ SCSL-11-02-T-62, para. 13-14.

¹²⁵ Transcript 6 September 2012, p. 2433, 2438, 2456.

¹²⁶ See SCSL-04-16-ES-694.

¹²⁷ Transcript 3 September 2012, pp. 2005, 2014, 2052.

¹²⁸ Transcript 26 June 2012, p. 558.



objections and submissions to the Court there have been references to Sesay's status and the fact that he testified in the Taylor trial and this trial openly without protective measures. The particulars given in the Indictment refer to him as "a protected witness" and I infer, although it has not been clearly stated, that the evidence and objections relate to TF1-334/Sesay's status as a protected witness. As I previously noted, the provisions of Rule 77(A) are not exclusive to protected witnesses; the provisions refer to "a witness." That is any witness, be it a protected witness, an expert witness, a witness who testifies openly, an insider witness or a civilian. TF1-334/Sesay was a protected witness throughout the AFRC trial.¹²⁹ His voluntary change of status from protected to ordinary open witness in this trial does not mean he ceases to be a protected witness in the AFRC trial. In any event, being a protected witness is not an element of an offence under Rule 77.

80. Counsel for Kamara submits that offering a bribe is another way of committing the offence and that Count 1 is vague. He is not specific as to whether he is raising an issue of duplicity or an issue of lack of clarity. I note duplicity was raised at the hearing on 15 July 2011 and not pursued.¹³⁰ However, Rule 77(A)(iv) provides for distinct crimes - offering a bribe and threatening and injuring and intimidating and other forms of interference. If Counsel is raising some other form of defect in the Indictment, it should have been raised pursuant to Rule 72, not at the end of the trial.

81. In his closing statement, Counsel for Kanu has noted the use of American terminology.¹³¹ I also note that Defence Counsel have, on occasions, commented adversely on the interpretation of Krio. As discussed, in the course of the proceedings the official interpretation is the interpretation on record to be considered by the Court.

EVIDENCE PRESENTED

¹²⁹ See Transcript 25 June 2012, pp. 428-429.

¹³⁰ Transcript 15 July 2011 pp. 22-24.

¹³¹ Transcript 6 September 2012, pp. 2427, 2443.



Witness Samuel Kargbo

82. Witness Samuel Kargbo testified that in late November or early December he received a call from Bazy Kamara on his mobile phone, which, at that time was 033-25-5597. He first asked who was calling and was told, "Bazy," who was calling from Mpanga Prison. The witness asked why Kamara was calling, and Kamara said he was "expecting [him] and others to assist 'them' in the Rwanda prisons." When the witness inquired why, Kamara responded that he would like the witness to talk to Witness TF1-334 "for him to recant his statement."¹³²
83. Kamara stated that his lawyer in Ghana had told him that if "they" could talk to TF1-334 in order for him to recant his statement, "they" would reduce their sentences or set them free. When Kargbo asked him why he was saying this, Kamara stated that the promise made to TF1-334 by the Special Court had "not been fulfilled" and so he would like to "raise some funds" for TF1-334 to recant his statement.¹³³
84. Kargbo called TF1-334, and told him that he wanted to talk to him, but in person, not on the phone. TF1-334 told Kargbo that he was at Congo Water by the Bai Bureh Highway, and told Kargbo could meet him there.¹³⁴ TF1-334 told Kargbo he was going to Newton, and Kargbo accompanied him. On the way to Newton, Kargbo said Bazy and Five Five called him instructing him that he should talk to TF1-334 because "the promise made to you by the Special Court has not been fulfilled," and so "they" wanted to raise funds for him so that he could recant his statement.¹³⁵
85. TF1-334 asked Kargbo if he knew what he was saying, to which Kargbo replied he did not. TF1-334 then said that if he recanted his statement it would be "a problem for me" and would be contempt of court. Kargbo replied that "these men" were saying they would help TF1-334, and

¹³² Transcript 21 June 2012, pp. 117-119, 161.

¹³³ Transcript 21 June 2012, p. 119.

¹³⁴ Transcript 21 June 2012, pp. 119-120.

¹³⁵ Transcript 21 June 2012, pp. 120-121. The witness Kargbo identified Hassan Papa Bangura (Bomb Blast) sitting in the Courtroom. See Transcript 21 June 2012, pp. 123-124.



that "even Papa," whom Kargbo identified as Bangura (Bomb Blast,) wanted to talk to him, and TF1-334 said that he would talk to "Papa" and took the phone from Kargbo.¹³⁶

86. TF1-334 spoke to Papa, who said "Sam, this is what those men said"¹³⁷ and TF1-334 said he would think about it. Kargbo testified that TF1-334's "countenance" changed at that point, as like someone who "was not happy with what he was told," and he did not respond to Kargbo any longer and gave Kargbo the phone.¹³⁸

87. After this incident, Kargbo called TF1-334 a second time when TF1-334 was at Sarolla Hospital. TF1-334 told Kargbo that he was going to the PWD Junction to meet his sister, and Kargbo met TF1-334 at the hospital and travelled with him to the junction. When they got to PWD Junction, Kamara called on Kargbo's phone and asked Kargbo if he had spoken to TF1-334 and Kargbo testified that in fact he was with TF1-334 at that moment. Kamara asked to speak to TF1-334 but TF1-334 refused, saying he was not going to talk to "Bazzy" and that he did not want contact with "them." Kargbo told Kamara that TF1-334 refused to talk to him, but Kamara said he was going to "drop the phone" so that Five Five and Gullit and he could find a way to call him back on speakerphone so they could all talk to him.¹³⁹

88. Kamara called again and said "Sammy, that man, we want to beg him.. We want to talk to him so that 334 can help us." Kamara passed the phone to Five Five, who, the witness testified, continued to say the same thing, and then Five Five passed the phone to Gullit,¹⁴⁰ and the witness testified "they were saying the same thing."¹⁴¹ Kargbo said to TF1-334 "Please, I am

¹³⁶ Transcript 21 June 2012, pp. 120-124.

¹³⁷ The record shows "Sam" although there was static when the witness spoke and I heard "son." pp. 121-122.

¹³⁸ Transcript 21 June 2012, pp. 121-122, 124.

¹³⁹ Transcript 21 June 2012, pp. 124-125.

¹⁴⁰ The witness later identified "Gullit" as "Tamba Brima." See Transcript 21 June 2012, p. 159.

¹⁴¹ Transcript 21 June 2012, pp. 125-130. At pages 129-130, Kargbo testified that he knew that he was speaking to more than one of the Rwanda prisoners at a time because they each stated to whom they were going to pass the phone before they did so.

begging you ... those men are harassing me too much. They are talking to me to talk to you. Please talk to these men for me today so that I'll be at peace now."¹⁴²

89. TF1-334 responded again that he did not want to talk to "those men" and Kargbo again asked him to do so. TF1-334 then took the phone, but went a distance away as he talked to "them" and then gave the phone back to Kargbo. Kargbo got back on the phone and Kamara said "We have spoken to that man," "but we are trying to raise the money to send it." Kargbo asked Kamara whether he knew that he had passed on the message to TF1-334, and Kamara replied "Yes."¹⁴³

90. Kamara then told Kargbo that he should ask TF1-334 if he knew the whereabouts of a protected witness named in closed session whose pseudonym is TF1-033, and Kargbo said he did not know the man. Kamara said that the protected witness was one of the men "who prosecuted him in Freetown in the Special Court case," and Kamara wanted "us" to talk to him as well, so he could recant his statement. Kargbo asked TF1-334, and TF1-334 responded that he knew of the protected witness in the Cline Town area, but he did not know if he still lived there and it had been a long time since he had last seen him. Kargbo told TF1-334 that "these men" really wanted him to help "them" because they said that they would raise funds and "they would give you money so that you can recant your statement "with me." TF1-334 said "Sammy, I don't believe these men. They are lying."¹⁴⁴ After they left PWD Junction, Kargbo went to TF1-334's home and told him that Kamara and Five Five said that they would raise money to give him and they would compensate himself, Kargbo, as well.¹⁴⁵

91. Kargbo then testified that in mid-December 2010, Kamara called Kargbo again, and told him that he and "Papa", (Bomb Blast) should go to one of "their" Defence lawyers, named Mr.

¹⁴² Transcript 21 June 2012, pp. 126-128.

¹⁴³ Transcript 21 June 2012, pp. 128-131.

¹⁴⁴ Transcript 21 June 2012, pp. 131-135. The witness stated that he did not speak to TF1-334 about money being given to 334 during the drive to PWD Junction, but did speak to 334 about this when they got to PWD Junction and "those men called." p. 135.

¹⁴⁵ Transcript 21 June 2012, pp. 138, 141.



Mansaray, who lived on Robert Street. On the way to Mansaray's office, Kargbo and Bomb Blast saw TF1-334 in his car by Howe Street Junction, and they asked TF1-334 to take them to Robert Street Junction. While in the car, Bomb Blast asked TF1-334 how much money TF1-334 wants "those men" to offer him, and TF1-334 did not give an amount of money. TF1-334 drove away and Bomb Blast and Kargbo went to the lawyer at his office. En route, Mansaray called Bomb Blast to find out where they were.¹⁴⁶

92. In the office, Mansaray introduced himself and said that he was defending Kamara and Five Five. Mansaray asked them "Are you the people those men sent?" and they said "yes sir," and sat down. Mansaray asked if they could "persuade 334" and "how." Kargbo told Mansaray that TF1-334 was "his brother," and that Kamara and Five Five had promised both of them money. Mansaray stated that "it will be difficult." Kargbo said that "those men - Bazzy and Five Five - had told him that they would raise the amount that they would send" for TF1-334 and himself. Mansaray said "if that is what they have said, they are going to raise another amount for me as well to pay me." Mansaray also stated "If that's what they have decided, then that will be no problem. Let them go ahead."¹⁴⁷

93. After meeting with the lawyer, Kargbo and Bomb Blast returned to Howe Street, in the Sweissy area, and found TF1-334 there. Bomb Blast said to TF1-334 that "he should not be afraid to help those people in Rwanda ... If he has to be afraid ... he should be afraid of me and Sammy, but he should not be afraid to assist them."¹⁴⁸

94. In March 2011, Kamara called Kargbo again, and told him that if anyone comes to make inquiries as to whether they two had spoken on the phone, Kargbo should deny this. He also

¹⁴⁶ Transcript 21 June 2012, p. 142.

¹⁴⁷ Transcript 21 June 2012, pp. 142-143, 156-157.

¹⁴⁸ Transcript 21 June 2012, p. 158.

stated that if he denied "that statement" and not say anything, he would send money to Mr. Serry-Kamal who would give it to him.¹⁴⁹

95. When describing his relationship to TF1-334, Kargbo testified that his father and TF1-334/Sesay's father came from the same hometown, and Kargbo's father would call TF1-334's father his brother. When he described the relationship with Kamara, the witness testified that he has known Kamara for a long time, he became close to Kamara when he joined the army, and that there was no quarrel between them. It was "the same for Mr. Kanu and Gullit: "we built our relationships in the army." Kargbo had known them both for a long time, from the army, and did not have a quarrel with either of them.¹⁵⁰ Kargbo also testified that Bangura was his "friend and brother," and they did not have any quarrel.¹⁵¹
96. Kargbo was also shown the confidential plea agreement he made with the Independent Counsel dated July 2011 and confirmed that he had signed it.¹⁵² In cross-examination by Counsel for Bangura, Kargbo testified that he had met "Mr. Bob," the Independent Counsel, last year. Kargbo denied, however, that he gave Independent Counsel any "conditions" in connection with the contempt proceedings, and did not speak to him about the need for protection. He also did not receive any money from the Independent Counsel for cooperation in this case.¹⁵³ Kargbo stated that he was unemployed, and had been so since 2010.¹⁵⁴
97. Kargbo confirmed that the alleged first conversation between Bomb Blast and TF1-334 occurred when they were driving from Congo Water to Newton, and that at the time Bomb Blast was talking, the mobile phone "was on loud speaker."¹⁵⁵ In a statement dated 6 May 2011, Kargbo is

¹⁴⁹ Transcript 21 June 2012, p. 159.

¹⁵⁰ Transcript 21 June 2012, pp. 159-160.

¹⁵¹ Transcript 21 June 2012, p. 124.

¹⁵² Transcript 21 June 2012, pp. 164-167.

¹⁵³ Transcript 21 June 2012, pp. 167-171.

¹⁵⁴ Transcript 21 June 2012, p. 170.

¹⁵⁵ Transcript 21 June 2012, pp. 170-171.



recorded as stating that “Bomb Blast wanted to talk to TF1-334, so I passed the phone to TF1-334, who told Bomb Blast that he has heard the message and he will think about it.”¹⁵⁶

98. Counsel put it to Kargbo that he could not have heard Bomb Blast speaking as this occurred, and Kargbo confirmed that he did not hear Bomb Blast but heard TF1-334, and saw TF1-334’s response and his countenance change.¹⁵⁷ Kargbo testified that Bomb Blast had not given him, Kargbo, any money for him to give to TF1-334 in order for TF1-334 to change his statement, and also confirmed that he did not know if Bomb Blast gave TF1-334 money in order for TF1-334 to change his statement.¹⁵⁸
99. Kargbo confirmed that Sweissy is a public place where persons, including TF1-334 and Bomb Blast, sometimes “hang out,” and it is where TF1-334 met Bomb Blast and Kargbo and gave them a ride to the lawyer Mansaray’s office.¹⁵⁹
100. Defence Counsel challenged Kargbo that he could not remember the exact words exchanged between Bomb Blast and TF1-334 at Sweissy, which was noisy, to which Kargbo responded that he could remember. Counsel then referred to Kargbo’s prior statement, in which he said “I do not remember whether Bomb Blast said that if there is anybody that 334 should be afraid of, it is Bomb Blast and Ragga.”¹⁶⁰ Kargbo then testified that “When we had contact with 334, Bomb Blast told 334 he should not be afraid to assist his men in Rwanda and he should have no fear. If he was to be afraid, its either I or Sammy Ragga or Bomb Blast that 334 should be afraid of.”¹⁶¹ When asked “You cannot remember,” the witness replied in the negative.¹⁶² Given the questions were posed in the negative the answer is confused.

¹⁵⁶ Exhibit P2, originally Confidential Annex A.

¹⁵⁷ Transcript 21 June 2012, pp. 172-173.

¹⁵⁸ Transcript 21 June 2012, p. 174.

¹⁵⁹ Transcript 21 June 2012, p. 175.

¹⁶⁰ Transcript 21 June 2012, p. 176.

¹⁶¹ Transcript 21 June 2012, p. 177.

¹⁶² Transcript 21 June 2012, pp. 175-177.



101. Kargbo affirmed that at some time he had stayed in the same house with TF1-334. He also stated that he knew that TF1-334 testified in The Hague, but that he was told this, not by TF1-334 but by someone else. Kargbo denied that he knew if TF1-334 was unhappy at having been returned to Sierra Leone.¹⁶³
102. Kargbo agreed that he had previously stated “I knew when I tried to persuade 334 to recant his testimony that I was assisting Bazy, Gullit and Five Five in committing an offence before the Special Court, and that 334 later told me, specifically, that it was an offence.” He stated, however, that he only knew it was a crime after TF1-334 told him, and agreed with Defence Counsel that he continued his acts of persuading TF1-334 to recant despite knowing this.¹⁶⁴
103. Kargbo agreed that when the independent investigator came to him with evidence that proved the acts took place Kargbo immediately knew he was guilty, and agreed that these incidents occurred.¹⁶⁵ Kargbo reiterated that he did not receive any amount of money from the Court between his first encounter with the Independent Counsel and the signing of his plea agreement. He first stated that he received accommodation from the Court, but then said that he had not received accommodation. He then stated he not received payments from the Court “for subsistence” but he received transportation allowances “when the Court started.”¹⁶⁶
104. Kargbo was unemployed, but stated that he was doing “personal business” and he had “elders who assist” him. He was not expecting any protection or relocation from this court process. When asked whether he would want to be relocated, the witness stated “maybe they would offer me, but I have no thought about that.”¹⁶⁷ The witness testified that he was active in his church, volunteered for them, and is a God-fearing person.¹⁶⁸

¹⁶³ Transcript 21 June 2012, pp. 178-180.

¹⁶⁴ Transcript 21 June 2012, p. 186.

¹⁶⁵ Transcript 21 June 2012, p. 187.

¹⁶⁶ Transcript 21 June 2012, pp. 189-193.

¹⁶⁷ Transcript 21 June 2012, pp. 193-194.

¹⁶⁸ Transcript 23 June 2012, pp. 369-370.



105. In reply to questions by Counsel for Kanu, Kargbo testified that he was a retailer in gold, and would go up-country to buy gold and return to Freetown to sell it. An elder brother of his, Foday Bangura, gave him the money, approximately 10 million leones, to start the business.¹⁶⁹
106. Kargbo did not know how “people” in Rwanda got his phone number, and so he was surprised when he received the phone call from them. The only calls he got from Rwanda were from the Rwandan prisoners, and that the first call he got from them was in November 2010. This first call he received was not from Santigie Borbor Kanu. He had not seen Kanu for approximately ten years, and had last spoken in person to Kanu in 2000 when they were both arrested for the treason trial and at the Pademba Road Prison.¹⁷⁰
107. The first time he and Kanu spoke in ten years was from Rwanda, when “the first call that Bazy Kamara called me, he was with Five Five and Gullit in the Rwandan prison.” When the witness spoke to Bazy, Bazy said “talk with Five Five,” and then, when he spoke to Five Five, he said to “talk to Tamba Brima, Gullit.”¹⁷¹ Kargbo agreed that he spoke to Kanu on one occasion, and only when the phone was passed to him and he said hello, but stated that he did not speak to Kanu about the recanting of witness evidence.¹⁷² When he was speaking to one of the men in the Kigali prison, they would then tell him that they were passing him on to the next person, and then the next.¹⁷³ The witness stated that he knew “their” voices, and when Five Five was speaking he knew it was Kanu speaking.¹⁷⁴
108. Kargbo reaffirmed that he expected to receive money for facilitating the recanting of TF1-334’s evidence. The witness conceded that he was not in prison when the alleged agreement was

¹⁶⁹ Transcript 21 June 2012, pp. 195-199.

¹⁷⁰ Transcript 21 June 2012, pp. 200-202.

¹⁷¹ Transcript 21 June 2012, pp. 203-204; Transcript 22 June 2012, p. 216.

¹⁷² Transcript 22 June 2012, pp. 216-218.

¹⁷³ Transcript 22 June 2012, p. 220.

¹⁷⁴ Transcript 22 June 2012, pp. 222, 255-256.

made, but stated this was what “they three” told him through the phone and that “the two of them” agreed to give him money.¹⁷⁵

109. Kargbo agreed that in his previous statement of 6 May 2011 it is not recorded that he said that Kanu asked him in a phone call to get TF1-334 or any other person to change his evidence, but in his answers to Counsel’s questions, he said that Kanu did speak to him about this.¹⁷⁶ Kargbo affirmed that he was promised money by the people in Rwanda, but that he was never given money and never considered how much money he would have asked them for.¹⁷⁷
110. On the very first day he met with TF1-334, when he met him in Congo Water and drove with him to Newton, TF1-334 told him that what he was being asked to do amounted to contempt of Court. He continued to try to persuade him to recant because “the men were harassing me ... calling me all the time” for one to two weeks, “pressurising” him to talk. He repeated “they are harassing.”¹⁷⁸
111. Kargbo testified that he was first interviewed by the Independent Counsel in April 2011 in the presence of Mr. Serry-Kamal. Kargbo stated that at that point he did not know he was a suspect in this case, but then agreed that he was told that he was a suspect, and Independent Counsel told him that he did not have to answer his questions.¹⁷⁹
112. Kargbo then testified that at this meeting he was in the presence of Mr. Serry-Kamal, but he told the Independent Counsel that Mr. Serry-Kamal was not his lawyer and no questions were asked of him. Because Independent Counsel already had his phone number, “he just wanted to prove that he was the person Counsel was speaking to.” Kargbo does not know how the Independent Counsel got his number.¹⁸⁰

¹⁷⁶ Transcript 22 June 2012, pp. 224-226.

¹⁷⁷ Transcript 22 June 2012, pp. 228-229.

¹⁷⁸ Transcript 22 June 2012, pp. 230-232.

¹⁷⁹ Transcript 22 June 2012, pp. 232-234. See lines 2-7 (not told he was a suspect) and then lines 17-19 (yes told he was a suspect).

¹⁸⁰ Transcript 22 June 2012, pp. 233-235.

113. Kargbo agreed that he told the Independent Counsel in this interview that if he had protection, he could reveal information to him. The Independent Counsel asked who Kargbo was afraid of, Kargbo refused to tell him, and then Kargbo stated he did not want to answer any other questions and the interview was ended. Kargbo left, and later that afternoon the Independent Counsel called him on his mobile phone. The Independent Counsel said that he could recommend protection to the Trial Chamber.¹⁸¹
114. When asked what the word “protection” would entail, Kargbo testified that from his understanding, “protection is for him to be able to secure me.” This did not, however, mean that he would be provided accommodation, or with security guards to accompany him everywhere.¹⁸²
115. Kargbo made an appointment to see Independent Counsel the next day, and came on his own. The Independent Counsel told him that he was a suspect in the case and he had the right to have a lawyer present, and the right not to confess. Kargbo gave the Independent Counsel his statement about the incidents.¹⁸³
116. Kargbo confirmed that he never spoke to TF1-334 during the time in which he was being contacted by the Independent Counsel.¹⁸⁴ When asked whether he ever spoke to Kanu about TF1-334 recanting his testimony, Kargbo responded: “in my statement when Bazy Kamara and I were talking, he said he was with Five Five and Gullit,” but that “the only time that Kanu came in to talk to me was to talk to 334, and that they would send the money.” When pressed Kargbo agreed that when he passed the phone to TF1-334 it was Bazy he was speaking to, so Kargbo did not know exactly that was said between TF1-334 and Kanu, as TF1-334 was a

¹⁸¹ Transcript 22 June 2012, p. 235.

¹⁸² Transcript 22 June 2012, p. 236.

¹⁸³ Transcript 22 June 2012, pp. 238-240.

¹⁸⁴ Transcript 22 June 2012, pp. 239-240.



distance away. However, Kargbo insisted that he spoke to Kanu, that the phone was on loudspeaker, and that it was passed among them.¹⁸⁵

117. Kargbo confirmed his prior statement that he could speak to more than one of the prisoners at a time “because their phone in Rwanda apparently had a speaker phone” and “he was going to put the phone on loudspeaker so as we are talking they will hear, and later he will pass the phone on to the other person and all three of them, both of them would hear what we are saying.”¹⁸⁶ Kargbo was clear that he knew Kanu’s voice when Mr. Kanu spoke, and that he speaks very fast, like he is “stuttering.” He also said that Kanu announced his name.
118. Defence Counsel noted that in his previous statement Kargbo said that Bazy would call back with Five Five, while in his trial testimony Kargbo said Bazy would call back with Five Five and Gullit. The witness agreed that he did not mention Gullit in his previous statement, but that Bazy told him that he would call back with Five Five.¹⁸⁷
119. When asked whether Kanu ever threatened him, Kargbo responded that he “knew it was a threat for me, because I knew that those men have people in this country who are loyal to them; and they are answerable to them. So I knew that my life was at risk.” When pressed on whether Kanu threatened him, the witness responded “No.”¹⁸⁸
120. Kargbo agreed that a security assessment was made by the Court, and security provisions were made for him, including housing and subsistence. The witness is given money on a weekly basis, approximately 112,000 leones for transportation and food.¹⁸⁹
121. Upon cross-examination by Mr. Serry-Kamal the witness testified that he has known Kamara since he joined the army in 1991 and agreed he was an “elder brother.”¹⁹⁰ He knew Bazy at

¹⁸⁵ Transcript 22 June 2012, p. 245.

¹⁸⁶ Transcript 22 June 2012, pp. 246-247. Kargbo reiterated that he knew the voices of all three of these men.

¹⁸⁷ Transcript 22 June 2012, pp. 259-261, 279.

¹⁸⁸ Transcript 22 June 2012, p. 263.

¹⁸⁹ Transcript 22 June 2012, pp. 270-272, 274-275.

¹⁹⁰ Transcript 22 June 2012, pp. 290-291.



Pademba Road Prison, but he had no communication with Kamara after that.¹⁹¹ When Bazy was moved to Rwanda, the witness was still in prison, and he did not know Kamara's phone number. The witness also affirmed that he did not give Kamara his telephone number when he was released.¹⁹² From the time the witness was released from prison until the time Kamara first called him, he had no contact with Kamara.¹⁹³

122. The witness confirmed that "sometimes" he would visit the Sweissy area of Freetown in the company of TF1-334. Kargbo also confirmed that TF1-334 is a "close personal friend."¹⁹⁴ TF1-334 never discussed with Kargbo his evidence in the AFRC or the Charles Taylor trials, or tell Kargbo that he was a protected witness.¹⁹⁵

123. Kargbo reaffirmed that in May 2011 he came to the Office of the Prosecutor, but he did not make a statement because he said he was not comfortable. He gave his phone number to the investigator and said that he wanted protection and the investigator agreed to recommend protection for Kargbo through the Courts.¹⁹⁶ The interview was conducted by Mr. Herbst with a Krio interpreter present, but the statement was written by Mr. Herbst. The witness denied that the statement was tailored for the indictment by Mr. Herbst.¹⁹⁷ Kargbo affirmed that he could read and but cannot write.¹⁹⁸

124. When Kargbo returned the next day, the investigator asked him "Why do you say you needed protection?" Kargbo explained that when he came earlier with Mr. Serry-Kamal, Kargbo said that he had not committed an offence, so he did not need Mr. Serry-Kamal to defend him. Kargbo also relayed that Mr. Serry-Kamal called him into his office on Lightfoot Boston Street

¹⁹¹ Transcript 22 June 2012, pp. 293-295, 297-298, 301.

¹⁹² Transcript 22 June 2012, p. 301.

¹⁹³ Transcript 22 June 2012, p. 303.

¹⁹⁴ Transcript 23 June 2012, p. 347.

¹⁹⁵ Transcript 23 June 2012, p. 348.

¹⁹⁶ Transcript 23 June 2012, p. 357.

¹⁹⁷ Transcript 23 June 2012, pp. 362-364, 366.

¹⁹⁸ Transcript 23 June 2012, p. 362.



and told him to deny any question he was asked at the Special Court, and that he should deny talking to Kamara at the Rwanda prison.¹⁹⁹

125. He disagreed when Defence Counsel asked him whether “at no time did Bazy phone him” stating “Bazy called me and there are proofs.” He again stated that he did not remember the date in late November on which he met TF1-334 at Congo Water after he had called TF1-334, but confirmed it was late November.²⁰⁰

126. The witness denied that he only testified against Kamara and others because he wanted protection from the Office of the Prosecutor (“OTP”). The witness testified that “as long as I’m testifying about what happened against Bazy, they have people in this town who are loyal to them. And for my own safety and security, I know what type of organisation they have, when you are testifying against them, people would want to take it ... that you do not belong to them.... So for my own safety I asked for protective measures.”²⁰¹ When asked whether TF1-334 bought a car after he testified in the AFRC trial, the witness responded that he saw him with a car, but did not know from where he received the money.²⁰²

127. The witness was steady and concise in his answers. He maintained his original testimony and did not exaggerate. Questions put to him in the negative led to requests for clarification but were answered.

Witness Andrew Daniels

128. The witness Andrew Daniels testified that in late 2010, he was based in Accra, Ghana.²⁰³ Daniels joined the Defence team of Brima Bazy Kamara for the AFRC trial in June 2005, and stayed with this team until the trial ended. After the trial Kamara would call Daniels every two

¹⁹⁹ Transcript 23 June 2012, p. 351.

²⁰⁰ Transcript 23 June 2012, p. 355.

²⁰¹ Transcript 23 June 2012, pp. 371-372.

²⁰² Transcript 23 June 2012, p. 368.

²⁰³ Transcript 25 June 2012, p. 393.

or three months.²⁰⁴ Daniels also represented Kamara on the AFRC appeal which ended in 2008, and that was the end of his representation. Daniels did not represent Tamba Brima after the trial.²⁰⁵

129. In late 2010, Kamara called Daniels on the telephone, and told him that “they” were contemplating filing a petition before the Court for a review of their sentence or conviction. During this conversation, Daniels also spoke to [Alex] Tamba Brima.²⁰⁶ Kamara and Tamba Brima told Daniels that they had information that some witnesses who had previously given testimony in the trial were prepared to change their testimony. Daniels did not remember which witnesses exactly the men mentioned, though he “got the impression” that they were talking about “insider witnesses” rather than “civilian witnesses.”²⁰⁷ There were no specific names of witnesses mentioned during this conversation.²⁰⁸ When asked who was the “most important” of these insider witnesses, Daniels said that it was “TF1-334.”²⁰⁹

130. Daniels confirmed that the Independent Counsel sent him an email on 13 July 2011 after they spoke on the phone that summarised their phone conversation. Daniels also confirmed that he wrote a return email to Independent Counsel dated 15 July 2011, confirming that the summary provided by Counsel was accurate except for “few matters.” In 2010, Daniels travelled to Freetown approximately two or three times, in May and December 2010. He visited Kamara’s mother once, and he has not seen her since.²¹⁰

131. In cross-examination by Defence Counsel for Kanu, Daniels agreed that Kanu did not speak to him in any of the conversations to which he testified.²¹¹ Daniels concurred with Defence Counsel that he did not believe that the communications between himself and the prisoners in

²⁰⁴ Transcript 25 June 2012, p. 393.

²⁰⁵ Transcript 25 June 2012, p. 395.

²⁰⁶ Transcript 25 June 2012, pp. 393-394.

²⁰⁷ Transcript 25 June 2012, p. 402.

²⁰⁸ Transcript 25 June 2012, pp. 403, 417.

²⁰⁹ Transcript 25 June 2012, p. 402.

²¹⁰ Transcript 25 June 2012, p. 418.

²¹¹ Transcript 25 June 2012, p. 419.



Rwanda were in furtherance of a criminal enterprise. He also agreed that had this been the case, he would have had to make this information available.²¹² Daniels testified that for him it was “an innocent representation” on possibly acting in the future. Daniels confirmed that following the conversation he was waiting to hear from the Principal Defender as to whether he would be assigned to the case if there was an application for review.

132. In cross-examination by Counsel for Kamara, Daniels confirmed that he sent an email to the Independent Counsel telling him that if he wanted him (Daniels) to testify in the case, he would have to be subpoenaed. In the same email, Daniels told the Independent Counsel that he was only informed of possible new evidence coming up, and he believed he would be contacted by the Court.²¹³

133. Daniels confirmed that he visited Kamara’s mother once in 2010, but testified that neither money nor financing of any projects was discussed. He was not asked to bring money to Kamara’s mother or send money anywhere in Freetown, and Kamara did not know that Daniels went to visit his mother.²¹⁴

Witness TF1-334 – Alimamy Bobson Sesay

134. Independent Counsel called TFI 334/Sesay, it was noted on record that he had been hospitalised during the evidence of Kargbo. He voluntarily relinquished the protective measures granted, and still extant in the AFRC trial, and told the Court he would testify in openly.²¹⁵ He identified Samuel Kargbo in the courtroom.²¹⁶

135. Sesay testified that Samuel Kargbo was a family friend, that their two fathers came from the same village in Kamabai and that they served in the army together, and that Kargbo met “us,” including Bomb Blast (Hassan Papa Bangura), in Pademba Road Prison when they were

²¹² Transcript 25 June 2012, pp. 419-421.

²¹³ Transcript 25 June 2012, pp. 422-423.

²¹⁴ Transcript 25 June 2012, pp. 424-425.

²¹⁵ Transcript 25 June 2012, pp. 428-432.

²¹⁶ Transcript 25 June 2012, p. 434.



arrested on 2 June 2000. When he was released from prison in August 2004, Sesay visited Kargbo, and they remained family friends.²¹⁷ Finally, in 2009 when Kargbo was pardoned and released from prison Sesay would see Kargbo, and their relationship was “cordial.”²¹⁸ Sesay identified Bomb Blast, Hassan Papa Bangura, in the courtroom.²¹⁹

136. Sesay testified that he had known Bangura for a long time, and during the AFRC period Sesay was Bangura’s military transport officer, and Bangura was “his boss”. When they went into the jungle, he was Bangura’s personal security, and up to the time they formed the West Side Boys, Sesay was Bangura’s aide-de-camp.²²⁰

137. In November 2010 Sesay was in his house when he received a phone call from “Sammy” (Kargbo), asking him, “Yapo” (a nickname), where he was. When Sesay responded that he was at his house, Kargbo told Sesay he wanted to have a very important discussion with him, but they could not talk on the phone. The witness said that he was busy.²²¹

138. Kargbo called him the next day and Sesay said he was preparing to travel to his mother’s village, Newton. Kargbo said that he was on his way, and they left together to Newton in Sesay’s car.²²² Kargbo told Sesay that he had something to discuss with him, but he had not told him over the phone because Sesay had a “hot temper” (as I note later that Sesay was excitable in court). Kargbo told him that “those men” in prison in Rwanda called him and told him to talk to Sesay, because they heard that the two of them (i.e. Kargbo and Sesay) had a very good relationship. Sesay said to Kargbo that he did not want to hear anything about “those men,” but

²¹⁷ Transcript 25 June 2012, pp. 435-436, 438.

²¹⁸ Transcript 25 June 2012, p. 438.

²¹⁹ Transcript 25 June 2012, p. 436.

²²⁰ Transcript 25 June 2012, p. 436.

²²¹ Transcript 25 June 2012, p. 439. On cross-examination, Mr. Nicol-Wilson asked the witness whether this first meeting occurred on 27 November, to which the witness responded “At the time, yes.” Transcript 26 June 2012, p. 550.

²²² Transcript 25 June 2012, pp. 439-440. The witness said that he was using a taxi and gave with the registration number, but then said “his car.”



Kargbo persisted and said that it was not something that he would regret, that “those men” wanted to help him.²²³

139. Kargbo said that “the men” had received advice from their lawyers that the only way they could be released from prison was for them to “get some key witnesses,” especially Sesay. Sesay asked him how, and Kargbo said that “those men really want you to help them as a brother,” and wanted him to “change [his] story,” that is change his testimony that he had given that “caused them to be jailed.” Sesay was angered and said that this was not possible.²²⁴ Kargbo told Sesay not to be angry, but that “those men” are ready to pour money into the issue, and that there was financial support if he cooperated.²²⁵

140. As they were driving, Kargbo’s phone rang, and he said that it was “Blast” calling and he wanted to talk to Sesay, and Kargbo gave him the phone. Sesay testified that Bomb Blast asked whether “your man” had told him “exactly” and Sesay answered that Kargbo had explained things to him. Blast said “Please, I want you to cooperate with those men.” Sesay told Blast that he had heard everything said, Blast asked him “What’s going on?” and Sesay said “Well, I am still considering,” and handed the phone over to Kargbo.²²⁶

141. Sesay and Kargbo continued on their journey, and Kargbo continued trying to convince Sesay to cooperate, saying that they both would financially benefit from him doing so. Sesay told him he would think it over, and they separated.²²⁷ When asked who “those men” were referred to previously, Sesay responded that Kargbo told him that “Bazzy and Five Five” wanted to talk to him, and they called Kargbo because he was close with Sesay.²²⁸

²²³ Transcript 25 June 2012, p. 440.

²²⁴ Transcript 25 June 2012, pp. 440-441.

²²⁵ Transcript 25 June 2012, p. 441.

²²⁶ Transcript 25 June 2012, pp. 442-443.

²²⁷ Transcript 25 June 2012, pp. 444-445. The witness again emphasised that Kargbo was referring to “Bazzy and Five Five” when referring to the men in Rwanda. p. 448.

²²⁸ Transcript 25 June 2012, pp. 443-444.

142. On another day after this time, at about 11.00 am or 12.00 pm, Kargbo called Sesay and asked him where he was, and Sesay responded that he was going to meet his sister at PWD Junction in Kissy. Kargbo was by Sarolla, and so Sesay picked him up. As they were driving Kargbo began again, telling Sesay that “those men were desperate” and that if he could not get in touch with Sesay for them to know that he was “really with you, then this thing won’t go down well.” Kargbo said that “those men” were ready to “pour money on this thing.”²²⁹
143. Sesay and Kargbo left the car and Kargbo received a phone call on his mobile phone. Kargbo said that it was Bazy calling. Sesay saw Kargbo speaking at a “small distance,” but he did not hear what they said. Kargbo asked Sesay several times to talk to Bazy. Sesay refused.²³⁰
144. Kargbo said he was “begging;” he told “those men” that they were together, and Bazy was going to call Five Five so that they could both talk to him. Sesay told Kargbo that he was pressuring him, and that he did not want to talk to them so he should leave him alone.²³¹
145. Kargbo received a call and said that the call was from Five Five. He tried again to convince Sesay to talk to “these men” so that they would know he was with Sesay, so Sesay took the phone. Sesay heard Five Five ask for “Bobby” and Sesay replied “Yes sir, how are you sir.” Five Five said: “you are our brother,” and “we’ve gotten advice from some of our lawyers that the only way is [sic] if we can talk to some of you people who can at least cause us to be released or reduce our prison term.” Sesay testified that Five Five stated “[w]e are still trying to work out our modalities,” and “we are putting things in place financially so that we can see how best it could reach you so that you can help us on this issue.” Sesay said that he had heard him, and he would see what he could do. He handed the phone back to Kargbo, who continued to talk on the phone, but Sesay did not hear his conversation.²³²

²²⁹ Transcript 25 June 2012, p. 448. Sesay testified that it was at 11.00 or 12.00 on p. 451.

²³⁰ Transcript 25 June 2012, p. 448.

²³¹ Transcript 25 June 2012, p. 449.

²³² Transcript 25 June 2012, pp. 449-451.



146. Sesay testified that in this phone call he knew he was speaking with Kanu (Five Five) because he recognised his voice, as he had known him a long time, and Kanu stutters as he speaks. He also said that Kargbo showed him the “international number.”²³³ I note that Kargbo also remarked on this and Sesay was to also confirm his recognition of Kanu’s voice in re-examination
147. Sesay returned to his car and Kargbo continued to try and convince him, to pressure him saying that there was “money in it.” Kargbo said that it was simple: he had given testimony, and if he changed it, those men were “ready to do it.” They then separated.²³⁴ Kargbo said he would contact Sesay if there were further developments.²³⁵
148. Sesay testified that he had known Kanu during the time of the NPRC (National Provisional Ruling Counsel) regime, when he was with Strasser, and that he was one of the AFRC men who overthrew the SLPP (Sierra Leone People’s Party) government in 1997. Kanu was also one of the senior commanders with whom he came to Freetown during the 6 January Invasion.²³⁶
149. Sesay testified that the phone number Kargbo normally used to call him on was: 033255597.²³⁷
150. Bomb Blast would call from three numbers, most commonly his Zain number, and the witness knew Bangura’s Comium number, which was 033810173.²³⁸ When asked how he knew of Bomb Blast’s phone number, Sesay testified that before this case he and Bomb Blast would communicate, and that they had each other’s phone numbers. They also knew each other’s families. They would call each week: if Bomb Blast did not see Sesay, he would call.²³⁹ Bangura was to later state that he and Sesay did call each other.

²³³ Transcript 25 June 2012, pp. 451-452.

²³⁴ Transcript 25 June 2012, pp. 449-450.

²³⁵ Transcript 25 June 2012, pp. 464-465.

²³⁶ Transcript 25 June 2012, p. 452.

²³⁷ Transcript 25 June 2012, p. 453.

²³⁸ Transcript 25 June 2012, p. 454.

²³⁹ Transcript 25 June 2012, pp. 463-464.



151. After these incidents with Kargbo occurred, OTP called Sesay to ask how he was and to brief him on the progress of the Taylor trial. Sesay told OTP that he had an issue but that he could not discuss it over the phone, and said that he would try to see how best to reach them.²⁴⁰
152. After the meeting with Kargbo and the phone calls Sesay felt “confused and tormented” so he sent a mobile text message and subsequently phoned “Shyamala,” who was a lawyer in the AFRC and Charles Taylor trials. He told Shyamala what occurred between himself, Sammy, Bangura and Five Five (Kanu) and asked for legal advice, and she said she would email OTP so “they” would contact him and Sesay could explain to them what happened. She said that in her opinion as a professional lawyer, it was “bad” and if he did “that thing” he would find himself in prison²⁴¹
153. The next day, Sesay did not recall the date, OTP called and invited Sesay to the office, and he met with Mr. Mustafa, Mr. Saffa, Mr. Magnus, and Mr. Lamin who reported that they had received an email from Shyamala. At the OTP office, Sesay explained what happened between himself, Kargbo, Bomb Blast and Five Five and OTP took a statement from him.²⁴²
154. Independent Counsel put a document purportedly written during this meeting with OTP investigators, as the substance of what he reported to the investigators on Wednesday 1 December 2010. The witness responded that he had looked at the first paragraph and the last two paragraphs, and that they reflected some of the statements he had made on that day.²⁴³
155. After Sesay’s meeting with OTP investigators and leaving the court premises, he received a call from Kargbo, who said they should meet at Sweissy. Kargbo told Sesay that he had spoken with Bazy and Five Five, and that they told Kargbo that Sesay should be patient because they were putting things together so they could honour what they said they would do. Kargbo said that

²⁴⁰ Transcript 25 June 2012, p. 482.

²⁴¹ Transcript 25 June 2012, pp. 465, 482.

²⁴² Transcript 25 June 2012, pp. 482-486.

²⁴³ Transcript 26 June 2012, pp. 507-508.

“they” said they had contacted a lawyer in Ghana, who would come to see Sesay to work things out. Sesay said he wanted more information from Kargbo.²⁴⁴

156. Kargbo also told Sesay that Five Five and Bazy requested Kargbo to ask Sesay about the whereabouts of TF1-033, giving his name and nom de guerre. Sesay responded that he did not know where the named person was. Kargbo said that he would get in touch with Sesay when he had further information and they separated.²⁴⁵ After the meeting with Kargbo, Sesay called Magnus and informed OTP.²⁴⁶

157. Following this, (Sesay did not specify when), Kargbo met Sesay at his residence and told him that Bazy and Five Five said that Kargbo should tell Sesay to be patient because they were putting things in place, as they had promised. Kargbo said that, in his discussion with Bazy, Bazy assured him that his brother, who was chairman of the All People’s Congress and was in the United States, had spoken with the Vice-President of the current government, Sahr Sam-Sumana, and Bazy’s brother assured Bazy that the “VP” would do all he could to ensure their release. Kargbo told Sesay that there was no reason for him to fear, because “this thing had great influence,” and those men only hoped for cooperation from him. After the conversation Sesay informed OTP of “the development” and was called to give a statement.²⁴⁷

158. Independent Counsel put a prior statement made to OTP investigators on 9 December 2010, and Sesay confirmed that it was his and that he read it before signing it and affirmed that it was true.²⁴⁸

159. Sesay then received a call from someone in OTP, informing him that OTP would like to bring contempt charges, and asking what he thought. Sesay said that he did not have a problem with this, but he had security concerns. Sesay told OTP that since Kargbo had said he would get in

²⁴⁴ Transcript 26 June 2012, p. 509.

²⁴⁵ Transcript 26 June 2012, pp. 510-511.

²⁴⁶ Transcript 26 June 2012, p. 514.

²⁴⁷ Transcript 26 June 2012, pp. 514-516.

²⁴⁸ Transcript 26 June 2012, p. 519. Prosecution Exhibit P3.



touch with him, he would not get any further information if they filed the case at that time, but told them to wait to proceed until after Kargbo called him.²⁴⁹

160. Some time after this conversation, (Sesay did not specify how long after) Kargbo called Sesay and told Sesay to meet him at Howe Street. Sesay went; Kargbo and Hassan Papa Bangura, Bomb Blast, were there. Bangura told Sesay to drive them to Robert Street and he did so. In the car, Bangura reminded Sesay “Bobby, you are my man” and asked Sesay how much he wanted out of the “deal,” and Sesay said this was a “big deal,” but that he was expecting them to come up with the amount because he and Kargbo wanted some of the money. Sesay asked them to name an amount, and they again told him to name an amount. Bomb Blast asked if he wanted \$10,000, and Sesay said to him that this was “small.”²⁵⁰

161. Bomb Blast told Sesay that the Special Court has not done anything for him, and so if the men found a way to give him money, he should take it so that they would all have money.²⁵¹

162. While they were driving Bomb Blast received two calls and told Sesay it was a lawyer named Mansaray; Bomb Blast told the lawyer that they were close to his office. Sesay dropped Kargbo and Bomb Blast at 16 Robert Street, and they told him they would meet him at Sweissy later. After this, Kargbo and Bomb Blast met him at Sweissy and said that they had spoken with Bazy and Five Five and their lawyer Mansaray. The men had promised they were “putting everything in place,” and that he should be patient.²⁵²

163. Bomb Blast told Sesay that he should not have any fear, but that “If there is anybody to be afraid of in this country, it is I and Sammy.” He said it was a “clean mission.” Sesay responded

²⁴⁹ Transcript 26 June 2012, pp. 520-521, 523.

²⁵⁰ Transcript 26 June 2012, p. 521.

²⁵¹ Transcript 26 June 2012, p. 521.

²⁵² Transcript 26 June 2012, p. 522.



that he was listening, and if this is what had happened, there was no problem.²⁵³ Sesay immediately called OTP, and he made another statement as to what occurred.²⁵⁴

164. Around 8 or 9 June 2012 Sesay went to Sweissy and met with Bangura (Bomb Blast,) who asked if he knew that a case had been announced on the radio. Sesay said that he did not know anything about it. Bomb Blast said that he had seen Sesay's statement and there were areas in which Sesay "involved" Bomb Blast, such as the communication they had in Newton, and the time they went to the lawyer. He told Sesay that he was his "brother" and asked whether he could help him. Sesay responded that no one had called him yet, and he did not know about a case coming up. WVS called Sesay to their office on approximately 15 June, and Sesay stated that he "saw Bomb Blast's jeep around." Mr. "Aki" (Akinbobola) said that he did not know anything. As he was talking, he received a call and showed his phone to Mr. Aki and said it was Bomb Blast, and asked if it was "not a trap."²⁵⁵

165. When Sesay answered the phone, Bomb Blast asked Sesay where he was, and he responded that he was at home with a stomach ache. Bomb Blast told him that he wanted to meet with him that day, and Sesay said that if his stomach felt better he would. Sesay then said to Bomb Blast that whenever he saw Wyrish, one of Bomb Blast's "boys," Wyrish was always angry, and he did not like the way Wyrish was "making out he's close to you." This caused Sesay to be afraid. Bomb Blast said "That's your boy, leave him alone," and the discussion ended. Then "Bob" (the Independent Counsel) came in and Sesay told him and "Aki" what had occurred and showed them Bangura's phone number on his phone.²⁵⁶

166. Sesay had known Bazy Kamara during the NPRC period, and came to know him more during the AFRC period. He was the PLO3 (the Principal Liaison Officer 3) in the AFRC. When they went into the jungle, Kamara was second in command when they invaded Freetown, and when

²⁵³ Transcript 26 June 2012, p. 522.

²⁵⁴ Transcript 26 June 2012, p. 522.

²⁵⁵ Transcript 26 June 2012, pp. 523-524.

²⁵⁶ Transcript 26 June 2012, pp. 523-526.



they went to the West Side he was the West Side commander, after which he “came to town” and Bomb Blast took over.²⁵⁷

167. Sesay also gave the history of how he knew and worked with Alex Tamba Brima up to the invasion of Freetown on 6 January 1999 when Brima became the commander who led the troops in the invasion.²⁵⁸

168. In cross-examination by Counsel for Bangura Sesay answered he testified without protective measures at the Taylor trial. But there was a video clip this testimony for sale. He reported this as “they never told us” and he was concerned about his safety. He stated that “they” said they would address the issue. After the Charles Taylor trial he received protection, but this was terminated and he was told that if he experienced a threat he could call and inform the Court. For about a year prior to the start of the contempt trial Sesay did not have protective measures.²⁵⁹

169. Sesay agreed that he received an allowance during protection, but then it was “cancelled.” His sisters bought a taxi for him to use for his livelihood, they pay the rent on his house, and his sister is building a house in Allen Town and Sesay was the contractor.²⁶⁰

170. When the trial started Sesay started to receive an allowance again, and it was 210,000 leones, for food and other necessities.²⁶¹

171. When asked whether he visited the Sweissy area, Sesay testified that he was a taxi driver, and visited Sweissy once in a while doing his business. He stated that you meet “prominent people” and “ex-fighters” in Sweissy, and it is a business area.²⁶²

172. Sesay owns the house in which he lives, and does not rent; his mother built it. He also took care of his wife and child.²⁶³

²⁵⁷ Transcript 26 June 2012, p. 526.

²⁵⁸ Transcript 26 June 2012, pp. 527-528.

²⁵⁹ Transcript 26 June 2012, pp. 532-534, 547-548, 593-594.

²⁶⁰ Transcript 26 June 2012, p. 549.

²⁶¹ Transcript 26 June 2012, pp. 594-595.

²⁶² Transcript 26 June 2012, pp. 532-533.



173. Sesay confirmed that when testifying at the Taylor trial in The Hague, his sister who lives in France visited and requested that, because of his safety he not return to Freetown, saying she would pick him up and take care of him without the assistance of the Court. WVS said it would not be possible and Sesay and his sisters accepted this.²⁶⁴
174. When further cross-examined on this point Sesay said that he told the Court that he feared for his life because the people who were involved in the issue “are very close to the current government.”²⁶⁵ He confirmed, however, that neither Bomb Blast nor Kargbo had harmed him in the past.²⁶⁶
175. Sesay did not receive any promises in exchange for testifying at the Taylor trial, and stated he did so in order that the public would know what happened, and so his conscience would be clear.²⁶⁷ He also denied that he testified in order to get relocated.²⁶⁸
176. It was put to Sesay that his testimony was that Kargbo contacted him on 27 November. I note that Sesay did not specify a date in evidence in chief but referred to “late November”. In reply Sesay said “That time, Yes.”
177. When asked what he was advised to do after he made a complaint to OTP investigators on 1 December, Sesay stated that OTP told him that if he received any call or contact he should inform them.²⁶⁹ He confirmed that the call from Ragga/Kargbo was on 1 December.²⁷⁰ The witness was asked repeatedly by Defence Counsel for Bangura whether he was told by OTP to stay away from Kargbo or from the Sweissy area, to which the witness responded “No.” Sesay

²⁶³ Transcript 26 June 2012, p. 542.

²⁶⁴ Transcript 26 June 2012, pp. 542, 547-548, 593-596.

²⁶⁵ Transcript 26 June 2012, pp. 595, 597.

²⁶⁶ Transcript 26 June 2012, p. 596.

²⁶⁷ Transcript 26 June 2012, p. 549.

²⁶⁸ Transcript 26 June 2012, pp. 602-603.

²⁶⁹ Transcript 26 June 2012, pp. 551-552.

²⁷⁰ Transcript 26 June 2012, p. 552



confirmed that after he made a report to OTP he told them to wait to file the contempt case because he might have one more contact with Kargbo.²⁷¹

178. Sesay never told Kargbo that he had made a report to OTP “for security reasons,”²⁷² and he never told Kargbo to stop discussing the issue with him.²⁷³

179. Sesay confirmed that he never received any money from Bomb Blast,²⁷⁴ nor did Bomb Blast personally offer him money; he only said that “the men” were “working out modalities.” When challenged he confirmed that Bomb Blast did ask him how much money he wanted in exchange for recanting.²⁷⁵

180. The witness never told either Kargbo or Bomb Blast that he was a protected witness.²⁷⁶

181. The witness confirmed his testimony on direct examination that before these charges he would receive a phone call from Bomb Blast about once a week, stating that Bomb Blast was “everything to me:” a boss, a friend and a brother.²⁷⁷

182. Sesay is a member of an organization called AGPAD: the Action Group for Peace and Development, which advocates for peace and non-violence in elections. He was asked to speak to people on behalf of the organization because he was a former fighter. Sesay denied that Bomb Blast was a member of AGPAD, saying that he belonged to the security section for the President, and so he would come to AGPAD meetings, but not as a member. AGPAD rejected Bomb Blast’s membership because a member was not allowed to belong to any political party, and Bomb Blast was with the President.²⁷⁸

183. Sesay was challenged on his prior statements; it was put that in his 9 December statement he stated that Kargbo called Bomb Blast on Sesay’s phone; this contradicts his testimony in Court

²⁷¹ Transcript 26 June 2012, pp. 553-554, 596.

²⁷² Transcript 26 June 2012, p. 553.

²⁷³ Transcript 26 June 2012, p. 578.

²⁷⁴ Transcript 26 June 2012, p. 556.

²⁷⁵ Transcript 26 June 2012, pp. 585-587.

²⁷⁶ Transcript 26 June 2012, p. 558.

²⁷⁷ Transcript 26 June 2012, pp. 559-560.

²⁷⁸ Transcript 26 June 2012, pp. 559-560.



in which he said that Bomb Blast called Kargbo on Kargbo's phone while Sesay was present. On cross-examination, Sesay reiterated that Kargbo received the call from Bomb Blast on Kargbo's phone. When confronted with this inconsistency, Sesay said that "it could be a mistake," and that he is "not a computer," and that he "could skip something," but that he was telling the truth.²⁷⁹

184. It was put to him that in his prior statement to OTP he did not say Ragga/Kargbo told him to recant by telling a lie. Sesay replied that Kargbo told him that "those men" wanted him to help them by changing his testimony, and wanted him to say that "they" were taking him out of prison and that OTP had paid him to come and speak against them.²⁸⁰

185. It was put to him that in his prior statement Sesay said that Kargbo "did not tell me as to where I would recant or to whom. I understood that Ragga [Kargbo] wanted me to lie by recanting my Court testimony."²⁸¹ Sesay reiterated that the request was to change his story, his testimony.²⁸²

186. Sesay confirmed that the phone call with Bomb Blast in the car was "actually not long". He was on the highway, and the windows of the car on the driver's side were halfway down. The witness stated several times that it was Bomb Blast and that the phone call was to Kargbo's phone and that Bangura told him to co-operate.²⁸³

187. Sesay agreed that Bomb Blast called him when his wife and child died.²⁸⁴

188. When asked whether he had recently renewed his passport Sesay stated that he had, because it had expired.²⁸⁵

²⁷⁹ Transcript 26 June 2012, pp. 560-565.

²⁸⁰ Transcript 26 June 2012, p. 569.

²⁸¹ Transcript 26 June 2012, p. 570.

²⁸² Transcript 26 June 2012, p. 571.

²⁸³ Transcript 26 June 2012, pp. 572-574.

²⁸⁴ Transcript 26 June 2012, pp. 579-580.

²⁸⁵ Transcript 26 June 2012, p. 582.



189. Sesay confirmed that the money that would be given to him in exchange for recanting would not come from Kargbo or Bomb Blast's pocket, but that "someone" would come up with the money.²⁸⁶
190. In response to questions about the incident in which Sesay, Kargbo and Bangura/Bomb Blast drove to the lawyer Mansaray's office, Sesay testified that Bangura was telling him to speed up, hurry. Kargbo did not speak. Bangura did not give him money and did not personally promise money but told him "the men were working out modalities." Bangura asked "how much would you want out of this mission?" When Sesay asked exactly what would be given \$10,000 was suggested. Sesay said that this was too small. After he dropped them off, he waited in his car in the Sweissy area for them to finish because they told him to do so. He confirmed that Bomb Blast told him that if he should be afraid of anyone, it should be the two of them. He also denied that the Sweissy area was so noisy that he could not hear a conversation.²⁸⁷
191. It was put to him that in him that the conversation with Bomb Blast in June 2012 (Counsel put "this month"), did not, in fact, take place. The witness confirmed that it did take place but he did not report the contact to OTP because they had already "charged the matter" and because his wife had died. Sesay said that Bomb Blast wanted Sesay to talk to his lawyer, but he did not say this violently, but only said it like a brother. He told Sesay to "help (him) out of this."²⁸⁸
192. When asked why he was not in Court the previous week, the witness described being sick with malaria.²⁸⁹
193. Sesay denied that Kargbo lived with him when Kargbo was released from prison but said that he offered him a place after he saw Kargbo crying, saying that the woman he was staying with was treating him badly. Before the contempt matter Kargbo had left.²⁹⁰

²⁸⁶ Transcript 26 June 2012, p. 584.

²⁸⁷ Transcript 26 June 2012, pp. 584-586, 590-592.

²⁸⁸ Transcript 26 June 2012, p. 598.

²⁸⁹ Transcript 26 June 2012, pp. 601-602.

²⁹⁰ Transcript 26 June 2012, pp. 603-604, 626-627.

194. In cross-examination by Counsel for Kanu Sesay confirmed that he is also known as “Yapo,” “Bobby” or “B.” Friends from the army call him “Yapo.”²⁹¹
195. When challenged on the protection measures provided to Sesay by the Court, Sesay stated that he received protection during the AFRC trial, then he was “on my own;” then he received protection during the RUF trial, but he was on his own after that; and finally he received protection during the Taylor trial, but he was on his own after his evidence was given. OTP said that if he had any security issues he should contact them.²⁹² Sesay confirmed that he applied to have his protection measures taken away during the Taylor trial because everyone knew he testified in the AFRC and RUF trials anyway.²⁹³
196. During the periods when he received protection measures from the Court, Sesay also received a weekly allowance from WVS of about 16,000 leones a day.²⁹⁴
197. Regarding the “plate” [CD or DVD] of his testimony from the Charles Taylor trial, the witness testified that after his testimony in the Taylor trial, he saw “a plate” in Freetown that was about the SCSL. When he looked at the back he saw his name and saw himself on the video. He contacted the OTP. The President of the Court made an announcement that the Court had no knowledge of the video.²⁹⁵
198. Sesay confirmed that he was in touch with Kargbo after Kargbo was released from prison, he thought it as in 2009, and also that he spent time in Pademba Road Prison with Bomb Blast in 2000.²⁹⁶ Sesay was released in 2004, his family had to sign on his behalf. He had to report to the police station for about six or seven months. There were no charges preferred against Sesay or Bomb Blast at that time.²⁹⁷

²⁹¹ Transcript 27 June 2012, p. 606.

²⁹² Transcript 27 June 2012, pp. 607-609.

²⁹³ Transcript 27 June 2012, pp. 610-611.

²⁹⁴ Transcript 27 June 2012, pp. 609-610.

²⁹⁵ Transcript 27 June 2012, p. 611.

²⁹⁶ Transcript 27 June 2012, pp. 612-613.

²⁹⁷ Transcript 27 June 2012, pp. 614-615.

199. When Sesay was first a member of the West Side Boys and Bomb Blast was the commander, Kargbo was not a member. Sesay was already in prison when that they arrested Kallay and Kargbo.²⁹⁸
200. After Sesay's release from prison the candidate for the SLPP, Solomon Berewa, called and asked for his support and Sesay accompanied him to Kono but did not campaign for the SLPP.²⁹⁹
201. In closed session Sesay expressed fears for his safety citing involvement of former AFRC personnel, including one of the Accused, in the current government.
202. In open session Sesay answered that when Kargbo was released from prison, Kargbo and he would see each other when Sesay came to town. Sesay would sometimes give Kargbo a ride to town. Sesay reiterated prior to events leading to contempt proceedings, when Kargbo was having "problems" with his wife or partner, he stayed at Sesay's house for less than a month.³⁰⁰
203. When asked what work Kargbo was engaged in when he left prison, Sesay responded that he did not know how to interpret the "Jew man thing," but that he believed that Kargbo bought and sold gold chains around Sweissy. At one point Sesay bought a chain from him.³⁰¹
204. Sesay testified that he made and signed only the statement of 9 December 2010 with investigators. Following an application and response the court asked investigators to search Prosecution records of other reports made by Sesay and referred to in Court. In compliance with this direction a record was subsequently received and disclosed.³⁰² Counsel did not seek to cross-examine on it and it was not tendered into evidence.
205. Sesay confirmed that he read, signed and affirmed his statement of 9 December 2010 (Exhibit P3). It was read in English, not Krio, but he understood it.³⁰³

²⁹⁸ Transcript 27 June 2012, pp. 613-614.

²⁹⁹ Transcript 27 June 2012, pp. 616-617.

³⁰⁰ Transcript 27 June 2012, pp. 626-628.

³⁰¹ Transcript 27 June 2012, pp. 629-630.

³⁰² Transcript 27 June 2012, pp. 631-634.

³⁰³ Transcript 27 June 2012, pp. 636-644.



206. Counsel noted that in his 9 December statement, Sesay stated that Kargbo was pardoned and released from prison in 2009,” but in another document he stated that this occurred in 2010. Sesay responded that 2010 was a mistake, because he was sure that Kargbo was released in 2009 and corrected it.³⁰⁴ I accept that this was a clerical error.
207. Counsel challenged the difference in the statements between the words “recount” and “recant.” Sesay insisted that he said in Krio that the men asked that he “change his testimony” and to go and tell lies.³⁰⁵ . I put no weight on this difference in spelling. Clearly Sesay did not write or translate the statement and recant is not a word in common parlance. This line of cross-examination was petty.
208. When asked whether either Kargbo or the person he said was Five Five asked Sesay to lie, Sesay stated that they asked him to change his statement and to say that he was given money to testify in the way he did, which in his opinion was asking him to lie. He had this conversation with both Kargbo and Five Five.³⁰⁶
209. When asked whether he had the conversation about changing his testimony with Kanu, the witness stated that when he spoke to Kanu at PWD, Kanu said to him “Bobby ... you are our brother ... Please help us as a brother. We are relying on you,” and asked if Sammy had explained things to him. Sesay insisted that Kanu spoke to him.³⁰⁷
210. Sesay confirmed that he told OTP investigators that Kargbo first called him on 26 November 2010 and that he saw him the next day. On Saturday, 27 November 2010 Kargbo called him again at Sesay’s home, and he told him he was going to Newton. Kargbo asked him to wait so he could meet him, and Sesay drove to Hadja Fatmatta Junction and waited there for Kargbo.³⁰⁸

³⁰⁴ Transcript 27 June 2012, pp. 644-647.

³⁰⁵ Transcript 27 June 2012, pp. 647-653.

³⁰⁶ Transcript 27 June 2012, pp. 652-655.

³⁰⁷ Transcript 27 June 2012, pp. 655-656.

³⁰⁸ Transcript 27 June 2012, pp. 663-664, 666-667.



211. Sesay agreed with Defence Counsel that his financial situation was “reasonably good,” and that if he had something to do that interfered with his taxi driving, he would not work.³⁰⁹
212. Sesay confirmed that Kargbo called him again on Monday, 29 November 2010 and met him in the Sarolla Hospital area and they drove to PWD junction. Sesay did not get on the phone when it first rang, but did when it rang the second time.³¹⁰ Sesay was cross-examined on the day and dates recorded in his statement and stated that he had no reason to give a wrong day but gave the time he thought it happened.³¹¹
213. When Sesay first spoke with “the men” about changing his testimony, he did not know that this would amount to a contempt of court, but only knew this after his conversation with Shyamala and she explained the legal terms to him.³¹²
214. When the phone was passed to Sesay, it was Five Five (Kanu) on the line, and he knew Kanu’s voice. When asked when he had spoken to Kanu last, Sesay responded that it had been a long time, when “they” were taken to Pademba Road Prison. After that, he only saw him at trial.³¹³
215. It was not put to Sesay that Pastor Eddie/Maf or any other persons were present when these calls were received from Rwanda or that the conversation was limited to enquiries about the prisoner’s wellbeing.
216. Counsel for Kanu noted that Sesay was giving more information in his court testimony than in his statement and the witness again agreed that there were inconsistencies. He stated that the public did not see the statement, but that in Court people were “listening,” and so he wanted to explain the truth so that people could know “how this thing happened.”³¹⁴
217. It was put, and Sesay agreed, that his 9 December statement did not refer to Kanu reporting that they had received advice from lawyers that the only way to be released or have their prison

³⁰⁹ Transcript 27 June 2012, p. 664.

³¹⁰ Transcript 27 June 2012, pp. 668-670.

³¹¹ Transcript 27 June 2012, p. 669.

³¹² Transcript 27 June 2012, pp. 670-671.

³¹³ Transcript 27 June 2012, pp. 674-675.

³¹⁴ Transcript 27 June 2012, p. 676.



terms reduced is to “talk to some people.” He denied that he was making a case against Kanu or lying against Kanu³¹⁵

218. Sesay also confirmed his evidence that he knew the phone call was from Rwanda because Kargbo showed him an international phone number, but that is not in his previous statement. When confronted with this inconsistency, Sesay stated that sometimes investigators do not ask certain questions, but when you come to trial, ‘where you want the public to know the truth, you have to bring things out’.³¹⁶

219. Sesay also confirmed that after the incidents with Kargbo, he was contacted through a routine phone call by Mustapha from OTP. He was unsure if it was the 15 November but could “not dispute it.” Sesay said that he had a concern but could not talk about it over the phone, and testified that he was so confused and wanted someone to give him advice. Mustapha did not call him back, and so some time later he sent a mobile text message to Ms. Alagendra. He was not sure how much later but after further questioning estimated it was within two weeks, “not long” but not at the moment he was at PWD. Some time after this OTP contacted him and he went in to give a statement.³¹⁷ The witness stated that counsel’s questions were confusing him and when questions were rephrased he said that on the day of the PWD incident “the same day after he left the area” he called Shyamala and informed her of the incident.³¹⁸

220. Sesay also confirmed that by the time Mustapha called him, the incident at PWD had already happened, and that “within a range” of two weeks later he called Shyamala Alagendra.³¹⁹ Sesay denied that he was prepared for testimony by the OTP.³²⁰

221. Counsel then compared Sesay’s trial testimony with his 9 December statement concerning the witness’s first meeting with Kargbo on 27 November, when they drove to Newton with his

³¹⁵ Transcript 27 June 2012, pp. 677-679.

³¹⁶ Transcript 27 June 2012, p. 681.

³¹⁷ Transcript 27 June 2012, pp. 682-689.

³¹⁸ Transcript 27 June 2012, pp. 695-696.

³¹⁹ Transcript 27 June 2012, p. 695.

³²⁰ Transcript 27 June 2012, pp. 696-699.

evidence in chief when he testified that Kargbo told him that “Bazzy and Five Five” wanted to talk to him. It was put that Sesay did not specifically mention Bazzy and Five Five when speaking of the men in Rwanda in his prior statement. Sesay responded that when giving a statement, he was asked specific questions, while in the courtroom “you have to explain it broadly” and reiterated that he did name them, and when he said “the convicts” after this, he was referring to Bazzy and Five Five.³²¹

222. Sesay confirmed that after he made his report to the OTP, he was waiting to receive a “package” (payment) that he would then turn over to OTP as evidence.³²²

223. Sesay also confirmed that on their way to Robert Street, he discussed the amount that would be given to him and he said that \$10,000 was too small, and he wondered if it would be distributed to the three of them.³²³ He conceded he did not report this to the OTP.³²⁴

224. Sesay reiterated as he stated previously that he did not have a problem with the OTP instituting these contempt proceedings, but that he did fear for his life because of it. He also confirmed that he told OTP that he would not feel comfortable continuing to live in Sierra Leone.³²⁵ Sesay confirmed, however, that as he stated previously, when the WVS said “no” to him relocating to France with his sister, he was not upset at this decision.³²⁶

225. In January 2011, Sesay reported his security concerns about the contempt case to Saffa at OTP, and Saffa undertook to discuss this with Saleem Vahidy, a senior officer. Later in January 2011, the witness spoke again to OTP and reiterated that he felt unsafe. The witness also told OTP that he saw Kargbo frequently after the filing of the contempt case, but that Kargbo never brought up the issue. The witness stated that having testified in the three SCSL trials he felt

³²¹ Transcript 27 June 2012, pp. 700-702. See also 27 June 2012, pp. 722-723. (Mr. Metzger asks the witness again whether he did not name Bazzy and Five Five specifically in his statement. The witness reiterates that he did name them, and when he said “the convicts” after this, he was referring to Bazzy and Five Five).

³²² Transcript 27 June 2012, p. 707. See also pp. 732-734.

³²³ Transcript 27 June 2012, p. 707.

³²⁴ Transcript 27 June 2012, p. 712.

³²⁵ Transcript 27 June 2012, pp. 713-714.

³²⁶ Transcript 27 June 2012, pp. 715-716.



particularly at risk, especially as elections are approaching and one can see the violence, and "so someone could use this as a way of causing harm to him."³²⁷

226. The witness confirmed that on 3 December 2010, OTP called to tell him that the contempt matter was going to be referred to the Registrar for action, and they asked how he felt about this; Sesay responded that he had no objection but that he was afraid for his security. Sesay agreed that he had told OTP that his AFRC counterparts called him a "betrayed" and that this contempt issue would just confirm what they already alleged.³²⁸

227. In his answers Sesay confirmed that Kargbo told him that Bazzy said that his brother had contacted the Vice-President of Sierra Leone, and that this person would do anything he could to get the men out of jail. He did not know Bazzy's brother.³²⁹

228. He confirmed that on 7 December 2010, he had told OTP that his sisters agreed if he could find a way to come to France, they would apply for a visa for him with the French embassy, and to take care of his accommodation in France. Sesay also told OTP that if the Court assisted him in getting a visa because of his security issues they would not have to provide him with lodging or transportation. They would only need to provide him with a ticket to Paris, France.³³⁰

229. The witness confirmed that, he had a plan to live in France with his sisters for a "long time" even before the contempt proceedings because he did not feel he was secure.³³¹ It was not put to Sesay that he had any dispute with Kanu, in particular that he had a confrontation with Kanu during which he, Sesay, vilified Kanu's mother.

230. Issues put to Sesay cross-examination were again raised by counsel for Kamara. Sesay restated that at one point after Kargbo was released from prison (and before these contempt proceedings), he saw Kargbo crying because he and his partner were having a problem. Kargbo

³²⁷ Transcript 27 June 2012, pp. 716-719.

³²⁸ Transcript 27 June 2012, pp. 721-722.

³²⁹ Transcript 27 June 2012, pp. 723-724.

³³⁰ Transcript 27 June 2012, pp. 726-730.

³³¹ Transcript 27 June 2012, pp. 730-731.



said that he did not want to have any other problems because he had just come from prison and asked Sesay to help him with accommodation. Kargbo stayed in Sesay's house for about a month.³³²

231. The day that Kargbo accompanied Sesay to Newton, he came to Sesay's house in the early morning hours, at approximately 8 or 9 am.³³³
232. Sesay confirmed that on the day he met Kargbo at Sarolla en route to meet his sister at the PWD Junction, Kargbo told him that Bazy wanted to talk to him, but Sesay refused to do so, and so he never spoke to Bazy. It was Sammy who was relaying the messages from Bazy.³³⁴
233. Sesay confirmed that he testified in the AFRC trial against Bazy. While Bazy was in the SCSL Detention Centre, they did not have any communication. The last time Sesay spoke to Bazy was when he met "us" at Pademba Road Prison, in or around around 2003.³³⁵ Bazy contacted him via Mr. Samura's, the investigator's,³³⁶ phone while Bazy was in detention and he brought this to the attention of WVS.³³⁷ I note that this was during the AFRC trial.
234. When asked whether he told OTP to wait a day to "prefer the charges" against the accused, the witness reiterated that Kargbo had said that the men were going to call the next day and so he told OTP they should wait.³³⁸ Sesay again confirmed that he told OTP that his sisters would apply for a visa to France for him, but that the Court could help him if he is rejected.³³⁹ Sesay confirmed that Kargbo met him at his house twice during these incidents. Since the contempt case has been brought, Kargbo has not visited Sesay's house.³⁴⁰ Sesay testified that he was a taxi driver at the time of these incidents. He has since sold his taxi.³⁴¹

³³² Transcript 28 June 2012, pp. 771-774.

³³³ Transcript 28 June 2012, p. 775.

³³⁴ Transcript 28 June 2012, pp. 778-779.

³³⁵ Transcript 28 June 2012, p. 779.

³³⁶ Samura was a Defence investigator.

³³⁷ Transcript 28 June 2012, p. 785.

³³⁸ Transcript 28 June 2012, pp. 788-790.

³³⁹ Transcript 28 June 2012, p. 793.

³⁴⁰ Transcript 28 June 2012, pp. 795-797.

³⁴¹ Transcript 28 June 2012, pp. 795-796.



235. There was no communication or friendship between Sesay and Bazzy during the time in which Sesay testified against him at the AFRC trial, and no talk or discussion until “Kargbo brought that talk up with me.”³⁴²
236. Sesay agreed again that Bazzy and he had no direct contact during these incidents, but that it was Kargbo and Bomb Blast who did the communicating to him.³⁴³
237. Sesay again was asked and confirmed his concerns about possible political influences on his safety but denied any dislike of Bazzy because of Bazzy’s position in the AFRC.³⁴⁴
238. When asked whether Sesay did not “like” Bazzy was because he was a senior member of the “then government” (AFRC), the witness denied that this was true.³⁴⁵
239. When asked by Mr. Serry-Kamal about his sisters in France, Sesay stated that Mr. Serry-Kamal’s mentioning of his sisters was causing him to be afraid for them, because Mr. Serry-Kamal is an “old politician.”³⁴⁶
240. Sesay denied that he used Kargbo to fabricate the allegations in the case or that the allegations were a figment of his imagination.³⁴⁷
241. In Re-examination by the Independent Counsel Sesay confirmed that when he spoke to Bomb Blast, he recognised his voice, and told Mr. Aki, (Mr. Thomas Akinbobola) this. He also reiterated that he recognised Kanu’s voice on the phone.³⁴⁸
242. I note that TFI-334/Sesay was occasionally an excitable witness, touchy about the attitude and behaviour of others in court when he was testifying and prone to become annoyed at challenges to his version of events.

Witness Joseph Saffa

³⁴² Transcript 28 June 2012, pp. 797-798.

³⁴³ Transcript 28 June 2012, p. 798.

³⁴⁴ Transcript 28 June 2012, p. 800.

³⁴⁵ Transcript 28 June 2012, pp. 802-804.

³⁴⁶ Transcript 28 June 2012, pp. 805-806.

³⁴⁷ Transcript 28 June 2012, pp. 806-807.

³⁴⁸ Transcript 28 June 2012, pp. 809-811.



243. Joseph Saffa is a Senior Investigator in the OTP of the SCSL, and has been an investigator since 2002. He was a Senior Investigator in 2010.³⁴⁹
244. On 30 November, Brenda Hollis, the Special Court Prosecutor, received an email from Shyamala Alagendra, a former OTP trial lawyer, which was then forwarded to the Chief of Prosecutions Jim Johnson, who sent the email to Joseph Saffa on 1 December 2010. In his email, Johnson instructed Saffa to call TF1-334. These emails were admitted as Prosecution Exhibit P4.³⁵⁰
245. TF1-334 came later in the day to meet Saffa and Thomas Lahun and told them about his contact with Sammy Ragga (Kargbo). TF1-334 spoke in Krio, and Saffa recorded the interview in English. Saffa testified that he speaks Krio fluently and speaks and writes English fluently.³⁵¹ Saffa made a written record of what TF1-334 told him, first in a statement template, and then in a memorandum called "Meeting with TF1-334."³⁵² He testified that the memorandum reflected the interview that he had with TF1-334 on that day. This was admitted as Prosecution Exhibit P5. Saffa was later cross-examined as to why the original document was not retained.³⁵³
246. During the afternoon of 1 December 2010, Saffa received a phone call from TF1-334 telling him that that he had received another call from Kargbo, who told him that they should meet in the Sweissy business area in Freetown at about midday. TF1-334 met Kargbo in Sweissy and Kargbo told him that he had received a call from Rwanda that a lawyer was coming from Ghana who would be speaking to TF1-334 about "the same issue he had earlier told him." TF1-334 also reported that Kargbo asked him about the "whereabouts of somebody," a named protected witness, but TF1-334 told him he did not know his whereabouts. Saffa added this further

³⁴⁹ Transcript 28 June 2012, pp. 743-744.

³⁵⁰ Transcript 28 June 2012, pp. 744, 747-750.

³⁵¹ Transcript 28 June 2012, pp. 754-756.

³⁵² Transcript 28 June 2012, pp. 754-755, 765.

³⁵³ Transcript 28 June 2012, p. 757.

information from TF1-334 to the memorandum he had written concerning TF1-334's contacts with Kargbo.³⁵⁴

247. On 3 December 2010, Saffa was instructed by Johnson to tell TF1-334 that OTP would like to report this contact to the Registrar for action. Saffa called and did so, and spoke to TF1-334 in Krio and TF1-334 said that he had "no objection for this line of action." TF1-334 only said that he was "concerned about his security" because "whether the convicts or Sammy Ragga thought that he was the one who reported this matter, but they will definitely know, so he was concerned about his security."³⁵⁵

248. TF1-334 also told Saffa in this same conversation that Kargbo came to his house that morning and told him he had received another call from the prisoners in Rwanda. Kargbo told TF1-334 that the prisoners were prepared to fulfil their promise "earlier made to him" but that they were asking him to be patient so that they could "put things in place." Kargbo told TF1-334 that Bazy's (Kamara's) brother, whose name he did not know, was a chairman of the APC party in the United States, and that he had informed him about this matter. Kargbo told TF1-334 that this brother of at Bazy had contacted a Mr. Tamba Sam-Sumana, the Vice-President of Sierra Leone, to render some assistance in helping the prisoners out of jail, and the Vice-President said that he would give any assistance that was in his reach.³⁵⁶ Saffa recorded all of what TF1-334 told him in the above phone call in English in a memorandum dated 3 December 2010.³⁵⁷ (Prosecution Exhibit P6).

249. On 9 December 2010, Saffa created a witness statement that was dated 1 and 3 December 2010, but which was not signed by TF1-334, and which was admitted as Prosecution Exhibit P7. Among the corrections made by Saffa between Exhibit P7 and the original record, Exhibit P3, were changes from the word "recount" to "recant" because he "did not actually know the

³⁵⁴ Transcript 28 June 2012, pp. 759-760.

³⁵⁵ Transcript 28 June 2012, pp. 760-761, 763.

³⁵⁶ Transcript 28 June 2012, pp. 764-765.

³⁵⁷ Transcript 28 June 2012, pp. 761-762.



spelling.” He also changed another paragraph for “clarity,” because he “did not see it very important to the particular story.”³⁵⁸

250. On 7 December 2010, Investigator Magnus Lamin spoke to TF1-334, and prepared a memorandum with a record of that discussion, which was sent to Johnson and was copied to Saffa.³⁵⁹ This was admitted as Prosecution Exhibit P8.³⁶⁰ In addition, on 9 December Saffa called TF1-334 to the office because he wanted to formalise the statement that he had made before. Saffa recorded the statement in his presence.³⁶¹ This was admitted as Prosecution Exhibit P3.

251. Saffa was present when Johnson instructed Lamin to call TF1-334. Lamin used the information conveyed in this phone call to create an internal office memorandum dated 14 December 2010, which was copied to Saffa. This was admitted as Prosecution Exhibit P9.³⁶² In this memorandum it is written that TF1-334 advised them to put off the filing of the contempt motion until Thursday 16 December, “to see what will be offered to get stronger evidence.”³⁶³

252. After the telephone conversation between TF1-334 and Lamin, a contempt motion was prepared and filed on 17 December 2010.³⁶⁴ Saffa made a declaration on 17 December 2010, which, after objections and submissions was admitted as Prosecution Exhibit P10. It records the report made by Sesay to Lamin.³⁶⁵ Johnson instructed Saffa to ask Lamin to call TF1-334 and through that contact Lamin prepared a memo for Saffa. This memo was sent in an email on 21 January 2011.³⁶⁶

253. Saffa explained that a “contact summary” was a summary of contacts the Witness Management Unit of the OTP makes of witnesses, sources and “other people.” Saffa did not compile the

³⁵⁸ Transcript 28 June 2012, pp. 768, 817.

³⁵⁹ Transcript 28 June 2012, pp. 768, 818.

³⁶⁰ Transcript 28 June 2012, p. 821.

³⁶¹ Transcript 30 June 2012, p. 839.

³⁶² Transcript 28 June 2012, p. 822, Transcript 30 June 2012, pp. 839, 845-847.

³⁶³ Transcript 30 June 2012, p. 848.

³⁶⁴ Transcript 30 June 2012, pp. 847-848.

³⁶⁵ Transcript 30 June 2012, p. 850.

³⁶⁶ Transcript 30 June 2012, pp. 856-85, 861.



contact summary, others were responsible for in-putting the entries into the database.³⁶⁷ The summary introduced at trial shows entries for November 2010, 7 December 2010, 11 January 2011 and 21 and 24 January 2011, and the first entry relating to this case was on 30 November 2010.³⁶⁸ This was admitted as Prosecution Exhibit P12. The 11 January 2011 entry notes that TF1-334 and Ragga (Kargbo) see each other frequently and records that TF1-334 fears for his security.³⁶⁹

254. Upon cross-examination by Counsel for Bangura, Saffa agreed that Prosecution Exhibit P10, (the Declaration of 17 December 2010), reads: “Bomb Blast also asked TF1-334 how much money did he want for the deal.” Saffa confirmed that the document reflects that TF1-334 did not tell Saffa that Bomb Blast had asked him if he wanted \$10,000.³⁷⁰
255. Counsel also referred to Prosecution Exhibit P4, *viz* the emails introduced at trial. One reads that TF1-334 “informs me [Alagenda] he was contacted by Sammy Ragga ...” and also says “Bomb Blast is aware of this and maybe they have contacted him.” Saffa confirmed that the email indicates that Bomb Blast did not contact TF1-334 but stated it shows that Bomb Blast had knowledge of the issue but that “the AFRC accused persons” does not include Bomb Blast.³⁷¹
256. Saffa confirmed that Prosecution Exhibit P10, the email from Lamin to Saffa, does not mention Bomb Blast, and records that “TF1-334 still expresses his insecurity and fear over their silence on the issue Sammy Ragga brought up to recant his testimony against the AFRC convicts.” Saffa acknowledged that this indicates that Kargbo came up with the idea of recanting.³⁷²
257. Saffa confirmed that after his first contact with TF1-334, he did not advise him to refrain from further discussions with Kargbo, nor did he tell him to stay away from the accused persons or

³⁶⁷ Transcript 30 June 2012, pp. 864-866.

³⁶⁸ Transcript 30 June 2012, p. 867.

³⁶⁹ Transcript 30 June 2012, pp. 879-880. Witness testified that Mr. Koroma was now deceased. p. 880.

³⁷⁰ Transcript 30 June 2012, pp. 883-884.

³⁷¹ Transcript 30 June 2012, pp. 885-887.

³⁷² Transcript 30 June 2012, pp. 887-888.



the Sweissy area.³⁷³ Saffa also testified that despite TF1-334 telling the OTP to wait to file the contempt cases, OTP did not wait but filed it on 17 December for administrative reasons.³⁷⁴

258. Counsel for Kanu cross-examined Saffa in detail as to why some memoranda of contacts/notes of contacts were not recorded in the contact summary databases. Saffa testified that he did not know why this was so. He also confirmed that perhaps one or more documents relating to these contacts were not released to the Independent Counsel or Defence Counsel. Saffa confirmed that he took handwritten notes of the contact of 1 December 2010 and then entered the content into the witness statement, but these handwritten notes have not been disclosed to the Independent Counsel. Saffa does not know where these notes are.³⁷⁵ Counsel was subsequently to submit at length on this issue, suggesting it reflected poorly on Saffa's professional work.

259. Saffa confirmed that the changes from Prosecution Exhibit P7 (the 1 and 3 December statement) to Prosecution Exhibit P3 (the 9 December statement) were made because of information given by TF1-334 and were not changed by Saffa.³⁷⁶ Saffa also confirmed that nowhere in the statement does it say that Kargbo told TF1-334 "to lie."³⁷⁷ In addition, in the second statement Saffa omitted "but I was not able to take the phone number from which I spoke to Five Five" because he did not find this relevant.³⁷⁸ Saffa confirmed that Five Five was not mentioned as asking TF1-334 the whereabouts of the protected witness. I note that Kanu was not charged with any offence relating to a breach of protective measures.³⁷⁹ Saffa testified that in relation to Exhibit P3, TF1-334 did not name who "the convicts" were, and that in this conversation Five Five (Kanu's) name was not mentioned.³⁸⁰

³⁷³ Transcript 30 June 2012, pp. 889-891.

³⁷⁴ Transcript 30 June 2012, pp. 891-892.

³⁷⁵ Transcript 30 June 2012, pp. 896-897, 899-903.

³⁷⁶ Transcript 30 June 2012, pp. 903-910.

³⁷⁷ Transcript 30 June 2012, pp. 909-910.

³⁷⁸ Transcript 30 June 2012, p. 913.

³⁷⁹ Transcript 30 June 2012, pp. 916-917.

³⁸⁰ Transcript 30 June 2012, p. 918.

260. Saffa confirmed that no one from his office contacted the Office of the Vice President to investigate as to whether there was contact with that office.³⁸¹ Saffa also stated that he added the sentence “I understood that Ragga wanted me to lie by recanting my in-Court testimony” to Exhibit P3. Saffa testified that he asked TF1-334 what he meant by “recant” and this was his answer.³⁸²
261. Defence Counsel questioned Saffa concerning the differences between the Alagenda email and TF1-334’s statements.³⁸³ Saffa acknowledged that the only mention of Five Five in the email was Kanu telling TF1-334 “we are brothers and we will soon be released and we expect you to help us with the release.” TF1-334 never said that Kanu personally had promised him money.³⁸⁴
262. Saffa further acknowledges that TF1-334’s statement in Exhibit P6 that he had “always been referred to by his AFRC counterparts as a betrayer,” is not included in TF1-334’s signed statement.³⁸⁵ He did not see this fact as necessary. Saffa testified that following the compilation of Exhibit P8, “we” only told him that the matter had been reported to WVS and that he should contact them.³⁸⁶
263. Defence Counsel asked Saffa why it was necessary for him to make the Declaration of 17 December 2010, entered as Exhibit P10. Saffa stated that this was the day that the contempt motion was filed, and so he felt it necessary to make a statement concerning his conversation with TF1-334.³⁸⁷ Saffa confirmed that Exhibit P10 is not in the database.³⁸⁸ Saffa also confirmed that the data entry from 1 September 2010 was not printed out.³⁸⁹
264. Saffa testified that he did recall that TF1-334 reported to OTP his dissatisfaction concerning a DVD relating to his evidence at the SCSL. On Counsel’s application, Saffa was requested to

³⁸¹ Transcript 2 July 2012, pp. 924-925.

³⁸² Transcript 2 July 2012, pp. 925-926.

³⁸³ Transcript 2 July 2012, pp. 927-929.

³⁸⁴ Transcript 2 July 2012, pp. 928-929.

³⁸⁵ Transcript 2 July 2012, pp. 929-931.

³⁸⁶ Transcript 2 July 2012, p. 934.

³⁸⁷ Transcript 2 July 2012, pp. 940-942.

³⁸⁸ Transcript 2 July 2012, pp. 943-944.

³⁸⁹ Transcript 2 July 2012, pp. 944-946.

look for this record.³⁹⁰ Defence Counsel asked why the contact described in Exhibit P10, (the memorandum of 17 December 2010), was not in the contact database, and raised concerns that not all the contacts related to this trial were disclosed.³⁹¹ I have already noted that a direction was made by the Court and a disclosure made.

265. Upon cross-examination by Counsel for Kamara, Saffa testified that he only had contact with TF1-334, and he did not interview Kargbo, nor did Magnus Lamin or Jim Johnson. He denied editing, polishing, or removing words from Sesay's statement.³⁹²

266. Defence Counsel asked whether Saffa had any other meetings after 7 December 2010 with TF1-334, to which Saffa replied that he had one on 9 December 2010, which is not recorded.³⁹³ Upon re-examination, Independent Counsel asked Saffa to look at Prosecution Exhibits P3 and P4, and noted that both have the similar statement of "Five Five said that we were all brothers and that they were counting on me to assist them."³⁹⁴

Witness Hillary Sengabo

267. Witness Hillary Sengabo³⁹⁵ is Deputy Director of Mpanga Prison, and he is the liaison officer between Mpanga Prison and the SCSL. Sengabo deputises the director, supervises the staff, looks after prisoners' welfare and is in charge of finance. When the prisoners from the SCSL arrived in Rwanda, he was acting as legal officer and close supervisor for the staff in the Delta Wing, the prison housing for the SCSL prisoners.³⁹⁶

268. The prison "used the telephone mobile to facilitate [the telephone] system." When prisoners wanted to make a phone call, they came out of their rooms and went to the visiting hall

³⁹⁰ Transcript 2 July 2012, pp. 948-949.

³⁹¹ Transcript 2 July 2012, pp. 949-950.

³⁹² Transcript 2 July 2012, pp. 951-952.

³⁹³ Transcript 2 July 2012, pp. 951-954.

³⁹⁴ Transcript 2 July 2012, p. 956

³⁹⁵ Witness Sengabo had been interviewed by Counsel for Kanu in May 2012, as a prospective Defence witness. He was subsequently interviewed by Independent Counsel. This led to objections by Counsel and rulings by the Single Judge. Sengabo was called by Independent Counsel following an objection and order for a witness statement pursuant to Rule 66(A)(i).

³⁹⁶ Transcript 2 July 2012, pp. 983-984.

compound. The prison guards who were attached to the Delta Wing were in possession of the mobile phone, and the prisoner would inform the guard on duty that he wanted to make a call.³⁹⁷

269. After the guard “attached their own detail for the scratch air time and insert in air time,” the prisoner could call. After this, another prisoner would come to call. It could take all day for the prisoners to complete their calls.³⁹⁸ Sengabo testified that the prison guards in the Delta Wing would change, depending on their duty.³⁹⁹
270. The mobile phone network that the prison used was MTN Rwanda, and the telephone number used by the prisoners was 078-896-6848. The mobile phone had a speaker phone.⁴⁰⁰
271. At the time relevant to the Indictment, there was no system in place stating who the prisoners could call among their family members.⁴⁰¹ Following publication of complaints of prisoner’s contacts to journalists, a system for calling “approved” persons was introduced. The list of approved persons was compiled by the Registrar of the Special Court based on names submitted by the prisoners. This was after the Indictment period.
272. Sengabo testified that when the prisoners arrived at Mpanga Prison in late 2009, they came with an incomplete list [of persons the convicted were permitted to call] and “we” later asked the SCSL to update it. The SCSL came with the current list to guide them through the “activity of telephone calls.”⁴⁰²
273. Prosecution Exhibit P13 is a phone list that contains the names of the relatives of the prisoner, their relationship, address and phone number, and was intended to be the limit of close relatives and friends that the prisoners could call. It was updated in early 2010, and was in effect in November and December 2010. This was not the first list given by the SCSL to Mpanga

³⁹⁷ Transcript 2 July 2012, pp. 985, 993.

³⁹⁸ Transcript 2 July 2012, pp. 985, 993.

³⁹⁹ Transcript 2 July 2012, p. 993.

⁴⁰⁰ Transcript 2 July 2012, p. 985.

⁴⁰¹ Transcript 2 July 2012, p. 985.

⁴⁰² Transcript 2 July 2012, pp. 984-985.



Prison via email, but that list was not correct and prisoners complained that people were missing, so the prison updated the list.⁴⁰³

274. In November and December 2010, the prisoners were not allowed to call anyone who was not on the approved list, and were not allowed to call the people on this list at a telephone number not on the list.⁴⁰⁴ Sengabo confirmed that there was no phone number listed for some of the names on Kanu's list.⁴⁰⁵
275. The visiting hall was an open area with just a roof. There was only one single mobile phone; the prisoners could pass the telephone to their colleagues.⁴⁰⁶ Sengabo identified a handwritten "call log" used to register the name and phone numbers of the persons called by the prisoners, the date and time of the call and the signature of the caller.⁴⁰⁷ This was admitted as Prosecution Exhibit P15.⁴⁰⁸
276. The procedure for filling out the call log in November and December 2010 was such that after the prisoner completed the call, he filled the book by recording the name, relationship and phone number of the person called, and the prisoner's signature. There is also a place further to the right for the signature of staff. In November and December 2010, the logbook was generally kept in the "security office" and the staff member on duty maintained possession of it.⁴⁰⁹
277. However, Sengabo testified that either the prisoner or the staff on duty filled the log book at the end of the call,⁴¹⁰ but later Sengabo testified that it was the caller who filled in the "called

⁴⁰³ Transcript 2 July 2012, pp. 986-989.

⁴⁰⁴ Transcript 2 July 2012, pp. 991-992.

⁴⁰⁵ Transcript 2 July 2012, p. 992.

⁴⁰⁶ Transcript 2 July 2012, p. 994.

⁴⁰⁷ Transcript 2 July 2012, p. 994.

⁴⁰⁸ Transcript 4 July 2012, pp. 1059-1061.

⁴⁰⁹ Transcript 2 July 2012, p. 995.

⁴¹⁰ Transcript 2 July 2012, pp. 995-996. Justice Doherty asked whether, if the prisoner filled in the logbook, he could put in any number he wanted. Sengabo provided an incomplete answer, saying "Actually, the instructions to our staff is to fill the book, but we came to find that sometimes they were..." Mr. Metzger objected and the Single Judge stated she would not follow up her question." pp. 999-1000.

number” column of the log.⁴¹¹ He confirmed the prison officer completed the log book but sometimes he asked prisoners to fill it out.⁴¹²

278. In relation to the prison log book entries for 30 November 2010, Sengabo testified that while Kamara has been in his custody in Mpanga Prison he has become familiar with his handwriting and signature, as he supervised and checked the call log, and thus he came to know the handwriting of each prisoner. Sengabo confirmed that the first entry for “30 November 2010 – Bazy Kamara – brother – 13.11 pm – signature” is written in Kamara’s handwriting.⁴¹³ Sengabo testified that the entry on the second line of that page stating “Santigie Borbor Kanu – brother – signature” is in Kanu’s handwriting.⁴¹⁴ The first two numbers in that line entry are for Kamara, and the third number is for Kanu.⁴¹⁵

279. Sengabo confirmed that Prosecution Exhibit P13 the approved call list, showed one brother and a number for Kanu and two brothers and their phone numbers for Kamara but none of the phone numbers approved are listed in the call log entry for 30 November 2010.⁴¹⁶ That entry shows an arrow indicating that the first two numbers are attributed to Bazy, and the third number to Kanu. The first and second “called number” for Bazy are listed as +243-7-633-7395 and +232-33-285-0697. The third number in the “called numbers” list is +232-3-225-8898.⁴¹⁷

280. After protracted objections, the witness stated that there was an investigation of the prisoners’ telephone calls.⁴¹⁸ It was a general investigation, after Sengabo suspected that prisoners might be abusing the telephone by talking to a journalist in Freetown without the prison authority being aware. They discovered that there were some numbers in the call log that were not on the call

⁴¹¹ Transcript 4 July 2012, p. 1059.

⁴¹² Transcript 4 July 2012, p. 1070.

⁴¹³ Transcript 4 July 2012, pp. 1011, 1013-1016, 1019.

⁴¹⁴ Transcript 4 July 2012, pp. 1013, 1019.

⁴¹⁵ Transcript 4 July 2012, pp. 1025-1026.

⁴¹⁶ Transcript 4 July 2012, pp. 1023-1026.

⁴¹⁷ Transcript 4 July 2012, p. 1026.

⁴¹⁸ Transcript 4 July 2012, p. 1031.



list.⁴¹⁹ After the investigation the prison conducted a search, and found a “telephone air time” and a telephone charger in different rooms. This led to suspension of the prisoners telephone privileges, a new telephone calling regime, and a new approved list of call recipients. I note that this occurred after the Indictment period, but Defence witnesses spoke of this system.

281. Sengabo noted that there was abuse and the dialling of different numbers, and that numbers referred to in the prison call log were not on the approved call list. He did see Kanu, “Brima” and Kamara making calls together because they told them that they shared close friends, and so they would pass the phone. The prison did not see this as a problem.⁴²⁰

282. Sengabo produced two sets of records, totalling 49 pages, which he identified as the MTN call record for the phone used in the Delta Wing for prisoners,⁴²¹ which was admitted as Prosecution Exhibit P14.⁴²² The last phone entry on page 38 of the MTN call record is +225-078-896-6848 and the second number is +232-7-633-7395, a Freetown number that was called. The record shows that they were called on 30 November 2010, and with duration of “12 and 45 seconds.”⁴²³ The witness identified the prison log entry “that starts 30/11/2010” and confirmed that the first number under “called number” at 13:11 pm is +232276337395, and this is the same number listed at the bottom of page 38 of the MTN call record.⁴²⁴

283. Sengabo was directed to look at the first three numbers at the top of page 39 of the MTN call records. Each of these calls was made to +232-332-5597 at 1.07, 1.09, and 1.49 pm.⁴²⁵ Sengabo confirmed that the phone number of the mobile phone used by the inmates in the prison is +250-78-896-6848.⁴²⁶

⁴¹⁹ Transcript 4 July 2012, pp. 1032, 1034, 1046.

⁴²⁰ Transcript 4 July 2012, pp. 1046, 1048-1049.

⁴²¹ Transcript 4 July 2012, p. 1049.

⁴²² Transcript 4 July 2012, p. 1054.

⁴²³ Transcript 4 July 2012, pp. 1053-1054.

⁴²⁴ Transcript 4 July 2012, pp. 1054-1055.

⁴²⁵ Transcript 4 July 2012, pp. 1054-1056.

⁴²⁶ Transcript 4 July 2012, pp. 1057.

284. Sengabo confirmed that the prison manual phone log shows a number (+232-3-328-5697) that has different digits from the numbers in the MTN call record.⁴²⁷ Sengabo stated that the numbers in the column “called numbers” were written by the callers, and that he saw the handwriting.
285. In response to a question on cross-examination by Counsel for Bangura, Sengabo confirmed that he was a trained and qualified lawyer, but he is not an expert in telecommunications data.⁴²⁸ The telephone records in Prosecution Exhibit P14 came from MTN, the telephone network. The records also shows, on page one, “Confidential - for Police Use Only.” Sengabo testified that he, himself, received the records from the Independent Counsel.⁴²⁹
286. In cross-examination by Counsel for Kanu, Sengabo confirmed that prison officers completed the log book, and agreed with counsel that sometimes the guards would request the prisoners to fill out the log because they were not used to Sierra Leonean names.⁴³⁰ The staff would write the phone numbers called by the prisoners. Sengabo testified that whilst the staff members were instructed to check the telephone and write down the number called, because the phone is movable it can be dialled and changed at any time. He also testified that it was a challenge for the prison to manage the mobile phone when the prisoners “had different intentions of changing their numbers and dialling different numbers.” The staff would try to read and record the numbers called, but would find that the names and numbers listed were different than those listed in the MTN call records.⁴³¹ In November 2010, the Delta Wing had no system for audio recording telephone conversations.⁴³²
287. Three phone numbers written in the 30 November entry were written by the same person, but Sengabo did not think they were written by a staff member. He believed they were written by

⁴²⁷ Transcript 4 July 2012, pp. 1057.

⁴²⁸ Transcript 4 July 2012, p. 1066.

⁴²⁹ Transcript 4 July 2012, p. 1066-1069.

⁴³⁰ Transcript 4 July 2012, p. 1070.

⁴³¹ Transcript 4 July 2012, pp. 1071-1073.

⁴³² Transcript 4 July 2012, p. 1069.



Kanu because it was his handwriting in the space before the numbers. Sengabo confirmed that he is not a graphologist or handwriting expert, but stated that he was familiar with Kanu’s handwriting⁴³³

288. Sengabo identified the prison call log, and at the entry for 26 November 2010, listing “Morris Kallon” “Bazzy Kamara” and “Allieu Kondewa.” The seventh entry is “Santigie Kanu.” Sengabo testified that he does not know if this is Kanu’s handwriting and confirms that Kanu writes his name as Khanu.⁴³⁴

289. Sengabo acknowledged that the signature of 30 November 2010 in Exhibit P15 is different, but similar, from the signature of 26 November. The signature of 26 November is bigger than that one of 30 November 2010, but has some similarities” and there is just “slight difference.” Sengabo affirmed that Kanu’s signature is on the entry of 27 November. When asked whether this signature is the same as the 26 November but not the 30 November, Sengabo submits they are similar.⁴³⁵

290. Sengabo confirmed that the arrows at telephone numbers at 30 November show which calls are attributed to Kamara and which to Kanu, and that there are no other calls from them on the page until after 17:00, and that one cannot tell from the log the duration of the calls. Sengabo also confirmed that one also cannot tell which prison officer handed over the phone at that time.⁴³⁶

291. Sengabo agreed that page 39 of the MTN call record showed that the first line, after the date and time, reflects that the phone call was 175 seconds, that the “next call” is 25 minutes later, and lasted for 654 seconds, and another call is made at 1:49 for 222 seconds. Sengabo

⁴³³ Transcript 4 July 2012, p. 1073.

⁴³⁴ Transcript 4 July 2012, pp. 1078-1080.

⁴³⁵ Transcript 4 July 2012, pp. 1080-1081.

⁴³⁶ Transcript 4 July 2012, pp. 1082-1083.



confirmed that one could not tell where, within Mpanga Prison, Kanu was when he made the calls.⁴³⁷

292. Defence Counsel asked Sengabo to look at Prosecution Exhibit P13, the approved call list Sengabo confirmed that Kanu's name is spelled "Khanu" and that there were three names without numbers provided: "Mr Conteh," "Yatteh Kamara" and "Ulo Jackson." Sengabo affirmed that the prisoners are "obliged to call the preset numbers on the [list]."⁴³⁸
293. Sengabo confirmed that he had not, in the course of any investigation, looked through Kanu's books or notebooks to check for telephone numbers, nor had he checked Kanu's personal belongings to see if the number ending in 597 is written. He also confirmed that he has never compared the numbers on the call log to the MTN call records.⁴³⁹
294. Sengabo testified that he knew that the phone the prisoners used had a speakerphone. There is no way to tell from either the MTN call records or the prison call log whether a call was made on speakerphone.⁴⁴⁰ Finally, Sengabo confirmed that looking at the MTN call records, one cannot tell who made the calls listed.⁴⁴¹
295. In answer to questions by Counsel for Kamara, Sengabo stated that he cannot remember the exact date that he received Prosecution Exhibit P13, the approved call list, but believes he received it in 2010, before the investigation in 2011 and that it is not the one used currently in the prison.⁴⁴² There was a new list verified by the Special Court, after investigation in 2001. The revised list was given to MTN and if a number not given to MTN was used it would not go through. Sengabo agreed with Counsel that the first entry on the page with the entries of 30 November 2010 and the three next lines have been "gone over or emboldened."⁴⁴³

⁴³⁷ Transcript 4 July 2012, pp. 1085-1087.

⁴³⁸ Transcript 4 July 2012, pp. 1087-1089.

⁴³⁹ Transcript 4 July 2012, pp. 1087-1090.

⁴⁴⁰ Transcript 4 July 2012, pp. 1090-1092.

⁴⁴¹ Transcript 4 July 2012, p. 1099.

⁴⁴² Transcript 4 July 2012, pp. 1093-1096.

⁴⁴³ Transcript 4 July 2012, pp. 1095-1098.

296. Sengabo agreed that the first entry on page 40 of Exhibit P15 concerning Kamara has been “gone over more than once,” “emboldened,” or “gone over what was written.”⁴⁴⁴ He identified entries where Kanu’s name is spelled both “Kanu” and “Khanu.”⁴⁴⁵
297. In re-examination, Sengabo testified that the Special Court requested the MTN call list from the Rwandan Correction Service, which requested it from MTN. After receiving it, the prison forwarded it to the Special Court.⁴⁴⁶
298. I note that Sengabo was a calm witness, who replied in a measured manner, limiting his answers to matters within in his knowledge or control.

The Accused Brima Bazy Kamara

299. The Accused Brima Bazy Kamara elected to give sworn evidence. He testified that he enlisted in the Sierra Leonean Army in 1991, and trained with Alex Tamba Brima.⁴⁴⁷ Kamara’s and Tamba Brima’s final rank in the army was staff sergeant.⁴⁴⁸
300. Kamara knew Hassan Papa Bangura before he joined the army: Kamara was born and raised in Wilberforce Village, so he was a “Wilberforce village boy,” and Bangura was born and raised Wilberforce Barracks, and was a “barracks boy,” meaning that his father was a soldier and he was born in the barracks.⁴⁴⁹ They joined the army in the same year and trained together in the same company.⁴⁵⁰ Kamara was assigned to the army transport unit for eight years,⁴⁵¹ and Bangura was sent to Daru.⁴⁵² Tamba Brima was also a “barracks boy,” while Kargbo was a “Fourah Bay boy,” which meant that he lived in Freetown.⁴⁵³ Kamara also knew Santigie Borbor

⁴⁴⁴ Transcript 4 July 2012, pp. 1096-1098.

⁴⁴⁵ Transcript 4 July 2012, p. 1101.

⁴⁴⁶ Transcript 4 July 2012, p. 1102.

⁴⁴⁷ Transcript 21 August 2012, p. 1168.

⁴⁴⁸ Transcript 21 August 2012, p. 1186.

⁴⁴⁹ Transcript 21 August 2012, pp. 1186-1187; Transcript 22 August 2012, pp. 1191-1192, 1228-1229.

⁴⁵⁰ Transcript 21 August 2012, pp. 1168-1169, 1172, 1187.

⁴⁵¹ Transcript 21 August 2012, p. 1187.

⁴⁵² Transcript 22 August 2012, p. 1191.

⁴⁵³ Transcript 22 August 2012, pp. 1193-1195.

Kanu “during the NPRC,” when Kanu was a bodyguard to the junta leader Valentine Strasser.

Kamara, Kanu, and Tamba Brima are friends.⁴⁵⁴

301. Kamara was brought to Mpanga Prison in 2009.⁴⁵⁵ When the prisoners arrived at the prison, the current deputy director, who was “a liaison” “conducted the [phone] calls.” The prisoner would request the guards to make a call. The prisoner would sit at a table and the guard would sit in on the opposite side of the table. After the prisoner gave the guard the phone number, the guard would dial the number, listen, and hold on to the phone until a person picks up, and hand the phone to the prisoner to talk.⁴⁵⁶
302. The guard would make the entry in “the recorder” (the phone log). Issa Hassan Sesay, “their coordinator” would listen to all of their conversations in Krio, and if there was anything a guard was not satisfied with, like a fight between a prisoner and the person on the phone, the guards would request the coordinator to translate the conversation into English.⁴⁵⁷ I note that the presence of Issa Sesay during these calls and his role as interpreter were not put to Sengabo.
303. After the call the prisoner handed the phone to the guard, who would look at the number on the phone, record the number, and the minutes of “air time” – each prison was allowed 1,500 minutes of air time – in the prison log book (Exhibit P15). The guard would then ask the prisoner to sign the log. The log book and the phone were kept by the prison administration.⁴⁵⁸
304. The procedure was changed in September 2011 and today, the prisoners make calls in a security room, they are now given 3,000 minutes of air time, and there is a recorder. The prisoners are not allowed to call just anyone, and if the guard dials a number that is not approved by MTN then it does not go through. The prisoners gave the prison administration a list of their

⁴⁵⁴ Transcript 21 August 2012, pp. 1168-69, 1172.

⁴⁵⁵ Transcript 21 August 2012, p. 1167.

⁴⁵⁶ Transcript 21 August 2012, pp. 1173-1175. I presume Kamara means Sengabo, the current Deputy Director of the prison, though he never testified to his name.

⁴⁵⁷ Transcript 21 August 2012, pp. 1175-1176.

⁴⁵⁸ Transcript 21 August 2012, pp. 1176-1178.



relatives, their phone numbers and addresses, and the prison approved some and not other phone numbers.⁴⁵⁹

305. Kamara testified that he did not know Samuel Kargbo (Ragga) during the war, but that he saw him for the first time at Pademba Road Prison when Kamara was first taken there in 2002, and “he was never my friend.” Kamara was locked up 24 hours a day, and he and Kargbo were in different blocks. Kamara would see Kargbo when they were allowed to bathe, but did not talk to him. After his release he never saw Kargbo.⁴⁶⁰

306. Kamara said that he and Kargbo were “not on the same level,” and that his rank did not permit him to be friends with him. Kargbo was in the East, and Kamara was in the West, so if they met on the highway they would pay a compliment but that was all. He did not know Kargbo’s whereabouts during his time in the jungle or when he was commander at West Side or in Freetown and did not see him until they were arrested and taken to Pademba Road Prison.⁴⁶¹ One month after his release, on 29 May 2003, he was arrested by the Special Court and taken to the detention centre for the Special Court. Throughout his incarceration he did not know the whereabouts of Kargbo.⁴⁶²

307. Kamara knows TF1-334, a soldier, but they did not train at the same time and he does not know where TF1-334 was trained. Kamara regards him as “somebody who tells lies ... for his own benefit.” Kamara never contacted TF1-334, and was not contacted by him while in detention in Freetown.⁴⁶³

308. Kamara testified that Keh For Keh was “a comrade,” and he knew him as a soldier and then they became friends. Keh For Keh fell in love with his younger sister and they have a child.⁴⁶⁴

⁴⁵⁹ Transcript 21 August 2012, pp. 1178-1180.

⁴⁶⁰ Transcript 21 August 2012, pp. 1181-1185, 1195; Transcript 22 August 2012, pp. 1224-1226.

⁴⁶¹ Transcript 22 August 2012, p. 1225.

⁴⁶² Transcript 21 August 2012, p. 1185.

⁴⁶³ Transcript 22 August 2012, pp. 1195-1196.

⁴⁶⁴ Transcript 22 August 2012, pp. 1196-1197.

309. On 30 November, Keh For Keh called Kamara and said he was at Sweissy and that some of his “soldier friends” wanted to talk to him, and asked Kamara to call him back. Kamara gave Keh’s phone number to the officer in charge who dialled the number, and when Keh For Keh answered the guard gave the phone to Kamara. Keh For Keh said that some of “your men” are here and wanted to ask about his “condition in Rwanda,” including “his boys,” like Eddie (Pastor Eddie or Maf).⁴⁶⁵
310. Kamara testified that Eddie said that they were “praying for us that one day we will join them” and that they should not be discouraged. Eddie then said that there were plenty of “them” ready to talk to him, and Kamara said that he could not talk to everyone because he did not have a lot of air time; he told Eddie to give the phone to the person closest to him. Pastor Eddie gave the phone to David Vamboi (Vamboi or V-boy), who also said he should “be courageous.” Vamboi then gave the phone to Manga and then to Nat Conteh (Junior), who all said the same thing.⁴⁶⁶
311. Conteh said that there was one more person who said that it had been a long time since he had spoken to Kamara, and wanted to hear his voice. When they gave him the phone he said “Papay, it’s me.... Sammy Ragga, your boy.” Kamara asked if he had been released, and Kargbo said that the government had released him. The phone was breaking up, so Kargbo gave Kamara his number to call him back. The officer dialled the number and Kargbo and Kamara spoke.⁴⁶⁷
312. While they were speaking the other men said that they wanted to talk to “their brothers” so he told them to hold the line. He switched off the phone and “went up” and called “Mr. Kanu and Mr. Alex (Tamba Brima).” Kanu came first, and Kamara told Kanu that some of his boys wanted to talk and that Eddie was on the line. Kargbo gave the phone to Eddie and Kanu spoke to Eddie. Then Kanu spoke to V-Boy. Tamba Brima then came, and Kanu handed the phone to

⁴⁶⁵ Transcript 22 August 2012, pp. 1197-1201. Kamara later on cross-examination confirmed the names of these friends: Keh For Keh = Hamid Keh For Keh Kamara; Eddie = Maf = Pastor Eddie = Edward Williams; V-Boy = David Vamboi; Manga = Lansana Bangura; Gino = Nat Conteh Transcript 23 August 2012, pp. 1281-1282.

⁴⁶⁶ Transcript 22 August 2012, pp. 1201-1202.

⁴⁶⁷ Transcript 22 August 2012, p. 1202.



him and Tamba Brima spoke to V-Boy and Manga. Tamba Brima was talking to them when the air time finished on the phone.⁴⁶⁸ I note that this evidence of the other men's presence was not put to Kargbo in cross-examination.

313. Defence Counsel asks Kamara to look at Exhibit P15, the prison log book, and the entry for 30 November. Kamara confirmed that his signature was in the right-hand column, and that Keh For Keh's number is in the same line.⁴⁶⁹

314. Kamara testified that when he saw the book later, he was surprised that it was not in the same condition as when he signed it: the date and the signature are in the same pen, but the name, the number, the time, and relationship, "they went over it" and the ink does not match. He saw three numbers in the column.⁴⁷⁰ He is not an expert, but he does know Kanu and Tamba Brima's signatures and saw "it says signature under Mr. Kanu's name."⁴⁷¹

315. Kamara confirmed that Keh For Keh's phone number +232-7-633-7395 - is in the first line. Then there is a space and there is another number - +32-3-338-5697.⁴⁷² Looking at the last entry on page 38 of Exhibit P14, the number listed is +232-7-633-7395 - which is Keh For Keh - and Kamara confirms that he made this call. Kamara testifies that the first number on page 39 - +232-3-325-5597 - is Kargbo's number that he also called. Before 30 November he did not know this number, and he never called this number again.⁴⁷³

316. Kamara denied that, as Kargbo testified, he asked Kargbo to tell TF1-334 to change the testimony he gave against him at the Special Court or offered him money to do so, saying Kargbo was lying. He said that he and Kargbo talked for less than three minutes and he never spoke to him again. Kamara stated several times that as a prisoner, when he used the phone he was monitored by the prison guards and MTN. Kargbo is lying if he says that Kamara is calling

⁴⁶⁸ Transcript 22 August 2012, pp. 1202-1203.

⁴⁶⁹ Transcript 22 August 2012, pp. 1204, 1213-1214.

⁴⁷⁰ Transcript 22 August 2012, pp. 1205-1209.

⁴⁷¹ Transcript 22 August 2012, pp. 1209-1210.

⁴⁷² Transcript 22 August 2012, pp. 1213-1216.

⁴⁷³ Transcript 22 August 2012, pp. 1213-1216, 1228.

him “persistently,” the MTN call records should show this. Kamara denied that while Kargbo was in a car to PWD Junction that he (Kamara) called Kargbo. He denied that he asked about TF1-334 in his real name.

317. Kamara testified that there is no record that he called “that number” on 29 November 2010, and confirmed that he did not make a call to Kargbo on 29 November 2010.⁴⁷⁴

318. Kamara confirmed that he was a commander at “the West Side,” the Port Loko district, in 1998 and 1999. After this Kamara was seconded to Freetown to guard Johnny Paul Koroma, until the elections. During this time he never had any contact with TF1-334, nor did he send anyone to ask him to change his testimony against him.⁴⁷⁵

319. Kamara testified that Andrew Daniels was one of his lawyers in the AFRC trial, Daniels had become a brother to him, and he would assist Kamara and his family. He told Kamara to keep the faith, etc.⁴⁷⁶ Kamara denied that he spoke with Daniels about witnesses changing their evidence, or about raising money to pay TF1-334 to change his testimony. He did not know of Daniels’ trip to Freetown.⁴⁷⁷ Kamara also knew the lawyer Ibrahim Mansaray, who had been a legal assistant to Tamba Brima during the AFRC trial. Mansaray was never Kamara’s lawyer, he has never spoken to him, and he did not know where his office was. Kamara denied that he sent Kargbo to his office.⁴⁷⁸

320. In cross-examination by Independent Counsel, Kamara stated that he called Daniels, but does not remember the phone number he called or when this was, but it was at a “latter stage” (i.e. not when he first arrived at Mpanga Prison). Kamara cannot remember how many times he called Andrew Daniels in 2010 but it was not frequently, and thinks that Daniels called him

⁴⁷⁴ Transcript 22 August 2012, p. 1218.

⁴⁷⁵ Transcript 22 August 2012, pp. 1228-1230.

⁴⁷⁶ Transcript 22 August 2012, p. 1219.

⁴⁷⁷ Transcript 22 August 2012, pp. 1220, 1223.

⁴⁷⁸ Transcript 22 August 2012, pp. 1223-1224.

once when he was in Mpanga Prison, when he first arrived there.⁴⁷⁹ Kamara denied calling Daniels, but he “cannot talk for Mr. Brima,” saying that Tamba Brima calls Daniels.”⁴⁸⁰

321. Kamara confirmed that he was thinking about filing a petition for review of his conviction or sentence in late 2010, but stated that he did not discuss this with Daniels, but perhaps Tamba Brima did. If Tamba Brima had been ready to do this he would have done it too, because they had the same case.⁴⁸¹

322. When asked on what basis Kamara would have filed a petition for review, Kamara stated on “his own foundation ... to bring witnesses whose names have been mentioned.” He gave an example of Savage, who was on the Defence list to call but “we had no access to him because he was in prison.” He stated that he had not heard Daniels’ evidence that he and Tamba Brima informed Daniels that witnesses in the AFRC trial were prepared to change their testimony.⁴⁸²

323. The first person who spoke to Kamara about filing for review was the Registrar on one of her yearly visits, he thinks it was the first year she came, in late 2010. “Mr. Gbao” asked her how they would go about doing a review. Kamara testified that the Registrar told them that they would need to get new evidence that has not already been heard in Court, “not a Prosecution witness” but a witness who would say “What that man said was a lie.” The Principal Defender was not present. He never spoke to Daniels or Bangura or “anybody” who had testified against him “to give them money or come and make a statement for me.”⁴⁸³

324. Kamara testified that “he did not go forward” with the review, “we” just thought that if they “went forward with a review,” they would contact people like Savage and Mr. Alhaji Bio. He had also spoken to people whom he had an intention to call, like Sammy,⁴⁸⁴ Leather Boots

⁴⁷⁹ Transcript 22 August 2012, pp. 1232-1233, 1248. When read the number, Kamara said that he could not recall whether it was correct.

⁴⁸⁰ Transcript 22 August 2012, pp. 1234-1237.

⁴⁸¹ Transcript 22 August 2012, pp. 1237-1239, 1248.

⁴⁸² Transcript 22 August 2012, pp. 1237-1239.

⁴⁸³ Transcript 22 August 2012, pp. 1239-1241.

⁴⁸⁴ He did not give a surname or nom de guerre for Sammy.

(Idrissa Kamara) and Savage.⁴⁸⁵ The most important insider or linkage witnesses who testified against him at the AFRC trial included Junior Lion, his bodyguard, TF1-334, and TF1-033.⁴⁸⁶

325. Kamara testified that his air time allowance for phone calls increased from 1500 to 3000 a day, and that 500 air time is 3 minutes of talking to a person in Sierra Leone, and 1,000 air time is 6 minutes to Sierra Leone, and 9 minutes a day to the United States.⁴⁸⁷
326. Kamara confirmed that he and Bangura were friends before he joined the army, but then in the army they became even closer friends.⁴⁸⁸ Kamara denied knowing that Bangura and Kargbo were close friends.⁴⁸⁹ When asked whether he knew Bangura and TF1-334 were good friends, Kamara responded that he knew that TF1-334 was Bangura's bodyguard but then heard from "people," including Tamba Brima, that they were no longer close after Bangura was released from prison in 2009. Tamba Brima was a "barracks brother," i.e. a family friend of Bangura.⁴⁹⁰
327. Bangura visited Kamara at the Special Court before he was transferred to Rwanda in 2009, but they did not discuss Bangura's relationship with TF1-334, saying "there was no need to - Bangura was at Pademba Road Prison, so he "knew everything about TF1-334's testimony that he gave at the Special Court."⁴⁹¹
328. When asked when he started speaking to Bangura from Rwanda, Kamara responded that when the prison increased his air time, he started speaking to his extended friends, because before this his air time was "small" and so he focused on his family. Kamara would call Bangura not frequently but Bangura did not call him: Kamara came to prison with Bangura's "Comium" phone number memorised, and stated it in Court - 03-381-0173. He called him once or twice a month, or every three to four months, usually early but sometimes in the afternoon. Sometimes

⁴⁸⁵ Transcript 22 August 2012, p. 1244.

⁴⁸⁶ Transcript 22 August 2012, pp. 1246-1247.

⁴⁸⁷ Transcript 22 August 2012, p. 1249.

⁴⁸⁸ Transcript 22 August 2012, p. 1250.

⁴⁸⁹ Transcript 22 August 2012, p. 1250.

⁴⁹⁰ Transcript 22 August 2012, pp. 1250-1251. Independent Counsel asks this again two days later, Kamara denies again that he knew Bangura and TF1-334 were friends. Transcript 25 August 2012, pp. 1374-1376.

⁴⁹¹ Transcript 22 August 2012, p. 1251.

Kamara would call Bangura and then call Kanu or Tamba Brima to speak to him. Tamba Brima would call him the most, because they are brothers.⁴⁹² I note that neither Bangura's name nor his number is listed under the entries for Kamara, Kanu or Tamba Brima in Exhibit P13, the approved telephone list in effect in 2010. I also note that clearly Kamara concedes that he was making calls to a person not on the approved call list.⁴⁹³

329. Kamara confirmed that he, Kanu and Tamba Brima could talk to one person during one phone call and stated "Whoever calls, signs; whoever talks, signs." Kamara confirmed that the phone had a speaker, but that they did not use it; they would pass the phone to each other.⁴⁹⁴

330. Kamara never discussed filing a petition for review with Bangura. He did discuss his sentence and whether he may be released before he served his full term, and he explained Rwandan sentencing to Bangura. Neither Tamba Brima nor Kanu ever told him that they had discussed a petition for review with Bangura nor asked him to contact any witnesses or anyone else in connection with his legal affairs.⁴⁹⁵

331. Kamara identified Bangura's number in page 17 of the MTN call records, Exhibit P14, on 12 November 2010 at 7.07.19 pm but was sure that he did not make this phone call, because he did not speak to Bangura for that long of a duration, and he was not used to calling him at that time of day as he would usually call him very early, and because Tamba Brima called him.⁴⁹⁶ Kamara agreed that he made the call to Bangura on 13 November 2010 at 1.19 pm because this was the time he usually called him and the usual duration, and said it was a "social call."⁴⁹⁷

332. Kamara testified that he did not spend time with Kargbo in the army; they were not friends and did not work together. He denied that he was assigned to an armoury when he was in a military camp in Freetown and never drove with Kargbo in a car during "his army days," or during his

⁴⁹² Transcript 22 August 2012, p. 1255.

⁴⁹³ Transcript 22 August 2012, pp. 1252-1254.

⁴⁹⁴ Transcript 22 August 2012, pp. 1256-1257.

⁴⁹⁵ Transcript 22 August 2012, pp. 1257-1262.

⁴⁹⁶ Transcript 22 August 2012, pp. 1263-1265.

⁴⁹⁷ Transcript 22 August 2012, p. 1265.

AFRC days. In 1997, he was a security commander at Cockerill.⁴⁹⁸ He could only remember having one car accident in 1997, driving from his village with his family members and denied that Kargbo was in the car.⁴⁹⁹

333. Kamara stated that he lived in three houses in Wilberforce Village. In a lengthy exchange concerning his house in Wilberforce and Kargbo's visit to this house, Kamara stated that Kargbo did not know it and had never been there. He named the location of his house.⁵⁰⁰
334. Kamara confirmed that he was close to Keh For Keh, as a comrade and a brother-in-law, and Keh testified for him in the AFRC trial. Kamara was also close to Pastor Eddie. He was not close to V-Boy, but V-Boy testified for Kamara at the AFRC trial. V-Boy and Manga were his "small one dem."⁵⁰¹
335. Kamara identified a phone call to Bangura on 23 November 2010 at 4.50 pm, and testified that Tamba Brima made this call, because he then called Kamara over to talk to Bangura. This was also a social call, and had nothing to do with a petition for review or witnesses.⁵⁰² Kamara acknowledged that the prison log entry for 23 November 2010 recorded
336. "Bazzy Kamara" but that he did not write his name or the word "brother," but the guard on duty did and that he signed off at the end. He conceded that he told the court officer that he was calling his "brother" because he was "used to calling that man my brother." When asked whether Bangura was on his approved call list, Kamara testified that "at that time they did not have a call list."⁵⁰³ I note that this was not put to Sengabo and is contrary to Exhibit D-Kanu-3.
337. Independent Counsel asked Kamara to look at Exhibit P13, which, Counsel contended, Sengabo testified was the approved call list in November 2010. Kamara's answer is confused. He stated that when they left Freetown in 2009, the Special Court made the call list that is Exhibit

⁴⁹⁸ Transcript 23 August 2012, pp. 1286-1287.

⁴⁹⁹ Transcript 23 August 2012, pp. 1288, 1305-1306.

⁵⁰⁰ Transcript 23 August 2012, pp. 1288-1292.

⁵⁰¹ Transcript 23 August 2012, pp. 1292-1295.

⁵⁰² Transcript 23 August 2012, pp. 1307-1308.

⁵⁰³ Transcript 23 August 2012, pp. 1308-1311.

P13, and said they were allowed “immediate family.” Kamara agrees that neither Kargbo, Bangura nor Keh For Keh is on the list. Kamara also confirmed that they could call any number they wanted– they just told the guard the phone number and he would enter it.⁵⁰⁴

338. Kamara confirmed that he could call anyone but was evasive when asked if anyone could call him. He agreed that if the phone rang, the officer on duty would look for any one of the SCSL prisoners and hand the phone to one of them, because he did not speak Krio. If the person asked for one of the other prisoners, he would say “hold on a minute,” and go get that person.⁵⁰⁵

339. Concerning a phone call to Bangura on 26 November at 5.17 pm, Kamara could not remember whether he made the phone call, but said it was either he or Kanu or Tamba Brima because they were the only ones who called Bangura.⁵⁰⁶ It was put to Kamara that the call of 26 November at 5.17 pm did not appear in the prison log book (Exhibit P15). Kamara said the prison officers did the entries, he only signed, if the number did not appear it was not his problem.⁵⁰⁷

340. Kamara could not remember if he made a call to Bangura on 7 December at 4.02 pm, but did not dispute that it was made. Kamara denied making the next phone call in the call log, to Kargbo at 4.13 pm, and does not know if Kanu or Tamba Brima made that call. He denied that the calls to Bangura and Kargbo were made in pursuance of an attempt to have them contact TF1-334, stating this was “a lie.”⁵⁰⁸

341. Kamara was cross-examined on Bangura’s statement dated 26 May 2012, annexed to Bangura’s pre-trial brief. Kamara denied that, as is recorded in the statement, he called Bangura on his mobile phone and asked to speak to Kargbo, that he heard Bangura give the phone to Kargbo,

⁵⁰⁴ Transcript 23 August 2012, pp. 1308-1311, 1314-1316.

⁵⁰⁵ Transcript 23 August 2012, p. 1320.

⁵⁰⁶ Transcript 23 August 2012, pp. 1320-1324.

⁵⁰⁷ Transcript 23 August 2012, pp. 1324-1325.

⁵⁰⁸ Transcript 23 August 2012, pp. 1328-1329.

that he spoke to Kargbo, and that Kargbo give him his (Kargbo's) phone number. When asked why Bangura might lie about this, Kamara said that he is "surprised."⁵⁰⁹ I note that Bangura subsequently changed part of his statement of 26 May 2012 following Kamara's evidence.

342. Kamara denied Bangura's statement that he (Kamara) called Bangura to ask if he knew the lawyer Mansaray and directed Bangura to his office or that he told Bangura he should take Kargbo to Mansaray's office, or told Bangura that TF1-334 had consented to recant his testimony.⁵¹⁰ He also denied that Bangura or Kargbo told him TF1-334 consented to recant. He spoke to Kargbo only once. He denied discussing with Tamba Brima sending either Bangura or Kargbo to seek legal advice from Mansaray. Kamara denied that either Kargbo or Bangura told him that they had gone to see Mansaray.⁵¹¹

343. Kamara denied knowing that, as in Bangura's statement, TF1-334 and Bangura had been friends since 1997 or that TF1-334 was Bangura's driver in Freetown in 1998; that they retreated to the jungle together. He agreed he saw them together in the jungle and Bangura was Kargbo's supervisor and that they were released together in 2005. Kamara denied knowing in November 2010 that TF1-334 and Kargbo were good friends, and denied knowing that TF1-334, Kargbo and Bangura would "hang out together" in Sweissy.⁵¹²

344. Kamara was referred to the calls to Keh For Keh and asked how frequently he would call Keh For Keh between 1 and 19 November 2010. He called frequently, maybe twice or three times a month, when he has "something important to discuss with him," or if Keh calls him.⁵¹³ He called Keh For Keh twice back to back for about 15 minutes on 19 November and Kamara says

⁵⁰⁹ Transcript 23 August 2012, pp. 1330-1331.

⁵¹⁰ Transcript 23 August 2012, pp. 1331-1333; Transcript 25 August 2012, pp. 1371-1373.

⁵¹¹ Transcript 25 August 2012, pp. 1370-1374.

⁵¹² Transcript 25 August 2012, pp. 1374-1377.

⁵¹³ Transcript 25 August 2012, pp. 1377-1379.

that he spoke to him about problems with his sister and his mother. Keh For Keh was supposed to be helping his sister build a shop and when they had a conflict Kamara would call Keh.⁵¹⁴

345. Kamara denied talking about a petition for review with his sister or his mother, or any other family member. He could not recall what he spoke about to Keh For Keh at 10:22 and 10:57.⁵¹⁵

346. Independent Counsel put to Kamara that there were no phone calls from Kamara to Keh For Keh before 19 November and then “frequent” calls to him, and Kamara was evasive, saying “if its more than one month or two months without me talking to Keh For Keh, then I’d talk to him after two months, maybe I have something important to discuss with him.” He agreed the calls on 22 November 2010 to Keh For Keh are not listed in the prison log book and after giving a history of the preceding calls, said that the officers make the records.⁵¹⁶

347. Kamara confirms that he made the call to Keh For Keh at 23 November 2010 at 12.28 pm, but cannot remember what they discussed and agreed that the call is not entered into the prison log book but the earlier call to his mother is. He again says that the officers make the records⁵¹⁷

348. Following protracted objections, Kamara denied being present when Kanu made calls. Kamara confirmed that he is familiar with Kanu’s signature in the prison call logs from seeing him sign the book many times.⁵¹⁸ When asked whether the “Santigie Kanu” on the entry for 23 November 2010 is Kanu’s signature, Kamara stated that he “doubts it is” and then “is not sure” and that “Kanu signs with a big S and he has his KH.”⁵¹⁹ On this same page under the “Santigie Kanu” signature is Kamara’s signature, then Tamba Brima’s signature and Kamara did not think that the next signature was Kanu’s.⁵²⁰

⁵¹⁴ Transcript 25 August 2012, pp. 1378-1380.

⁵¹⁵ Transcript 25 August 2012, pp. 1380-1383.

⁵¹⁶ Transcript 25 August 2012, pp. 1380-1386.

⁵¹⁷ Transcript 25 August 2012, pp. 1386-1387.

⁵¹⁸ Transcript 25 August 2012, pp. 1391-1392.

⁵¹⁹ Transcript 25 August 2012, p. 1398.

⁵²⁰ Transcript 25 August 2012, p. 1398.

349. He called Keh For Keh on 24 November 2010 at 3.39 pm, but does not remember what they discussed. Again, Kamara is not certain what they discussed in the call on 26 November 2010 at 1.34 pm, but notes that the call before this one was to his mother, so they likely spoke as to Keh's problems with his mother and sister.⁵²¹
350. Independent Counsel notes that there was a call to Bangura approximately one and half hours after the call to Keh For Keh on 26 November, at 3.05 pm, and then two more calls to Keh For Keh at 3.49 pm and 8.00 pm. Kamara again testified that he was speaking to Keh about family issues and denied he discussed a petition for review.⁵²²
351. Kamara is listed as having made a call to Keh For Keh on 26 November 2010 at 13.39 pm and at 4.50 pm in the prison call log, Exhibit P15. Independent Counsel asked Kamara why his calls to Keh at 3.48 and 3.49 are not listed, and Kamara says, again, that he did not do the entries or write the names, he only signs.⁵²³
352. Further, Kamara testified that he does not remember what he spoke about in calls to Keh For Keh on page 36 of the MTN call records on 27 November at 1.30 pm and 30 November 2010.⁵²⁴
353. Kamara identified Exhibit P14, page 38 of 39, the last call on the page, is a call to Keh For Keh on 30 November at 1.02 pm, then three calls to Kargbo, and then a call immediately after to Keh For Keh at 1.54 pm.⁵²⁵
354. Kamara confirmed that first, Keh For Keh called Kamara and asked him to call him back. Keh said "Papay, some of your boys are here and want to talk to you." Kamara told Keh to give the phone to Eddie, who asked him how he was, etc. This was the first time Kamara had spoken to

⁵²¹ Transcript 25 August 2012, pp. 1399-1400.

⁵²² Transcript 25 August 2012, p. 1402.

⁵²³ Transcript 25 August 2012, pp. 1404-1405.

⁵²⁴ Transcript 25 August 2012, p. 1405.

⁵²⁵ Transcript 25 August 2012, pp. 1405-1406.

Eddie since he was released from Pademba Road Prison, so Kamara asked when he was released, and Eddie said he was released with Bomb Blast. They spoke about other things.⁵²⁶

355. The line was breaking up, and so Eddie told him to call him on a particular number which Kamara did not know to be Kargbo's, but Kargbo picked up, Kamara said "give the phone to Eddie," and Kargbo gave the phone back to Eddie. Eddie and Kamara spoke, and then Eddie gave the phone to V-Boy; Kamara spoke to V-Boy; and then he gave the phone to Manga. Kamara spoke to Kargbo after Manga, but not for long, and Kargbo gave the phone to Alpha Joh, and then to Nat Conteh, who was the last person he spoke to. He spoke to all of them about the conditions in the prison, how he was, etc, a few minutes each person. They all asked to speak to Kanu and Tamba Brima, and so Kamara went to get them.⁵²⁷

356. Kamara testified that he did not know how long he spoke on Kargbo's phone to all of these people. Kamara testified that Kanu and Tamba Brima's time talking on the phone was longer than his time. But his allotted air time, 1500, came to approximately 27 minutes.⁵²⁸

357. It was put to Kamara that the sequence of persons spoken to in this series of answers differed from examination-in-chief in that he spoke to Eddie, then Kargbo, and Kargbo told him the line was breaking up so Kamara asked Kargbo for his number. Kamara reiterates his preceding evidence. I note Independent Counsel's submissions on this inconsistency in Kamara's evidence.⁵²⁹

358. Kamara's answers when asked when he last spoke to V-Boy were confused, variously timed as after Kamara came to Rwanda, after the AFRC, and after leaving Sierra Leone.⁵³⁰ There were

⁵²⁶ Transcript 25 August 2012, pp. 1406-1411.

⁵²⁷ Transcript 25 August 2012, pp. 1415-1416, 1420-1423, 1426-1429. Independent Counsel later confirmed with Kamara that he recognised Eddie, Vamboi, Manga and Nat Conteh's voice when they came on the line. 27 August 2012, pp. 1472-1473.

⁵²⁸ Transcript 27 August 2012, pp. 1448-1449.

⁵²⁹ Transcript 25 August 2012, pp. 1417-1418, 1426.

⁵³⁰ Transcript 25 August 2012, pp. 1418-1419.

other occasions when people called from Freetown and they would put other people on the line to speak to him. This “especially” occurred in 2009.⁵³¹

359. Kamara confirmed that in examination-in-chief he said that Kargbo was “beneath him,” that he was not a friend and Kargbo hardly knew him. When asked why Kargbo would want to speak to him after he spoke to five or six people much closer to him, Kamara answered that perhaps Kargbo was eager to speak to him because “I don’t have time for him.”⁵³² Initially Kamara said that he did not speak to Kargbo, he just received the call. Then later he confirmed that Kargbo gave the number but he did not know it was Kargbo’s phone number. When he spoke to Kargbo, they spoke about when Kargbo was released from Pademba Road Prison, under what conditions, “those kind of things.”⁵³³

360. While having these conversations he was in the visiting hall where telephone calls are made, and in order to get Kanu and Tamba Brima he climbed two steps and called their names, and they came together immediately. Kamara gave the officer the phone number that was on the phone, the officer who dialled and gave it to Kanu, who said he wanted to speak to Eddie. Kanu and then Tamba Brima spoke on the phone. “The air time finished, so the phone had to go off.”⁵³⁴ Kamara did not recall how long the call to Kargbo’s phone lasted, or how long it was before the air time ran out. Kamara left the area, but the officer called him to return and he signed the prison log book, and the three of them went back to their “blocks” in the prison, which was close to where the calls were made.⁵³⁵ Less than a few minutes after Kanu and Tamba Brima finished, Kamara called Keh For Keh, but did not remember specifically what they spoke about but it was about family. He only signed once for all of three calls made.⁵³⁶

⁵³¹ Transcript 25 August 2012, p. 1423.

⁵³² Transcript 25 August 2012, pp. 1424-1425.

⁵³³ Transcript 25 August 2012, p. 1428.

⁵³⁴ Transcript 25 August 2012, pp. 1429-1431.

⁵³⁵ Transcript 25 August 2012, p. 1431; Transcript 27 August 2012, pp. 1447, 1451.

⁵³⁶ Transcript 27 August 2012, pp. 1450-1452, 1454-1455, 1457.

361. Kamara confirmed that the first number in the prison log entries of 30 November is Keh For Keh's. Kamara does not know the third number, +232-3-325-8898, and when asked whether it is attributed to Kanu, Kamara says he did not think that this is Kanu's signature. He did not see Kanu write. When asked if the second number is Kargbo's but with two digits different and if he knew the number, Kamara became agitated and said he did not know and "ask the guards," and then said that he had made the call.⁵³⁷ When asked whether he, Kanu and Tamba Brima have access to a phone in prison, Kamara stated that they have searched the prisoners and never found a phone, which did not answer the question.⁵³⁸
362. Kamara testified that after the search [of their rooms] the prison officials displayed everything found in front of the eight prisoners. Kamara testified that "the man you operated with gave you lying information," referring to Sengabo. Kamara then gave evidence relating to a search that is not relevant to this case.⁵³⁹
363. Kamara agreed that there is a call recorded in Exhibit P14 on 7 December 2010 at 4.02 pm to Bangura, but did not recall making the call. He confirms, however, that it was either he or Tamba Brima, because they are the two who call Bangura. Five minutes after this call is one to Kargbo, and Kamara testified that he did not call Kargbo. He does not know who called Kargbo, or where they got his phone number. Kamara denied calling Kargbo again, and denied having his number written down. Kamara was evasive on how the number could be obtained, but denied that he called in furtherance of a plan to contact TF1-334.⁵⁴⁰
364. Independent Counsel noted that on the page of the prison log book for 7 December, the calls to Bangura and Kargbo listed in the MTN call records are not listed in the log book. Kamara confirmed that he did not see them in prison phone log but identified that a call from him to

⁵³⁷ Transcript 27 August 2012, pp. 1457-1458.

⁵³⁸ Transcript 27 August 2012, pp. 1461-1462, 1474-1475.

⁵³⁹ Transcript 27 August 2012, pp. 1461-1462, 1474-1475.

⁵⁴⁰ Transcript 27 August 2012, pp. 1463-1466, 1468.

his brother is listed at 4.45 pm, about a half hour after the calls to Bangura and Kargbo.⁵⁴¹ Kamara confirmed that on occasion he would call a friend or relative (such as Keh For Keh) from the prison phone and tell them they would like to speak to another person, so that relative would then find the person and they would speak through the relatives' phone.⁵⁴²

365. In closed session, Kamara testified that he knew TF1-033's real name when he testified in the AFRC trial, and knew he was a protected witness. Kamara denied asking Kargbo to ask TF1-334 for TF1-033's whereabouts, and denied knowing that Kargbo knew TF1-033's real name in November 2010. Kamara denied speaking to Kargbo about TF1-033 as a former witness, saying "That's a big lie."⁵⁴³ I note Kamara gave no evidence-in-chief about TF1-033. Kamara confirmed that he knew in November and December 2010 that it was a crime to try and persuade a witness to change his testimony.⁵⁴⁴ Kamara denied that Tamba Brima had told him that he had discussed with Bangura or Kargbo going to see Mansaray.⁵⁴⁵ Kamara denied speaking with Tamba Brima or Kanu at all about Mansaray in November or December 2010.⁵⁴⁶

366. When asked whether on 23 April 2011, Mr. Herbst interviewed him with Mr. Serry-Kamal present, Kamara answered that he remembered the meeting with Mr. Serry-Kamal, and did not remember if it was Mr. Herbst but did remember "a white man." Kamara did not remember if he had been "advised of his rights" but said that the white man told him he had the right not to answer questions, but he answered "some questions."⁵⁴⁷

367. He told ("the white man") (i.e. Mr. Herbst) that after the Registrar told him about the review process, he knew that he may have to contact Bomb Blast to talk to Alhaji Bio, Savage, and

⁵⁴¹ Transcript 27 August 2012, pp. 1469-1470.

⁵⁴² Transcript 27 August 2012, pp. 1470-1471.

⁵⁴³ Transcript 27 August 2012, pp. 1478-1480.

⁵⁴⁴ Transcript 27 August 2012, pp. 1480-1481.

⁵⁴⁵ Transcript 27 August 2012, pp. 1480-1481.

⁵⁴⁶ Transcript 27 August 2012, p. 1482.

⁵⁴⁷ Transcript 27 August 2012, pp. 1484-1485, 1494.



Leather Boot. Kamara denied that he told Bomb Blast to start looking for witnesses, and denied telling Mr. Herbst this during their interview.⁵⁴⁸

368. When Independent Counsel asked whether he knew before “the white man” (i.e. Mr. Herbst, as Special Court investigator) was coming. Kamara testified that about a week before Mr. Herbst came there was a “problem” between the prisoners and the Registrar and they refused to speak to an investigator without their lawyer present, and so “they” brought Mr. Serry-Kamal.⁵⁴⁹ Kamara denied that he knew in March 2011 that an investigator was investigating an allegation of contempt and that he called Kargbo to tell him to deny everything. Kamara stated that there is nothing in the MTN call record to show that he called Kargbo at that time.⁵⁵⁰

369. In cross-examination by Counsel for Kanu, Kamara testified that the interview with the investigator (Mr. Herbst) was in English, and confirmed that there might have been misunderstanding during the interview because, “you will see that I was asking over and over to repeat.”⁵⁵¹

370. There is one SIM card for the prison phone, and the prisoners use air time that the officer would scratch and enter the code number. Kamara stated that he called Kargbo’s number once and it appeared twice. The reason it appeared three times was because his first air time had finished, so he had to put in a second air time and call again.⁵⁵² I note that this accounts for only two calls, and not three.

371. Kamara confirmed that TF1-334 was arrested and taken to Pademba Road Prison because he and others had fired ammunition in trying to prevent Kanu from repossessing a car that he was looking after.⁵⁵³ In cross-examination by Counsel for Kargbo, Kamara clarified what he meant when he said he was not friends with Kargbo because he was not “on the same level even” as

⁵⁴⁸ Transcript 27 August 2012, pp. 1484-1485, 1494-1496.

⁵⁴⁹ Transcript 27 August 2012, pp. 1498-1499.

⁵⁵⁰ Transcript 27 August 2012, pp. 1499-1500.

⁵⁵¹ Transcript 27 August 2012, p. 1507.

⁵⁵² Transcript 27 August 2012, pp. 1508-1509.

⁵⁵³ Transcript 27 August 2012, p. 1510.



him. This meant that “the rank and institution where the troubles were not the same ... because he was staying far away from where I was.” This meant, he clarified, that in the army Kargbo was Kamara’s subordinate and was required to follow his orders.⁵⁵⁴

372. Kamara was not arrested with Kargbo, he was arrested alone. He confirmed that he saw Kargbo at Pademba Road Prison, but that he did not discuss with Kargbo the reasons Kargbo was in prison, or discuss Kargbo’s imprisonment with anyone.⁵⁵⁵ The witness became very agitated and was difficult to hear at this part of his evidence.

373. Finally, upon re-examination by his own Counsel, Kamara denied making any further calls to Kargbo after 30 November 2010.⁵⁵⁶

Accused Santigie Borbor Kanu

374. The Accused Santigie Borbor Kanu elected to give sworn evidence and was cross-examined.

375. In his evidence-in-chief he testified that he attended secondary school and passed his O level in 1986, but his caretaker died and so he was unable to finish in his schooling. His sister Isatu Baby Khanu’s boyfriend, “Mr Scott” told him to apply to a bank, but when he was not hired Mr. Scott asked him to join the army. Mr. Scott sent him to “Colonel Lymon,” whom he did not know but who cared for him and told him not to go into the military, but to stay with him because “the war was raging in Liberia.” When he wanted to join the military Lymon gave him his card and told him to “go,” and he joined the Sierra Leone Army on 1 December 1990.⁵⁵⁷

376. Kanu first went to the Benguema Training Centre, and his soldier number was 18164955 so friends started calling him “Five Five.” He trained from December 1990 to 23 March 1991. When there was a rebel incursion into Kailahun, two companies, including Kanu’s, went from Benguema to Daru Barracks in Kailahun and then to the Liberian border. From 1991 Kanu was

⁵⁵⁴ Transcript 27 August 2012, pp. 1511-1512.

⁵⁵⁵ Transcript 27 August 2012, pp. 1513-1514.

⁵⁵⁶ Transcript 27 August 2012, p. 1516.

⁵⁵⁷ Transcript 28 August 2012, pp. 1535-1538.



fighting against the RUF, and from 1991 to 2003, Kanu was a member of the SLA. He was arrested on 18 January 2003 for a coup d'état attempt.⁵⁵⁸

377. Kanu testified that his co-accused Brima Bazy Kamara was like a relative to him. Kanu was born in Wilberforce Village, but was raised in Tengbeh Town. During the NPRC days, when Kanu was Captain Strasser's personal bodyguard, Kanu saw Kamara at Kabassa Lodge with the Attorney-General and Kamara told Kanu he had joined the army. Their only relationship at this time was that they were each assigned to these officials.⁵⁵⁹

378. Alex Tamba Brima was also with Strasser, and Kanu knew him during the time of NPRC regime.⁵⁶⁰

379. Kanu testified that he never knew Sammy Kargbo aka Ragga in his life, never spoke to him, and the first time he saw him was "on screen" (i.e. in this trial). Kanu denied Kargbo's allegations that he spoke to him from Mpanga Prison. He repeated this three times and several times thereafter in the course of his evidence.⁵⁶¹

380. Kanu knew Hassan Papa Bangura, saying they were colleagues in the army, and "all honourables during the AFRC regime."⁵⁶²

381. Kanu also knew TF1-334 through "Papa," Hassan Papa Bangura. Kanu testified that TF1-334 caused him and his "brother" to fight. After 8 May 2000, "Foday Sankoh's incident in Freetown," one of his friends who was a civilian came from the United States with two cars. He sold one, and gave Kanu the other, a jeep, for safekeeping, which Kanu kept at Kabassa Lodge, where he stayed during the NPRC days. Kanu was with Tamba Brima at Juba Hill when Tamba Brima told him that "Papa has taken the car." The man who gave Kanu the car came twice to ask for it back, and Kanu told him it was with a friend, but to "hold on." Finally, this man

⁵⁵⁸ Transcript 28 August 2012, pp. 1537-1542.

⁵⁵⁹ Transcript 28 August 2012, p. 1542.

⁵⁶⁰ Transcript 28 August 2012, p. 1543.

⁵⁶¹ Transcript 28 August 2012, pp. 1543, 1575.

⁵⁶² Transcript 28 August 2012, p. 1544.



complained about Kanu to “JPK”⁵⁶³ who called Kanu and enquired about the jeep. Kanu responded that it was with Papa (Bangura) but that he would get it back from him.⁵⁶⁴

382. Kanu drove that evening to Bangura’s house in Babadorie, where he saw TF1-334 at the gate. He told TF1-334 he had come to see Bangura. TF1-334 had a gun and “insulted my mother in a very bad way.” Kanu asked if he was insulting his mother, and he said “You’re mother’s a cunt, you wouldn’t take this car from here.”⁵⁶⁵ Luckily, testified Kanu, a named Issa came and intervened. Kanu left and complained to JPK that he did not see Bangura, but saw “his boy,” who insulted his mother, and JPK said he would call Bangura.⁵⁶⁶

383. Kanu returned to Bangura’s house the next day, and Fodah Bah said Bangura had gone to Cockerill (Bangura was in charge of payment for the Cockerill West Side). Kanu returned to JPK and complained. Bangura came to Juba Hill with TF1-334 and they started shooting at Kanu, saying they would kill him, and Kanu hid in the bush. JPK had Bangura arrested and he was taken to Pademba Road Prison. Bangura was at the prison with TF1-334 and Pastor Eddie. JPK said that Kanu should also be taken to Pademba Road, but Kanu objected and Pa Nicol and Mandereh suggested Kanu be taken to Cockerill, where Kanu was in military detention for about nine months and then returned to JPK.⁵⁶⁷

384. Kanu was with JPK until he (Kanu) was arrested in 2003. He was not in the army, but collecting his pension. Then “they” came and told us that “all of us” should go to DDR: the Disarmament, Demobilisation and Reintegration Programme.⁵⁶⁸

385. Kanu was arrested in 2003, taken to Pademba Road Prison, tried by the Special Court, and convicted to serve 50 years in Mpanga Prison, where he arrived on 1 November 2009.⁵⁶⁹

⁵⁶³ The witness referred throughout to “JPK,” meaning Johnny Paul Koroma

⁵⁶⁴ Transcript 28 August 2012, pp. 1544-1547.

⁵⁶⁵ Kanu later testified to the fact that in Sierra Leonean culture, an insult of a person’s mother culture is serious. Transcript 28 August 2012, pp. 1569-1570

⁵⁶⁶ Transcript 28 August 2012, pp. 1547-1549.

⁵⁶⁷ Transcript 28 August 2012, pp. 1549-1553, 1558-1559.

⁵⁶⁸ Transcript 28 August 2012, pp. 1559-1560.

⁵⁶⁹ Transcript 28 August 2012, p. 1560.

386. When asked whether he had ever called Kargbo, Kanu stated that he had never known Kargbo, and denied that he had his phone number.⁵⁷⁰
387. Kanu testified that Bangura was his and Tamba Brima's "brother," but that Tamba Brima would call Bangura and tell him to "not forget" his sister and daughters. When Tamba Brima was finished talking he would sometimes call Kanu and Bazy over to talk to Bangura.⁵⁷¹
388. Kanu denied ever speaking to Bangura about a review of his case, but said that he would tell Bangura "you are close to the Pa [the President - Ernest Bai Koroma] now. Do not forget about us. Put our case across to the Pa." Kanu said this to Bangura because, he testified, the statute of the Special Court says the President of the day has the power to grant a pardon. Bangura told him to keep praying, etc.⁵⁷²
389. Kanu denied speaking to any person with a view of getting them to change their testimony, and denied that he spoke to TF1-334 and asked him to help him. He has not spoken to TF1-334 since they were at Pademba Road Prison, and while there he avoided him. "They" took TF1-334, "Alabama," and "Ranger/Fattomah" to testify against "us" at the Special Court. The only reason he made peace with Bangura after the firing incident is because "Kalla" and "Beyor" prevailed on them.⁵⁷³
390. Kanu testified that Sesay incited "my brother" to fight him, insulted his mother so even at Pademba Road prison he did not speak to Sesay and since he was arrested by the Special Court "all of them came and told lies." "They" would take "them" at 7.00 am and return him at 7.00 pm, and since that time he did not trust him.⁵⁷⁴
391. When asked how he would feel if someone told him TF1-334 was prepared to change his testimony, Kanu said that TF1-334 would not do it because he had a grudge against him, and

⁵⁷⁰ Transcript 28 August 2012, p. 1561.

⁵⁷¹ Transcript 28 August 2012, pp. 1561-1563.

⁵⁷² Transcript 28 August 2012, pp. 1561-1565.

⁵⁷³ Transcript 28 August 2012, pp. 1565-1569.

⁵⁷⁴ Transcript 28 August 2012, p. 1570.

that he believes “that this Court has rules and regulations according to the Statute” when they “talk about pardon and good behaviour” ... “that man and I never talked about him coming to tell lies”⁵⁷⁵

392. Kanu identified a document as one given to him recently by the prison authorities. This is the list of phone numbers that Kanu gave to the prison which they will send it to Sierra Leone.” Kanu confirmed that Kargbo’s name is not on the list and that the handwriting on it is his.⁵⁷⁶

393. Kanu identified a second document entitled “Application for Prisoners Authorised Call List” which Kanu described as the document that Sengabo sent to the Special Court in order for it to authorise the prisoners’ call list. It shows dates, addresses, telephone numbers, relationships and Kanu’s signature. The Special Court calls the listed number and confirms that the person knows Kanu and their relationship, and then approves or disapproves the number. Kanu noted that Kargbo’s name is not on this list.⁵⁷⁷ They received this document this past November 2011.⁵⁷⁸

394. Kanu was directed to look at the page of the prison call log (Exhibit P15) with the calls for 30 November 2010. Kanu’s name is listed second from the top, the “relationship” states “brother,” and there is an arrow to a signature. Kanu denied that the name listed as “called,” or the name of the caller are in his handwriting. He said “They make the calls” and “we sign.” He denied that the signature is his, and denied knowing the phone number listed on this page - +232-3-325-8898. Kanu testified that he will present all of his diaries from 2003 to the present, and denied that Kargbo’s phone number is in any of them.⁵⁷⁹

⁵⁷⁵ Transcript 28 August 2012, pp. 1570-1571.

⁵⁷⁶ Transcript 28 August 2012, pp. 1572-1575.

⁵⁷⁷ Transcript 28 August 2012, pp. 1576-1577.

⁵⁷⁸ Transcript 28 August 2012, p. 1582.

⁵⁷⁹ Transcript 28 August 2012, pp. 1577-1578, 1585-1587, 1596.

395. Kanu confirmed that he had Bangura, “his brother’s” number, because one day he asked Tamba Brima for Bangura’s number, and entered it into his diary.⁵⁸⁰
396. The “second document” is a list of phone numbers that the prisoners were calling sent to the authorities in Rwanda by the Special Court when the prisoners came from Sierra Leone. Kanu testified that some of the prisoners hand-wrote on this document because some of the numbers listed were not going through. Kanu’s name, as well as Kamara’s and Brima’s, are hand-written on the document.⁵⁸¹
397. Kanu identified the first of his diaries, with two pictures on the inside page. Kanu confirmed that “Santigie” and “Mpanga” are written in his handwriting on a page that is flagged, as well as the phone number +2-327-768-3879. Kanu testified that he wrote this in his diary when his lawyer (Metzger) and James Ndemezo “came to investigate me.” Metzger called and gave Kanu that phone number over the phone to see if he knew it, and Kanu wrote it down. Kanu answered to Metzger that he did not know the number, and he looked in his diary and did not find it.⁵⁸²
398. Kanu identified a letter from the Registrar to Kanu dated 4 November, sent to all eight prisoners in Rwanda after she visited the prison in late 2010. The letter, dated 19 January 2011, acknowledges receipt of a letter dated 20 December 2010, and has handwriting on the back.⁵⁸³
399. Kanu testified in a disjointed that when “they” arrived in Rwanda they were “facing some constraints and the Registrar referred them to” the Rwandan legal authorities, the Bar Association. “They said the Rwandan gaol term is one for one.” “Then we (i.e. the prisoners) called Pa Serry.” They wrote to the Registrar asking her for a lawyer and she replied that they should find one in Rwanda. They objected and told the Principal Defender that all eight of

⁵⁸⁰ Transcript 28 August 2012, pp. 1587-1588.

⁵⁸¹ Transcript 28 August 2012, pp. 1582-1584.

⁵⁸² Transcript 28 August 2012, pp. 1596-1600.

⁵⁸³ Transcript 28 August 2012, pp. 1600-1602.

them wanted Mr. Serry-Kamal as their lawyer. It was at this time he wrote on the back of this letter.⁵⁸⁴

400. Kanu testified that all eight of the prisoners wrote the letter dated 20 December 2010, referred to by the Registrar in her letter of 19 January 2011.⁵⁸⁵

401. Kanu denied offering a bribe to any person or pleading with, threatening or otherwise interfering with any person in order for them to change their testimony.⁵⁸⁶

402. Kanu was cross-examined by Independent Counsel who, with the consent of Kanu and his Counsel examined all of the diaries which Kanu had brought to court and had stated that he wished to tender and have the Court examine.⁵⁸⁷ Independent Counsel first noted that Kanu has one diary each for 2006, 2007, 2008 and 2011 but that there is no diary for 2009 and 2010. Kanu testified that he had “give[n] you all the diaries.” Since he was arrested in 2003 he has had a diary, and he brought all diaries from Freetown to Rwanda. The 2011 diary was brought by his wife, with pictures of his daughter, sister and niece.⁵⁸⁸

403. Independent Counsel referred to a shorthand notepad that was provided by Kanu, and Kanu testified that he was given it by Allieu Kondewa, (it has Mende writing) and it is from “this year.”⁵⁸⁹

404. Kanu confirmed that all of the handwriting in the diaries was his but when asked whether he gave his diaries to anyone else, he answered that once when his lawyer came to Mpanga Prison. Kanu was on the telephone and his lawyer, Metzger, asked from the office about a phone number, which Kanu asked Tamba Brima to take down. The number that Metzger called out - +2-327-768-3879 - Brima wrote down in his diary with a star.⁵⁹⁰

⁵⁸⁴ Transcript 28 August 2012, pp. 1601-1602, 1606.

⁵⁸⁵ Transcript 28 August 2012, p. 1607.

⁵⁸⁶ Transcript 28 August 2012, p. 1608.

⁵⁸⁷ Transcript 29 August 2012, p. 1586.

⁵⁸⁸ Transcript 29 August 2012, pp. 1630-1632.

⁵⁸⁹ Transcript 29 August 2012, pp. 1630-1632.

⁵⁹⁰ Transcript 29 August 2012, pp. 1634-1635.

405. Kanu testified that in the 2006 diary, the words “my dad’s diary,” were written by his daughter, Dorinda, when she visited him at the Special Court.⁵⁹¹
406. Kanu confirmed that in 2011 diary the words “Santigie Borbor Kanu” on the first page above the first picture were his writing, that his letters slant slightly to the left, that the words “Miss Dorinda Kanu” are written by his daughter, but he “ticked it,” meaning he went over the writing in red ink pen. Kanu also bolded the name of his sister’s daughter, “Miss Marion,” on the right side of the page. Kanu confirmed writing “Santigie” on the third page of the diary. His nickname for his daughter is Miss Dah.⁵⁹²
407. Counsel put that the 3 January page of the 2011 diary has “a continuation of a bunch of names that starts on a previous page”. He confirmed, after request for clarification, that he wrote the words “Blast” and 03-318-0173, but could not remember when he wrote it. Kanu stated that he first got the number this year, from Tamba Brima, and he did not know it before. He stated that Counsel was lying. When asked whether he had Bomb Blast’s number written in a previous diary, Kanu answered that when visitors bring him a new diary, he puts all his numbers in the new diary. He identified the 2008 diary and stated that he made the entry “Blast” “p33” and “810173”. The diary was a “rough book” and he wrote it “this year” He wrote Sammy, who is the mayor of Freetown, Sam Kolleh, and twice stated that bolded over the name Blast. Kanu agreed that most entries in 2008 were “bolded over”⁵⁹³
408. When asked whether he bolded over some digits of Blast’s phone number, Kanu answered “I wrote it.” He answered that he wrote the name and number of “Pa Loh, MD”, in red.⁵⁹⁴
409. Independent Counsel put a series of questions about the entries in the diaries. Kanu confirmed that:

⁵⁹¹ Transcript 29 August 2012, pp. 1637-1639.

⁵⁹² Transcript 29 August 2012, pp. 1646-1649. Kanu testified that her full name is Dorinda Olayeyena Sappa Kanu. p. 1648.

⁵⁹³ Transcript 29 August 2012, pp. 1649-1652, 1654-1656.

⁵⁹⁴ Transcript 29 August 2012, pp. 1663,1656-1662.



- a) all of the handwriting on page 3 May 2011 diary is his, and that on that page he wrote his name as “K-A-N-U,” without an H.
- b) Exhibit P15, the prison call log headed 11 November 10 contains “Santigie B Kanu - daughter - 13.43 p.m. - signature - 11/11/10” Kanu confirmed that this is his signature, that he wrote “Santigie Borbor Kanu,” but that prison officials wrote write the date. Kanu notes that the way it is “leaned” shows he did not write it.⁵⁹⁵
- c) he wrote the words “doctor,” “Ratalla” and “Samuel” the entry of 23 July in the 2011 diary⁵⁹⁶
- d) he wrote “Blast” and “810173” on the back page of his 2008 diary on the left-hand side. He stated that “this is a rough book,” that he wrote it “this year.”⁵⁹⁷ He evaded the question whether “Blast” and other words on that page are bolded over by him answering twice that he “wrote it”.⁵⁹⁸
- e) he wrote Keh For Keh and his number at the top of the page for 4 February⁵⁹⁹ in the 2008 diary, and he wrote it this year. Kanu stated that most times Keh’s brother-in-law calls him, who would tell Kanu to come, because his “man” wants to greet him and he talks to him.⁶⁰⁰
- f) he wrote the numbers on 12 September page in the 2008 diary and wrote “Bomb Blast” and “Abu.” Kanu testified that he wrote these this year, when Mrs. Hanciles came to visit.⁶⁰¹

⁵⁹⁵ Transcript 29 August 2012, pp. 1675-1678.

⁵⁹⁶ Transcript 29 August 2012, pp. 1678-1679.

⁵⁹⁷ Transcript 29 August 2012, pp. 1657-1659.

⁵⁹⁸ Transcript 29 August 2012, pp. 1657-1660.

⁵⁹⁹ Note that Independent Counsel first said 4 January and then said 4 February.

⁶⁰⁰ Transcript 29 August 2012, pp. 1680-1681.

⁶⁰¹ Transcript 29 August 2012, pp. 1681-1682.

- g) He wrote the handwritten entry starting with “Mrs. Hanciles” in the 15 September page in the 2008 diary. He stated that he enters the names of people who come to the prison to discuss their issues, or of Rwandan authorities. When Mrs. Hanciles visited on 6 November 2010, he wrote this down in his 2008 diary. His answers here were confusing, he became confrontational, constantly told counsel to “listen”, however I am satisfied that the entries relating to Mrs. Hanciles 2010 visited are recorded in the 2008 diary.⁶⁰²
- h) he wrote “Mr. Hassan Bangura” and a phone number are entered at the bottom of the page the last pages of the 2008 diary “this year” (viz.2012) when Tamba Brima gave it to him.⁶⁰³
- i) Independent Counsel asked Kanu if he tore pages “in the vicinity” of 24 December or 3 January 2009 and what year he did so. Kanu did not answer directly saying that it is an old book, so most areas are torn. On the back he marked money that he sent to Freetown.⁶⁰⁴

410. Kanu identified the call log entry with “Kanu - sister - 13.00 - signature - 12/11/10” and testified the signature is his, but the rest of the entries are made by a prison officer.⁶⁰⁵

411. Kanu confirmed that he received a visit from the Registrar in 2010, but insisted forcefully that she visited all eight of the prisoners not just him alone. When she visits, they have meetings with her to tell her their issues and problems. Kanu testified that she came on a date before November 2010, and when she returned she replied to them via email through the Rwandan

⁶⁰² Transcript 29 August 2012, pp. 1683-1686.

⁶⁰³ Transcript 29 August 2012, p. 1689.

⁶⁰⁴ Transcript 29 August 2012, pp. 1687-1689.

⁶⁰⁵ Transcript 29 August 2012, pp. 1690-1692.

authorities. The authorities gave each of them a file on 4 November 2010. The Registrar did not visit with the Principal Defender.⁶⁰⁶

412. After repeated questions by Counsel and the Court Kanu denied that during the Registrar's visit in 2010 he (or others) spoke to the Registrar about the review of his case under Rules 120 to 122.⁶⁰⁷

413. After the third paragraph of the 4 November 2010 memo from the Registrar was put to him Kanu conceded that he and the other prisoners received it, and that he read it.⁶⁰⁸ When Independent Counsel brought the reference to review of sentence in the Registrar's memo to Kanu's attention Kanu, after repeated questions by Counsel and the Court agreed that the prisoners had discussed the review of their sentence with the Registrar in a meeting.⁶⁰⁹

414. Kanu testified that Rules 120 and 122 were not attached to his 4 November memorandum from the Registrar, and testified that neither in November or December 2010, nor any time after he was convicted by the Special Court, did he know the provisions of Rule 120.⁶¹⁰ The court therefore made a disclosure direction pursuant to Rule 33 of the content of memorandums sent to Kanu.

415. When asked (three times) whether he was interested in filing a petition for review of his case, he prevaricated then denied and said that he did not ask anybody to beg for him because the Statute says that the President has the right to grant a pardon to SCSL prisoners, and "they said early release according to good behaviour." He further stated that no one would be happy to be in "goal," and they pray every day for God to touch people's hearts, including Judge, so that they can pity them and release them.⁶¹¹

⁶⁰⁶ Transcript 29 August 2012, pp. 1692-1694, 1698, 1700, 1704-1705, 1708. When referring to the Rwandan authorities he testified something about Deputy Commissioner General Mary Gahou. p. 1708

⁶⁰⁷ Transcript 29 August 2012, pp. 1700-1701.

⁶⁰⁸ Transcript 29 August 2012, pp. 1701-1704, 1710.

⁶⁰⁹ Transcript 29 August 2012, pp. 1701-1704.

⁶¹⁰ Transcript 29 August 2012, p. 1712.

⁶¹¹ Transcript 29 August 2012, pp. 1716-1718.

416. It was put to Kanu that his 2006 "Notebook" has the four entries beginning with TF1-334. He stated that he wrote them during the AFRC trial. "They gave us the statements and wrote them."⁶¹² Kanu denied that he ever called TF1-334 (Alimamy Bobson Sesay) "Bobby."⁶¹³
417. Kanu denied making a call on 12 November at 7.07 pm to Bomb Blast's number recorded at page 17 of 39 of the MTN phone records.
418. Kanu confirmed that he made the phone call to +232-7675-5362 recorded in the prison call log page (Exhibit P15) for 19 November 2010. It is his sister's phone number. The signature is next to the phone calls to 44...04⁶¹⁴ and +232-0764-50052/41 are his but that the name is "not his name." Kanu stated that the second number belongs to his friend Fullah Barry, who is a prison officer.
419. Kanu also confirmed that his signature is midway down the page, and that his signature is at the bottom of the page, next to Dorinda and a phone number at 20.10 on 20 November 2010," He confirmed that the phone number is his daughter's. Kanu denied that he wrote "Dorinda," saying the officers did so.⁶¹⁵
420. Kanu denied knowing the received phone number 2-323-023-3899 or who was calling.⁶¹⁶
421. Kanu identified the entry of 21 November 2010 on Exhibit P15 with "Santigie Kanu - Chris - 20.03" and two phone numbers and confirmed that his signature and stated that the number is for Christopher Sesay - "Christo," or Chris - who was his bodyguard during the AFRC days and was with him in the Jungle. Kamara and Bangura also know him.⁶¹⁷
422. Kanu confirmed the three calls and signature approximately four lines below the entry for Christo are his. When asked about the first number Kanu said he cannot remember everyone

⁶¹² Transcript 29 August 2012, pp. 1718-1720.

⁶¹³ Transcript 29 August 2012, p. 1721.

⁶¹⁴ When asked about a +44 number, the witness says that the only English number he has is for Mr. Metzger. Transcript 30 August 2012, p. 1756.

⁶¹⁵ Transcript 29 August 2012, pp. 1721-1723; Transcript 30 August 2012, pp. 1737-1739, 1757, 1759.

⁶¹⁶ Transcript 30 August 2012, pp. 1791-1792.

⁶¹⁷ Transcript 30 August 2012, pp. 1739-1741.

that he calls, he has family, girlfriends, and a lot of men that he calls. The second number, ending in 5362, is his sister's number; the third number is his daughter's number.⁶¹⁸ He also confirmed that the entry listing "23/11/2010 - Bazy Kamara - mother - 11.02 - 23277552/389" and the signature on the following page are his although the name listed is Kamara's. However, Kanu said that he doubted whether he was present and insisted that the officers made the entries. He subsequently denied he was present while Kamara was speaking⁶¹⁹ and in his evidence the following day denied again that he was present and said he does not know whose number that is but then he said that he DID make the call to Christo, but that "the officers write."⁶²⁰

423. Kanu testified that he does not know second number 232-7-682-8965 that is under Kamara's name for which he (Kanu) signed.⁶²¹ Kanu confirmed that he knows Kamara's mother, testifying that she is his grandmother, and that he usually talks to her from Mpanga.⁶²² Kanu testified that he was not familiar with Kamara's signature.⁶²³

424. Kanu identified the entry on the same 23/11/2010 page, listed under the name Alex Brima and confirmed that the signature next to these entries is his. Kanu also confirmed that he called the numbers 23233661055 and 23277618894, saying they were for his girlfriend.⁶²⁴ The following line, on which is listed "Santigie Kanu - sister" and two numbers, Kanu identified one as his sister but could not recall who had the other number.⁶²⁵ He stated that when they came to the prison and before the phone restrictions it was "open," meaning they could call anyone.⁶²⁶

425. Kanu confirmed that on the following page of Exhibit P15 headed 25 November 2010, an entry with the name Kenzo and a phone number ending in 0216 has his signature. Kanu testified

⁶¹⁸ Transcript 30 August 2012, pp. 1740-1741.

⁶¹⁹ Transcript 30 August 2012, pp. 1742-1744, 1747-1748.

⁶²⁰ Transcript 31 August 2012, pp. 1856-1857.

⁶²¹ Transcript 30 August 2012, pp. 1742-1744, 1747-1748.

⁶²² Transcript 30 August 2012, pp. 1749-1750.

⁶²³ Transcript 30 August 2012, pp. 1752-1753.

⁶²⁴ Transcript 30 August 2012, pp. 1752-55, 1760-1761; Transcript 31 August 2012, p. 1857.

⁶²⁵ Transcript 30 August 2012, pp. 1762-1763.

⁶²⁶ Transcript 30 August 2012, pp. 1762-1763.

that Kenzo is “our brother,” Tamba Brima’s “investigator,” and he lives in Wilberforce barracks.⁶²⁷

426. Below this entry is one listed as Kamara with four phone numbers. Kanu testified the signature next to the first number is not his, but the signature next to the third and fourth number is his. One of these numbers is for his daughter, and he could not remember who the other number belongs to.⁶²⁸

427. Kanu reiterated that at that time there were no restrictions on who they could call; they could call one number and ask the person for another person’s phone number and then call that person. He gave an example using “Auntie Judge.”⁶²⁹

428. Kanu identified the fourth name on the page dated 27/11/2010 with two numbers listed and the signature as his. The phone number ending in 3238 is his wife’s sister, Sappa Samura’s. Kanu confirmed that this is his signature two lines below this.⁶³⁰

429. Kanu identified the first entry on the page dated 28/11/2010 of Exhibit P15 and confirmed that his signature is at an entry for 29/11/2010 where his name is listed. Kanu stated that the name entry and the number were done by an officer.⁶³¹

430. Kanu identified the entry on the second line of the page dated 30/11/2010 of Exhibit P15 recorded as “Santigie” and then “Borbor Kanu” and denied that this is his handwriting, saying that the officer wrote it. It was put to Kanu that he identified the previous entries in Exhibit P15 as his handwriting and that “Santigie B Kanu” in the 30/11/2010 entry is the same handwriting. Kanu again denied that this is his signature.⁶³²

431. When asked to compare a signature that he confirmed was his - in the entry dated 23 November 2010 - with the entry at 30 November and 2010, which he denied was his - and

⁶²⁷ Transcript 30 August 2012, pp. 1764, 1877.

⁶²⁸ Transcript 30 August 2012, pp. 1764-1766.

⁶²⁹ Transcript 30 August 2012, p. 1766.

⁶³⁰ Transcript 30 August 2012, pp. 1766-1767

⁶³¹ Transcript 30 August 2012, p. 1768.

⁶³² Transcript 30 August 2012, pp. 1768-1769.

asked whether they are not the same Kanu denied the 30 November is his signature and stated that it is an “imagination” or “manipulation.” Kanu testified that Independent Counsel and Hillary (Sengabo) manipulated the entry.⁶³³

432. Independent counsel asked if the entry on 30 November 2010 that reads “Bazzy Kamara - brother - 13.11 p.m.” - and three phone numbers were bolded over Kanu responded that he does not know, he is not an expert, and that they are written by the officers.

433. Kanu stated that he does not know the phone number listed there and “it is you and Hillary.” Kanu stated that he cannot remember if the number ending in 395 is Keh For Keh’s, and he does not keep numbers in his head. When he wants to phone from prison he brings his diary (with the phone numbers). Kanu also denied knowing the third number ending in 8898. He denied making that call, and again denied that his signature was there, saying again that the signature is a manipulation by Counsel and Sengabo to “give me problems.” Kanu testified that Counsel gave money to Sengabo, and that “money can do anything.” The prisoners do not keep the prison call log, Sengabo does.⁶³⁴ Kanu repeated this allegation in answer to other questions.

434. Independent Counsel asked if Kanu knows that the second number, 232-332-5697 in the entry for 30/11/2010, it is only two digits different from Kargbo’s phone number. Kanu answered that he did not know that phone number, he did not know Kargbo’s number, and reiterated that he did not know Kargbo.⁶³⁵

435. Independent Counsel sought to question Kanu on whether someone bolded over the last two digits of the phone number 3-328-5697 so that one cannot see the numbers underneath. After considerable objection by his counsel Kanu was asked whether he and his colleagues had a motivation to bold the number over, and Kanu replied that he has never known the number

⁶³³ Transcript 30 August 2012, pp. 1769-1770.

⁶³⁴ Transcript 30 August 2012, pp. 1771-1776.

⁶³⁵ Transcript 30 August 2012, pp. 1776-1777, 1787-1788.

232-3-325-8898, and that it is all a manipulation. He repeated that he did not know Kargbo or Kargbo's phone number.⁶³⁶

436. Kanu denied that on or around November 2010 he was calling family members such as his aunt, sister, daughter and wife for assistance in talking to the government to get him released. He denied telling Independent Counsel that he did this when he met with him and Mr. Serry-Kamal on 23 April 2011.⁶³⁷ When asked if, once he knew of the allegations in this case, he decided that he "did not want anything to do" with the call to Kargbo, so denied his name "Santigie" and his signature - the only one such denial - Kanu said he not speak to anyone.⁶³⁸

437. Kanu identified page 28 of the MTN call records Exhibit P14 and three calls to Christo at 232-27-755-2389, the first one at 2.20 pm on 19 November 2010 and was asked twice if he made these calls. Kanu responded that he called Christo many times and added that Christo had no affiliation with the government. During these three calls, Kanu testified, he "greeted him."⁶³⁹

438. Kanu also identified page 28 of the MTN call records Exhibit P14 and the three calls to Christo on 11 November 2020 at 7.36 pm, 7.53 pm and 8.05 pm. Kanu evaded the questions if he made the three calls or whether he discussed the plan to have witnesses change their testimony. He responded that when he calls Christo he tells him to pray and that Christo breaks stones.⁶⁴⁰

439. Kanu denied knowing the number ending in 1528 recorded on Page 28 of Exhibit P14.⁶⁴¹

440. Kanu identified page 29 of the MTN call records, Exhibit P14 and the four calls made on 22 November from 11.00 to 11.25 am. He testified that he could not remember "all these numbers" but confirmed that the second number is his sister's, and the third number is his daughter's.⁶⁴²

⁶³⁶ Transcript 30 August 2012, pp. 1778, 1786-1787.

⁶³⁷ Transcript 30 August 2012, pp. 1790-1791.

⁶³⁸ Transcript 30 August 2012, pp. 1789-1790

⁶³⁹ Transcript 30 August 2012, pp. 1793-1795.

⁶⁴⁰ Transcript 30 August 2012, pp. 1796-1797.

⁶⁴¹ Transcript 30 August 2012, pp. 1796-1797.

⁶⁴² Transcript 30 August 2012, pp. 1799-1800

441. Independent Counsel noted that according to the prison call log, Kanu made phone calls on 22 November 2010 starting at 11.37 am, asked again whether he was present for the call to Bangura at 232-3-381-0173 at 11.25 am, and Kanu denied this and testified that Tamba Brima calls “his brother,” and would ask them to greet him and which they did, but “that’s all.”⁶⁴³
442. On disclosure of the memorandum from the Registrar Kanu confirmed that he received the memorandum dated 2 July 2010 sent to him from the Registrar, but testified that this was sent to all eight prisoners, not to him alone.
443. Independent Counsel drew his attention to the third paragraph, headed “Review Proceedings,” which suggests that the prisoners asked about the availability of legal aid for review proceedings, and asked again if Kanu ever spoke to the Registrar concerning review proceedings. Kanu again denied he did.
444. Independent Counsel asked again whether all prisoners discussed review proceedings with the Registrar, Kanu responded “I cannot remember” “but me never.” Independent Counsel asked if new evidence was discussed. Kanu said he could not remember. Kanu said in these meetings with the Registrar, some men speak Krio and others speak Mende, so he could not tell if it was discussed. If Counsel asked him about his questions for the Registrar he would remember because he wrote them down.⁶⁴⁴ Kanu’s only enquiry of the Registrar was about the reduction in his allowance.⁶⁴⁵
445. Kanu confirmed that between 1993 and 1996, he was Strasser’s bodyguard. Tamba Brima was with him at Kabassa Lodge, but at tanks and armour, and not as security. When asked whether he knew that TF1-334 was a driver for Strasser’s father, Kanu state that he was security for “his mother.” He denied that he and TF1-334 were friends and gave a long irrelevant answer.⁶⁴⁶

⁶⁴³ Transcript 30 August 2012, pp. 1800-1802.

⁶⁴⁴ Transcript 31 August 2012, pp. 1826-1827, 1829-1830, 1832-1835.

⁶⁴⁵ Transcript 31 August 2012, p. 1835.

⁶⁴⁶ Transcript 31 August 2012, pp. 1837-1840.

446. Kanu confirmed that when they invaded Freetown in January 1999, TF1-334 was with Bomb Blast. 334 was “his boy.” He, Kamara, Tamba Brima, TF1-334 and Bomb Blast were together when they were “pushed back to Waterloo,” Kanu confirmed they were “all there,” but they were in groups in different places.⁶⁴⁷
447. Kanu denied that Bomb Blast was a West Side commander, stating that he was put there by the SLPP government. He also stated it was a lie and that he did not know if TF1-334 was Bangura’s aide-de-camp, saying “everybody has his own person.” Kanu denied that Bangura and TF1-334 were a part of the operation to arrest Foday Sankoh, when pressed he said that when Sankoh was arrested, Bangura was at the West to block the RUF from entering Freetown, so he was not there.⁶⁴⁸
448. Kanu denied that the car which he spoke about in examination-in-chief was taken from Sankoh’s house. Kanu testified that it was TF1-334 who returned the car to Kabassa Lodge. Kanu did not know whether Issa, who stepped in when TF1-334 was allegedly vilifying Kanu’s mother, and who was Bangura’s chief security officer.⁶⁴⁹
449. Kanu denied that he arranged with Bangura to exchange a jeep he had earlier for another car. He denied that Savage took his jeep without the knowledge of Bangura or TF1-334, and denied that after this happened he went to Bangura’s home and arrested some of his men and stole materiel. Kanu denied that when Bangura found out he reported this to JPK, and while doing so shooting occurred from his house.⁶⁵⁰
450. Kanu confirmed that when he arrived at Pademba Road Prison in 2003 he saw Bangura and TF1-334. Kanu also confirmed that he went to church in the prison, and testified that Pastor Eddie and a prison officer named Titti Kamara were the pastors. After avoiding the question

⁶⁴⁷ Transcript 31 August 2012, pp. 1841-1842.

⁶⁴⁸ Transcript 31 August 2012, pp. 1842-1843.

⁶⁴⁹ Transcript 31 August 2012, pp. 1843-1845.

⁶⁵⁰ Transcript 31 August 2012, pp. 1846-1847. Kanu stated that it was the UN and the SSD boss, Raymond England, who were staying at Juba Hill.

five times Kanu vehemently denied that TF1-334 was deputy pastor and denied that TF1-334 was at church at all. Kanu said he did not attend prayer meetings. Kanu denied that he made peace with TF1-334 while in Pademba Road Prison, saying he only made peace with “Bio” and “Kolleh.” Kanu reiterated that he never spoke to TF1-334 there.⁶⁵¹

451. Kanu identified the fifth call on page 30 of the MTN call records Exhibit P14 and confirmed that he made the call on 22 November 2010 at 7.28 pm to Christo’s phone number at 232-7-755-2389, saying it was a social call. Independent Counsel noted that this call is not in the prison call log but the witness did not respond.⁶⁵²
452. Kanu identified the entry recorded for the next morning, 23 November 2010. He confirmed that the first two callers listed in the log book are for Kamara and Kanu and that his signature is adjacent to both calls.⁶⁵³ Kanu denied that he was present on the morning of 23 November 2010 when Kamara and Tamba Brima made these phone calls, saying that there was only one phone: when he finished a call, another man would come, and then another man would come.⁶⁵⁴
453. Kanu also confirmed that he made the last calls under Tamba Brima’s name – to 232-3-366-1055 – which is his girlfriend’s number.⁶⁵⁵
454. Kanu denied speaking with his girlfriend, his family or close friends about trying to obtain new evidence.⁶⁵⁶
455. Shortly after the calls to his girlfriend there is listed a call to Keh For Keh on 232-763-3739, which is not recorded in Exhibit P15. Kanu denied calling Keh, saying that Kamara usually calls Keh and sometimes hands the phone over to him (Kanu). Kanu denied being present when

⁶⁵¹ Transcript 31 August 2012, pp. 1847-1850.

⁶⁵² Transcript 31 August 2012, pp. 1850-1853.

⁶⁵³ Transcript 31 August 2012, pp. 1853-1855.

⁶⁵⁴ Transcript 31 August 2012, p. 1856.

⁶⁵⁵ Transcript 31 August 2012, pp. 1851-1853, 1856-1859.

⁶⁵⁶ Transcript 31 August 2012, p. 1859.

Kamara was speaking to Keh. Kanu testified that when Kamara was talking, Kanu would be inside and Kamara would be outside.⁶⁵⁷

456. Independent Counsel noted that Kanu is listed as making a phone call on 23 November at 5.01 pm, and asked whether Kanu had also made a call to Bangura at 4.50 pm. Kanu denied doing so, saying that Tamba Brima was the one who called Bangura to tell him to look after his house and his daughters. Kanu confirmed that he made the next call after the one to Bangura, to his sister at 7-675-5362.

457. Independent Counsel asked Kanu whether he made any of the calls in between when he made a phone call to 3873 at 5.01 pm, and when Tamba Brima made a phone call to 3088 at 6.42. Kanu stated "I said all these numbers, I did not call all of them. This [sic] is my relatives."⁶⁵⁸

458. Independent Counsel then asked Kanu whether he made each phone call on 23 November 2010 in between 5.01 pm and 6.42 pm. Kanu confirmed that he made the phone call to the number ending in 3602 - this is his sister.

459. Kanu denied that he made the phone call to the number ending in 9748 - he did not know the number. When Independent Counsel noted that Kanu testified that the number ending in 9748 was one of his relatives, Kanu said that he has "lots of relatives" and he could not remember "because its taken a long time."

460. After the call to 9748, there is another call to his sister at 3602. After this call, there is a phone call to 1909, and Kanu testified that he did not know that number. There are two phone calls to 5611, and Kanu testified that he did not know the number. The next phone call is to 9195, and Kanu again stated that he did not know the number.

461. The next phone call is to 0216, and Kanu first said that he did not remember. When Independent Counsel noted that Kanu said previously that this number belonged to "Kenzo."

⁶⁵⁷ Transcript 31 August 2012, pp. 1859-1860. Kanu testified, as another explanation as to why he would not be present when others were making calls, that the prison allowed them to make phone calls at 8.00 am, which is 6.00 am Freetown time.

⁶⁵⁸ Transcript 31 August 2012, pp. 1861, 1865-1868.

Kanu confirmed that he called Kenzo, who is a teacher at “IPAM” to ask him to help his daughter get in.⁶⁵⁹

462. Of the calls listed on page 34 of the MTN call records Exhibit P14, and the phone calls on 26 November, Kanu confirmed that he called ...5362 at 3.01 pm, to his sister. Directly below that call, at 3.05 pm is a call to Bangura. When asked whether he made this call, Kanu denied making the call, saying “I have told you that Tamba - he and Tamba are brothers. Tamba said Please look after those children.” Independent Counsel noted that this call to Bangura is not reflected in the log book, and Kanu again attributed this to the prison officers.⁶⁶⁰
463. Counsel noted that following the call to Bangura at 3.11 pm, is a call to 0216 which is Kenzo. Before a question could be put Kanu immediately said “its not correct,” and that he only gets a card for 500 units of air time, and he calls his sister. The credit runs out fast when calling Sierra Leone, and is finished in 2 or 3 minutes. He then testified that he called Kenzo with an education issue.⁶⁶¹
464. Independent Counsel noted that Kanu made the calls directly before and directly after the call to Bangura, and Kanu denied that he made the call to Bangura, saying Tamba Brima did so.⁶⁶²
465. Kanu confirmed that he made the phone call at 4.44 pm on the same day to ... 8965, his daughter’s number.⁶⁶³ In November 2010, this daughter lived with her aunt.⁶⁶⁴
466. Kanu denied making the two calls to Keh For Keh on 26 November, saying he is “Bazzy’s boy”⁶⁶⁵ and denied making the next call, to 3376 at 4.47 pm.⁶⁶⁶ Kanu denied making the next

⁶⁵⁹ Transcript 31 August 2012, pp. 1868-1877, 1882.

⁶⁶⁰ Transcript 31 August 2012, pp. 1877-1878, 1881.

⁶⁶¹ Transcript 31 August 2012, pp. 1880-1882.

⁶⁶² Transcript 31 August 2012, pp. 1882-1884.

⁶⁶³ Transcript 31 August 2012, p. 1884.

⁶⁶⁴ Transcript 31 August 2012, p. 1885.

⁶⁶⁵ Transcript 31 August 2012, p. 1886.

⁶⁶⁶ Transcript 31 August 2012, pp. 1886-1887.



call or knowing the phone number ending 8965 notwithstanding his earlier evidence that this number was his child's.⁶⁶⁷

467. Kanu identified the next page of the MTN phone records of 27 November 2010 and confirmed that he made four phone calls in succession from 10.57 am to his sister and his sister-in-law.⁶⁶⁸

468. When asked about a call shown on the MTN call record for 30 November 2010 to his sister - a number ending in 5362 - at 9.35 am, Kanu asked repeatedly to be shown the prison log book, saying that he did not sign for it. He then confirmed that it is his sister's phone number but did not remember if he made the call.⁶⁶⁹

469. Two calls below that one is a call to 3873 - which Kanu confirmed is his daughter's phone number.⁶⁷⁰ I note this is a different number from that previously identified as his daughter's number.⁶⁷¹ Kanu stated that he cannot remember if he made a call to 0254, at 11.30 am.⁶⁷² Kanu confirmed that he made the next two calls, to 5275 at 11.37 and 11.49 am, and that these were to his friend, the prison officer.⁶⁷³ Kanu stated that he cannot remember if he made the next two calls, to 3376.⁶⁷⁴ The next call is to 7395 - to Keh For Keh - at 1.02 pm. Kanu denied that he made this call, and denied being in the area when the call was made.⁶⁷⁵

470. Kanu identified page 39 of the MTN call record of 30 November 2012 and acknowledged that there are three calls to Kargbo's number ending in 5597. Kanu denied that Kamara called Kanu to talk to Kargbo or to TF1-334/Sesay, or that he asked Kargbo to "cause us to be released" or said that they were trying to put things in place financially. Kanu says that he never spoke to TF1-334.⁶⁷⁶

⁶⁶⁷ Transcript 31 August 2012, pp. 1886-1887.

⁶⁶⁸ Transcript 31 August 2012, pp. 1889-1890.

⁶⁶⁹ Transcript 31 August 2012, pp. 1891-1894.

⁶⁷⁰ Transcript 31 August 2012, p. 1895.

⁶⁷¹ Transcript 31 August 2012 p. 1884.

⁶⁷² Transcript 31 August 2012, p. 1895.

⁶⁷³ Transcript 31 August 2012, p. 1895.

⁶⁷⁴ Transcript 31 August 2012, p. 1895.

⁶⁷⁵ Transcript 31 August 2012, p. 1896.

⁶⁷⁶ Transcript 31 August 2012, pp. 1896-1897.

471. Kanu confirmed that he made a phone call to 3973 - his sister's number - at 12.52 pm. Kanu confirmed that after this he made two calls to his friend the prison officer on 5275.⁶⁷⁷
472. On the same page of Exhibit P14, an entry dated 7 December 2010, Kanu identified a call to Bangura at 4.02 pm and a call to Kargbo at 4.13 pm. Kanu denied being present for these calls. When Independent Counsel asked whether the calls to Bangura and Kargbo are listed in the prison call log, Kanu responded "Mr. Herbst, I am a prisoner" that he did not know Papa's number, and he did not know Kargbo.⁶⁷⁸
473. In the prison call log Exhibit P15 for 7 December 2020, the fifth line down, is listed "Bazzy Kamara - brother - 5275." Kanu confirmed that 5275 is the number for his friend the prison officer, that he made the call and his signature is next to the call (even though Kamara is listed in the book), and stated that Kamara was not present when he made the call.⁶⁷⁹
474. In cross-examination by Counsel for Bangura Kanu identified the 4 November 2010 memo from the Registrar to the prisoners and confirmed that he at no time told Bangura that he had been informed of his right to file a review of his case. Kanu confirmed that he does occasionally greet Bangura when Tamba Brima calls him on the phone, but denied that he ever heard Tamba Brima telling Bangura about the review of his case.⁶⁸⁰
475. Kanu confirmed that Tamba Brima has a closer relationship to Bangura than Kanu does, and so Tamba Brima will call Bangura more often than he will.⁶⁸¹
476. Kanu confirmed that he and Bangura were on the West Side in 2000 after the Lomé Peace Accord. The Chief of Defence Staff assigned Bangura there to help in bringing soldiers out of the jungle and restore peace by bringing the West Side Boys back to normalcy. Bangura would go to military headquarters to collect salaries and rations for the soldiers at the West Side.

⁶⁷⁷ Transcript 31 August 2012, p. 1897.

⁶⁷⁸ Transcript 31 August 2012, pp. 1897-1898.

⁶⁷⁹ Transcript 31 August 2012, pp. 1899-1900.

⁶⁸⁰ Transcript 31 August 2012, pp. 1901-1903.

⁶⁸¹ Transcript 31 August 2012, pp. 1903-1904.

Bangura was also asked by President Kabbah to help in preventing the RUF from coming to Freetown during the 8 May 2000 incident. Kanu agreed that while Bangura was head of the West Side, he contributed to peace in Sierra Leone.⁶⁸²

477. In cross-examination by Counsel for Kamara Kanu testified that at the time referred to in cross-examination for Bangura the Chief of Defence Staff was retired Brigadier Carew.⁶⁸³

478. Kanu confirmed that following the attack by TF1-334 and a group of soldiers at President Momoh's house at Juba Hill he has had nothing to do with TF1-334. Kanu stated that "that man wanted to kill me, so he's my enemy." Kanu confirmed that TF1-334 testified against him in the AFRC trial, saying TF1-334 said they "opened the bellies of women," amputated arms, and killed a child and told the woman to laugh. Kanu testified that TF1-334 was an enemy "up to the time that I'll die."⁶⁸⁴

479. Kanu denied that he asked to speak to TF1-334/Sesay through Kamara's phone at PWD junction, and denied that he was ever present when Kamara spoke to either Kargbo or TF1-334 about recanting TF1-334's testimony.⁶⁸⁵

480. In re-examination counsel referred to the entry for 20 February 2008 in Kanu's diary for 2008 asked whether he wrote the words "RW francs" on that page, and Kanu denied that this was his handwriting but stated that this was written after he came to Rwanda.

481. Kanu confirmed that he wrote the entry on the pages for 19 and 20 March 2008 on 16 October 2009; that he wrote the entry on the diary pages of 7 and 9 July 2008 about a search made on 6 August 2010 and that he wrote the entry on the page for 15 September 2008 after the Principal

⁶⁸² Transcript 31 August 2012, pp. 1904-1905.

⁶⁸³ Transcript 31 August 2012, p. 1906. This has also been spelt Keru in the course of evidence.

⁶⁸⁴ Transcript 31 August 2012, pp. 1906-1909.

⁶⁸⁵ Transcript 31 August 2012, p. 1909.

Defender visited on 6 and 7 November 2010.⁶⁸⁶ Kanu testified that he first got the 2011 diary when his wife came from Freetown, in May 2011.⁶⁸⁷

482. Kanu denied that he had the 2 July 2010 document from the Registrar to the prisoners when the Registrar came to visit them at Mpanga Prison.⁶⁸⁸ Kanu identified a paragraph of the 4 November 2010 letter from the Registrar to the prisoners which the Registrar writes that it appears Kanu has not received a memo she sent twice, on 2 and 8 July 2010, and thus she is reattaching the memo. Kanu “disagrees” with the paragraph and states that ... “2010 June when she returned, that was when she replied to us” but they “received this latter in late November.”⁶⁸⁹

483. Kanu confirmed that his signature is on both a document dated 20 December 2010 addressed to the Registrar, and one addressed to someone other than the Registrar.⁶⁹⁰

484. Kanu identified his diary for 2006, the section without dates that has “notebook” written at the top, and confirmed that there are the names of witnesses by their numbers, starting with TF1-334. Kanu explained further what he meant on direct examination concerning these notes, testifying that during the AFRC trial, in 2006, his lawyers would give him Prosecution witness statements, and he would write their names after he read the statements.⁶⁹¹

485. Kanu identified a page of the 2008 diary with Keh For Keh’s phone number and testified that he asked Kamara to give it to him while in Mpanga Prison so he could write it down. Kanu did not intend to use it to contact Keh For Keh, and stated that he did not call every number that was written down in his diaries.⁶⁹²

486. Kanu denied that Savage was involved in the incident involving TF1-334 and a jeep.⁶⁹³

⁶⁸⁶ Transcript 31 August 2012, pp. 1913-1916.

⁶⁸⁷ Transcript 31 August 2012, p. 1917.

⁶⁸⁸ 1 September 2010 pp. 1921-1922.

⁶⁸⁹ 1 September 2010 pp. 1922-1923.

⁶⁹⁰ 1 September 2010 pp. 1924-1925.

⁶⁹¹ 1 September 2010 pp. 1929-1930.

⁶⁹² 1 September 2010 pp. 1931-1932.

⁶⁹³ 1 September 2010 p. 1933.

487. Kanu agreed his earlier testimony that when he called Christo he “greeted” him.⁶⁹⁴
488. Kanu stated that when a prisoner finishes a telephone call he signs for that call, at Mpanga the prisoners “call by times.” There is only one phone for eight of the prisoners, so when one finishes a call, the next prisoner would come. A break of two minutes between the end of one call and the start of another is a long time. The block is not far away, it is only one minute from the office, and calls can only be made in the office.⁶⁹⁵
489. Kanu identified Exhibit P14 the MTN call records of 23 November 2010 at 6.44 pm to ...3088. In the prison call log, this phone call is logged in as made by Tamba Brima, and the number is listed as that of his wife and sister. The Court noted that this same number appears in Exhibit P13 (the approved call list) under Tamba Brima’s name.⁶⁹⁶
490. Kanu stated that when he speaks to his sister it is about how she, the children and their home were doing.⁶⁹⁷
491. Kanu identified page 10 of the call log and agreed that he made a phone call at 1.49 pm that lasted almost ten minutes and the next call was at 4.02 pm, over two hours later.⁶⁹⁸
492. Kanu explained what he meant by his testimony that the 30 November entries in the prison call log were a “manipulation,” responding that it’s a “crooked game when someone is dishonest.” Kanu denied having ever seen these entries or these signatures before the contempt trial and stated that “something happened in Kigali between Mr. Herbst and Hillary Sengabo” because Herbst and Sengabo have been “going up and down in Kigali...” and Sengabo stays behind with Herbst.⁶⁹⁹
493. Kanu denied again knowing about phone number ending in 1528 shown in the log for 21 November 2010 at 7.46 pm. Kanu then confirmed that this same number appears in the call log

⁶⁹⁴ 1 September 2010 pp. 1933-1935.

⁶⁹⁵ 1 September 2010 pp. 1937-1938.

⁶⁹⁶ 1 September 2010 pp. 1938-1939.

⁶⁹⁷ 1 September 2010 pp. 1940-1941.

⁶⁹⁸ 1 September 2010 pp. 1941-1942.

⁶⁹⁹ 1 September 2010 pp. 1942-1944.

at 20 November 2010, and is listed as the number for prisoner Issa Sesay's wife. Kanu denied calling Issa Sesay's wife.⁷⁰⁰

494. The Single Judge noted that in the letters from the Registrar to Kanu she spells his name as "K-A-N-U," to which Kanu responded that although they spell it that way, he spells it with an H. The Single Judges asked whether it was true that when he first came to the Court, he signed his Legal Aid application papers without an H, and Kanu replied that he did so because he was depressed, but now he spells it with an H.⁷⁰¹

495. Kanu confirmed that he was a member of the AFRC Council, in which Tamba Brima was a public liaison officer and Johnny Paul Koroma was chairman and denied that Kargbo was an aide-de-camp or a security to JPK, He stated that he did not know if Kargbo worked there but Kargbo did not work with JPK.⁷⁰²

496. Kanu testified that his mother is Mende, but he does not speak Mende, and his father is Temne and he speaks Krio.⁷⁰³

497. The Single Judge asked whether, when making a call, the prison guard allowed him to go somewhere private to make the call. Kanu responded that when they first came to Rwanda, they would give Mr Hillary (Sengabo) the number and say, for example, "call my sister." When Sengabo reached the person they were calling, he would pass the phone to the prisoner. Issa (the translator) and Sengabo would sit on the bench while the prisoner would talk. Once he was finished, the prisoner would give the phone back and leave. Kanu elaborated further at considerable length but did not answer the question as put.⁷⁰⁴

498. Kanu was a confrontational and excitable witness, his answers were often long and disjointed and not to the point. His loud fast manner of speaking was difficult to follow at times.

⁷⁰⁰ 1 September 2010 pp. 1944-1946.

⁷⁰¹ 1 September 2010 pp. 1951-1952.

⁷⁰² 1 September 2010 pp. 1952-1953, 1955.

⁷⁰³ 1 September 2010 p. 1953.

⁷⁰⁴ Transcript 1 September 2012, pp. 1954-1955.

Accused Hassan Papa Bangura

499. Hassan Papa Bangura annexed a statement dated 26 May 2012 to the Pre-Trial Brief filed on his behalf. His counsel stated that Bangura would not give sworn evidence but rely on the statement. He then changed his statement on 28 August 2012, and elected to give sworn evidence.
500. In his oral testimony, Bangura testified that he is married and has a child who is twelve years old. His wife does not work and so he takes care of her by renting a car by the week or month.⁷⁰⁵ Bangura is a born again Christian, and he misses religious activities being in jail. When he was not incarcerated he went to church Monday, Wednesday, Friday and Sunday and participated in church activities.⁷⁰⁶
501. He was born in Wilberforce Barracks, attended Services Secondary School, and joined the Sierra Leone Army on 3 May 1991. He trained for only three months, which was unusually short, because of the war. After his training he was deployed to Daru Barracks, in Eastern Sierra Leone until 1992 when he was transferred to Kono. He was in combat fighting the rebels. In 1999 or 2000, they started calling him “Bomb Blast,” because when the RUF were advancing on Freetown he used a bomb to ambush them.⁷⁰⁷ In 2000, Bangura was appointed to head the West Side men by the Government of Sierra Leone, and was responsible for collecting their rations or salaries in town, and paying them.⁷⁰⁸
502. In 2000 Bangura was away from his house collecting the salaries for his men when Five Five (Kanu) came to the house and said that Bangura’s “boys” had collected a car from him. Kanu left with all of Bangura’s property, including his money. Bangura went with his men, including TF1-334, to where Kanu was staying so that he could get his property back, and attacked them

⁷⁰⁵ Transcript 3 September 2012, p. 1999.

⁷⁰⁶ Transcript 3 September 2012, p. 2002.

⁷⁰⁷ Transcript 3 September 2012, pp. 1999-2002.

⁷⁰⁸ Transcript 3 September 2012, p. 2002.



and there was a fire fight. He was then arrested and taken to Pademba Road Prison, and Kanu was taken to Cockerill.⁷⁰⁹

503. Bangura testified that he had not attended any “outreach” for the Special Court, and said he had not and did not know what this was. Bangura stated that he first knew about the concept of a “protected witness” when this contempt trial started. In November and December 2010 he did not know that TF1-334 was a protected witness.⁷¹⁰

504. In November 2010, Bangura would interact with TF1-334, they would talk and do things in common, meeting at times in Sweissy or in Bangura’s or TF1-334’s church. When he had a problem, TF1-334 would tell him. At that time, TF1-334 was frustrated because he wanted to leave the country and go to his sisters in France. He told Bangura that his sisters went to Holland to pick him up, but “they” did not allow him to go. “But we don’t have any other talk apart from that.”⁷¹¹

505. Although Counsel’s question was not recorded, the witnesses stated “Well I can name 334, Bobson Sesay were all arrested, Eddie – Pastor Eddie, Issa Mansaray, Mohamed Sankoh and others.” They were not tried, but spent four years at Pademba Road Prison. He was released on 21 August 2004 with TF1-334 and some of the others. The Judge asked whether Bangura remembered her speaking to him in the prison in 2004, and Bangura did not because it had been “a long time,” and they had a lot of visitors.⁷¹²

506. Bangura knows Alex Tamba Brima, as he is his “elder brother.” Bangura has known him since childhood; they were born in the same barracks and joined the army at the same time.⁷¹³

Bangura knows Kamara as well: he and Kamara were in Wilberforce Barracks together, joined

⁷⁰⁹ Transcript 3 September 2012, pp. 2003-2004.

⁷¹⁰ Transcript 3 September 2012, pp. 2005, 2014, 2052.

⁷¹¹ Transcript 3 September 2012, pp. 2006-2007, 2014-2015, 2017.

⁷¹² Transcript 3 September 2012, pp. 2010-2011.

⁷¹³ Transcript 3 September 2012, p. 2011.

the army at the same time, and were in the same company during training.⁷¹⁴ Bangura knows Five Five (Kanu), because they were in the army together during the NPRC days, and Kanu was with Strasser while Bangura was with Maada Bio.⁷¹⁵ Bangura knows Sammy Ragga (Kargbo), they were in the army and prison together. He knows him very well, and “He was my friend.”⁷¹⁶

507. Bangura knows TF1-334 “very well,” and their relationship was cordial; they visited each other and worked with each other, and TF1-334/Sesay always assisted Bangura when it was needed. They attended the same church from the time they were in prison until “Flaming,” when TF1-334 joined a different church on the east end. But when they had a program at his church, he would invite Bangura and vice versa.⁷¹⁷

508. Bangura knows the President of Sierra Leone because he is a member of AGPAD: the Action Group for Peace and Development, which was formed in 2007. It preaches against violence to ex-combatants, telling them they should not allow anyone to use them to commit violence. They pass out handbills and display cards on their cars. Kargbo, TF1-334 and “Cisco” and other combatants are also members.⁷¹⁸ Bangura exhibited a photo of his car for hire showing a poster that states “Stop Using Ex-Combatants as Political Tools for Violence.”⁷¹⁹ Bangura also testified that he is close to the President’s bodyguard, Idrissa Kamara, who is his “elder brother.”⁷²⁰

509. After his release from prison, Bangura never participated in any Special Court activities. He was approached by the Prosecution and the Defence to testify in the AFRC trial but thought that if he did, “they” would think that he only testified because of the shooting incident between him and Kanu, and so he did not. Bangura testified that he did not want to interfere with Special Court affairs.⁷²¹

⁷¹⁴ Transcript 3 September 2012, p. 2011.

⁷¹⁵ Transcript 3 September 2012, p. 2011.

⁷¹⁶ Transcript 3 September 2012, p. 2011.

⁷¹⁷ Transcript 3 September 2012, pp. 2011-2012,.

⁷¹⁸ Transcript 3 September 2012, pp. 2012,-2013, 2025-2026.

⁷¹⁹ Transcript 3 September 2012, pp. 2026-2027, 2033-2035.

⁷²⁰ Transcript 3 September 2012, pp. 2012,-2013.

⁷²¹ Transcript 3 September 2012, pp. 2013-2014.

510. Bangura confirmed that before November 2010 he was communicating with the AFRC prisoners, they would call him to talk. Both Tamba Brima and Kamara would call from the same phone number, so he would not know who was calling when the phone rang, but when he picked up he would know which one was speaking.⁷²²
511. Bangura confirmed that in November and December 2010 he received phone calls from Tamba Brima and Kamara. Kanu never called Bangura, but when Tamba Brima or Kamara called, he would ask about Five Five and they would tell him “your man is here,” and they would talk. He spoke more frequently to Tamba Brima, because he is his “brother.” Bangura testified that he never called the prisoners, they always called him.⁷²³
512. Bangura confirmed that he was charged with contempt, and that the charges were interfering with the Special Court administration and offering a bribe to a witness.⁷²⁴
513. Bangura testified that Tamba Brima called him and told him that Kargbo was to meet him so that he could take him to see the lawyer Mansaray. Kargbo called him with TF1-334 and asked where he was, and Bangura said he was at Sweissy and Kargbo should meet him there. Kargbo and TF1-334, met him at Sweissy and Bangura told them that Mansaray was at Robert Street and they drove there. TF1-334 was a taxi driver at that time and drove them.⁷²⁵
514. During the car ride, Bangura did not talk to anyone in the car because Mansaray was calling, telling him that “he wanted to go” and Bangura also got other (personal) phone calls.⁷²⁶ When they arrived at Mansaray’s office, TF1-334 dropped them off and only he and Kargbo were present for the meeting with Mansaray.⁷²⁷
515. Kargbo told Mansaray that Tamba Brima and Kamara told him “to talk to 334 for him to recant his testimony to help them.” Kargbo said Tamba Brima told him to ask Mansaray for advice.

⁷²² Transcript 3 September 2012, pp. 2020-2021.

⁷²³ Transcript 3 September 2012, pp. 2021-2022.

⁷²⁴ Transcript 3 September 2012, pp. 2027-2028.

⁷²⁵ Transcript 3 September 2012, pp. 2028-2030, 2032.

⁷²⁶ Transcript 3 September 2012, pp. 2030-2032.

⁷²⁷ Transcript 3 September 2012, p. 2036.

Mansaray advised that TF1-334 had nothing to say that would cause a reduction in those men's sentences, and they should forget about TF1-334.⁷²⁸ Bangura testified that Mansaray also said that "since those men ... only want to be freed, if they call you just tell them that you are trying to write to an NGO for you to get funds. [T]ell them lies ... like that."⁷²⁹ After the meeting, someone was waiting for Kargbo, possibly his girlfriend Isha, and they separated.⁷³⁰

516. After they left Mansaray's office, Tamba Brima called and asked if he had gone to see Mansaray. Bangura said yes and that Kargbo had explained things, but they were trying to write to an NGO as Mansaray advised. Since then Tamba Brima has not asked him anything about this again.⁷³¹

517. In 2011, Bangura received a phone call from Mr. Serry-Kamal who said he wanted to see him, and that there was someone who wanted to speak to him. Mr. Serry-Kamal met him at Lightfoot Boston Street, saying he was waiting for him; this was the first time Bangura had ever met him. They drove to the Special Court, but Mr. Serry-Kamal did not tell Bangura why he was bringing him there. Bangura was confused, because he thought this person wanted to talk to him about the war. "It was a real surprise to me."⁷³²

518. They met with Mr. Herbst (the independent investigator) along with Mr. Akinbobola. Mr. Herbst was speaking English, there was no interpreter, and Bangura testified that he did not understand Mr. Herbst's English. Bangura told Mr. Herbst that Tamba Brima told him that Kargbo was coming to meet him so that they could go to Mansaray's office, and that they went to the office where Kargbo explained to Mansaray what Bangura told this Court. He did not

⁷²⁸ Transcript 3 September 2012, pp. 2032-2033.

⁷²⁹ Transcript 3 September 2012, p. 2033.

⁷³⁰ Transcript 3 September 2012, pp. 2036, 2050.

⁷³¹ Transcript 3 September 2012, pp. 2036-2037.

⁷³² Transcript 3 September 2012, pp. 2037-2041.

make a statement to the investigator. After the meeting, Mr. Serry-Kamal dropped him off in town.⁷³³

519. Bangura testified that this was not the first meeting he had with Mr. Herbst. He met Mr. Herbst once before, on King Harmon Road, when Mr. Herbst asked Bangura to testify against the “AFRC brothers.” Bangura told him he would not be able to testify because of the incident he had with Five Five (Kanu).⁷³⁴
520. Bangura denied talking to Sesay on Kargbo’s phone when they were together at Wellington, saying he never called Kargbo to talk to Sesay. He did not need to call Kargbo to talk to TF1-334 because he has TF1-334’s number and they talk. Bangura denied telling TF1-334 what the prisoners said. Bangura also denied asking TF1-334 if he wanted \$10,000 USD to recant, or asking him how much money he would want to recant, saying that he was speaking to other people on the phone during the car ride.⁷³⁵ Bangura also denied that he went to Sweissy after the meeting, saying that he went directly home. He also denied saying to TF1-334 that he should not be afraid to help, and if there is anyone to be afraid of it is he and Kargbo.⁷³⁶
521. Bangura denied offering or giving a bribe to TF1-334 so that he would change his testimony in the AFRC trial, and never discussed this with him. He never persuaded TF1-334 to change his testimony given during the AFRC trial, and he did not know in November or December 2010 that TF1-334 was a protected witness.⁷³⁷
522. In cross-examination by Independent Counsel, Bangura denied that he approached TF1-334 in Sweissy in June 2012 and said that he never spoke to TF1-334. He confirmed that in the weeks before this contempt case began he saw TF1-334’s statement through his lawyer, but he did not see anything in the statement that related to him. Bangura denied that he told TF1-334 that he

⁷³³ Transcript 3 September 2012, pp. 2045-2047.

⁷³⁴ Transcript 3 September 2012, pp. 2041-2045.

⁷³⁵ Transcript 3 September 2012, pp. 2047-2049.

⁷³⁶ Transcript 3 September 2012, pp. 2048-2049, 2052.

⁷³⁷ Transcript 3 September 2012, p. 2052.

had seen his statement, that parts of it involved him, and that he asked him as a brother to leave those parts out of his testimony.⁷³⁸ Bangura agreed that on 15 June 2010 he was on the grounds of the Special Court with his lawyer, but denied that he called TF1-334 on this day.⁷³⁹

523. Bangura testified that he knew Keh For Keh from the army, when Bangura was his boss. He confirmed that “we” were all in the army together and affirmed that they talk and meet at Sweissy and on the beach. Bangura testified that Keh has his own business and Bangura has his, so they do not meet all the time. When asked whether he had Keh’s phone number, Bangura said that Keh does not last long with one phone: he will give one phone number one day, and another the next day. So they do not normally talk much on the phone, they talk in person.⁷⁴⁰ Bangura denied speaking with Keh For Keh by himself or in the presence of others about the subject of persuading witnesses to recant their testimony in order to assist the Rwandan prisoners.⁷⁴¹

524. Bangura insisted that he met Mr. Herbst during the *AFRC* trial, and he was sure it was Mr. Herbst, but he could not remember which year this was. He remembered his second meeting with Mr. Herbst in 2011, but Bangura testified that he could not remember the date that they met, or for how long they met. Bangura denied that Mr. Akinbobola or Mr. Serry-Kamal translated his words from Krio to Mr. Herbst where necessary, saying they would just “come in.” Bangura denied that they all agreed that they were translating well without an interpreter.⁷⁴²

525. He also denied that Mr. Herbst advised him of his rights or that he acknowledged that he was willing to answer questions knowing that the answers could be used against him in Court. He denied telling Mr. Herbst that Mr. Serry-Kamal was his lawyer and that he understood his rights, saying that Mr. Serry-Kamal was not his lawyer and in fact he had never met him before.

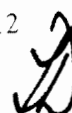
⁷³⁸ Transcript 3 September 2012, pp. 2053-2055.

⁷³⁹ Transcript 3 September 2012, p. 2055.

⁷⁴⁰ Transcript 3 September 2012, pp. 2056-2058.

⁷⁴¹ Transcript 3 September 2012, p. 2058.

⁷⁴² Transcript 3 September 2012, pp. 2058-2060.



He did not know why Mr. Serry-Kamal was there, Serry-Kamal never told him that he was coming to the interview in order to protect his rights.⁷⁴³ Bangura denied hearing his lawyer Mr. Nicol-Wilson say that he understood English, and said that he did not read or understand English and that he did not go to school.⁷⁴⁴

526. Bangura confirmed that he signed his statement dated 26 May 2012, but denied that his lawyer told him that by signing the pages he was attesting to their accuracy, saying that his lawyer “just asked me to sign them.” He denied it was read to him before signing. Bangura testified that the “last time in this trial when they brought up his statement,” he heard the part about Kamara’s visit to the lawyer’s, he objected and made a correction, because he remembered what he had said.⁷⁴⁵

527. Bangura denied knowing that when he signed the statement it was going to be submitted in an official proceeding before the Court in a case in which he was one of the Accused.⁷⁴⁶ I find it difficult to accept that Mr. Nicol-Wilson, a counsel of standing and professional integrity, would have a client sign a document without reading it to him or having him read it. I do not accept this evidence.

528. Bangura acknowledged that his signature was on his supplemental statement of 28 August 2012, and the words “Hassan Papa Bangura” and “28/8/2012” are in his handwriting. He was read this statement before he signed it.⁷⁴⁷ Bangura denied that, as the supplemental statement reads, he attended Services Secondary School, saying that the person who typed it made a mistake because that is not what he told them. He confirmed that he went to primary school

⁷⁴³ Transcript 3 September 2012, pp. 2061-2062.

⁷⁴⁴ Transcript 3 September 2012, pp. 2063-2064.

⁷⁴⁵ Transcript 3 September 2012, pp. 2062-2066.

⁷⁴⁶ Transcript 3 September 2012, p. 2068.

⁷⁴⁷ Transcript 3 September 2012, pp. 2073-2075.

and that English was taught but he did not complete secondary school. Bangura testified that he commanded his troops by speaking Krio and only speaks Krio.⁷⁴⁸

529. Independent Counsel read the first paragraph of Bangura's statement of 26 May 2012. Bangura testified that he thinks "they" made a mistake in the first paragraph in his 26 May 2012, and that he never said this. He did not correct this paragraph when he filed his supplemental statement on 28 August 2012, but when it was read out in Court he realised he had made a mistake. His answer is convoluted:

"Well, Mammy, I really do not understand the differences. Because what I said was in respect of going to the lawyer, lawyer Mansaray, the Court. That is what I talked about. Because it was when they read it out on that day in Court here. That's when I realised that they had made a mistake. That was it, Ma'am. That was the correction I made."⁷⁴⁹

530. Bangura confirmed that he was in Court when Independent Counsel put the first paragraph of this statement to Kamara, but said that he did not hear it when it was read out. The one that Bangura heard was the one that he was just speaking about, and if he would have heard it, he would have corrected it.⁷⁵⁰

531. When read two paragraphs from his 26 May statement, Bangura denied that either Kamara or anyone else called him on his mobile phone and told him he wanted to talk to Kargbo. He testified that what was said in his statement was an error, and that he never said it. Bangura stated it was Tamba Brima "who just called me to say Samuel Kargbo was coming to meet me. That's it."⁷⁵¹ When challenged that his prior statement states "as Samuel Kargbo was always with me then," Bangura first replied that he is "sometimes" with Kargbo, then that they are together but "not all of the time, there were many people he dealt with."⁷⁵²

⁷⁴⁸ Transcript 3 September 2012, pp. 2075-2078.

⁷⁴⁹ Transcript 3 September 2012, pp. 2080-2081.

⁷⁵⁰ Transcript 3 September 2012, p. 2082.

⁷⁵¹ Transcript 3 September 2012, pp. 2083, 2087-2088.

⁷⁵² Transcript 3 September 2012, pp. 2083-2086.

532. When asked if the first time the three prisoners in Rwanda called him was when he was called to ask if he knew the lawyer Mansaray, he stated that “[i]t was when we went to lawyer Mansaray that I knew exactly what the thing was. I never knew. They never told me.” Bangura confirmed that when he received the call directing him to Mansaray’s office, no one told him why he was going and he did not ask. “I just took him there.” He denied knowing that Kargbo was going to discuss with Mansaray the subject of TF1-334 recanting his testimony.⁷⁵³
533. Bangura denied that he asked what Kargbo meant, or say that he had not heard this before when Kargbo discussed the subject of TF1-334 recanting his testimony with Mansaray. Bangura also denied discussing it with Kargbo or TF1-334 after this, saying that the lawyer had explained things so he did not bother.⁷⁵⁴
534. When asked again whether Kargbo was his very close friend at that time, Bangura said he is a friend but he was “not dealing with Sammy Kargbo alone. I deal with a lot of them. He’s my friend.”⁷⁵⁵
535. Bangura replied that after this meeting he did not call Kamara or Tamba Brima in prison to ask them what this situation was about. Bangura denied ever speaking to any of the three Rwandan prisoners about TF1-334 recanting his testimony, and denied that they asked him to assist them by contacting and persuading TF1-334 to recant his testimony.⁷⁵⁶
536. Bangura denied that, during the meeting with Independent Counsel on 20 April 2011, he said that he met TF1-334 and asked him whether he would go to the Special Court and say he regretted his testimony. Bangura stated that if this had happened, “[w]ouldn’t 334 have testified to that here?”⁷⁵⁷ I note this was neither an agreement nor a denial.

⁷⁵³ Transcript 3 September 2012, pp. 2088-2091.

⁷⁵⁴ Transcript 3 September 2012, p. 2092.

⁷⁵⁵ Transcript 3 September 2012, p. 2093.

⁷⁵⁶ Transcript 3 September 2012, pp. 2094-2095.

⁷⁵⁷ Transcript 3 September 2012, p. 2096.

537. Bangura also denied that he told Independent Counsel in his meeting with him on 20 April 2011 that a) he asked TF1-334 if he would say he regretted his testimony “if we got together as a family and raised a small sum of money for him;”⁷⁵⁸ b) he went alone to see Mansaray and Kargbo decided to stay in the car, insisting that he went with Kargbo.⁷⁵⁹ c) he called and made an appointment with Mansaray before they went;⁷⁶⁰ d) he did not think Kargbo “completely knew” what he was going to talk about with Mansaray. Bangura replied “I told you that it was Sammy Ragga that spoke about it before I knew.”⁷⁶¹ e) he had explained to Mansaray that he had been sent because TF1-334 had met him and told him that he now regrets he testified against the three Rwandan prisoners⁷⁶² f) he told Mansaray that they wanted to put funds together, as a family, to give to TF1-334 so that he would help them by telling the Court that he regretted testifying against them.⁷⁶³ Bangura stated that he only told Independent Counsel that Mansaray had stated that if “those men” called, to tell them that they are to write an NGO. “That was the only money business that we talked about to the lawyer.”⁷⁶⁴

538. Bangura testified that he never said “all this” that Independent Counsel stated Bangura said in the 20 April 2001 meeting, and that if Counsel read the interview to him he would have made corrections, but Counsel did not read it to him.⁷⁶⁵

539. Bangura denied that he told Independent Counsel that after the meeting with Mansaray “the Rwandan convicts” called him and that he could talk to all three on speaker phone; he testified that he told Independent Counsel that only Tamba Brima called him after the meeting.⁷⁶⁶

540. When asked whether he could normally speak to all three prisoners at the same time, Bangura’s response did not answer the question precisely: He said that Bazy normally calls him, he asks to

⁷⁵⁸ Transcript 3 September 2012, p. 2097.

⁷⁵⁹ Transcript 3 September 2012, p. 2098.

⁷⁶⁰ Transcript 4 September 2012, pp. 2141-2142.

⁷⁶¹ Transcript 3 September 2012, p. 2099.

⁷⁶² Transcript 3 September 2012, pp. 2099-2100.

⁷⁶³ Transcript 3 September 2012, pp. 2099-2100.

⁷⁶⁴ Transcript 3 September 2012, pp. 2099-2100.

⁷⁶⁵ Transcript 4 September 2012, p. 2142.

⁷⁶⁶ Transcript 3 September 2012, pp. 2099-2101.

Speak to another person, he would call him, and they would talk. When asked again he said "Yes, they and I used to talk. I have told you that."⁷⁶⁷

541. Independent Counsel referred to the fifth paragraph of Bangura's statement of 26 May 2012, stating that Kargbo explained to Mansaray that TF1-334 has consented to recant, and so Kamara instructed him to seek Mansaray's legal advice on how to proceed. Bangura responded that he had said that Kargbo stated he called "Brima and Bazy. He named the two of them."⁷⁶⁸

I note that this was not put to Kargbo in these terms.

542. When asked whether the Rwandan prisoners called him on number +232-3-381-0173, Bangura responded that he could not remember but that they only used one number. Bangura could not remember whether Kargbo's number was 03-325-5597.⁷⁶⁹

543. It was put to Bangura that in his original statement he stated that Bazy directed him to Mansaray's office and gave him his address and phone number. Bangura denied this, stating that he never said that Bazy told him to go, but Tamba Brima did, and that Mansaray called him and so he went. He does not know how Mansaray got his number, "probably Tamba give it to him to call."⁷⁷⁰

544. Bangura did not explain what time or event he referred to in the statement when he said "after some time Bazy or Brima called" despite repeated questions. Bangura insisted that Mansaray called him and told him to come the same day and that there was no previous appointment.

545. I find that there was a communication from Bazy or Tamba Brima prior to the visit to Mansaray's office.

546. Bangura denied knowing in November and December 2010 that it was a crime to try and persuade a witness like TF1-334 to change his testimony, saying that it was when he went to

⁷⁶⁷ Transcript 3 September 2012, pp. 2101-2102.

⁷⁶⁸ Transcript 3 September 2012, pp. 2103-2105.

⁷⁶⁹ Transcript 3 September 2012, pp. 2107.

⁷⁷⁰ Transcript 3 September 2012, pp. 2111-2114.

Mansaray that he understood this. He also denied knowing that it was a crime to bribe a witness, i.e. give him money to change his testimony.⁷⁷¹

547. Bangura denied that, as Kargbo testified, he called Kargbo and asked to speak to TF1-334, and TF1-334 told him that he would think about what he was asked to do, Bangura said that Kargbo lied, and that he had TF1-334's number, and if he wanted to talk to him would have called him himself.⁷⁷² I note that the cross-examination of Kargbo on this evidence was to the effect that he was unable to hear Bangura, not that there was no call at all.

548. Bangura confirmed that he was a friend of Kargbo's and that they never had a quarrel.⁷⁷³

549. Bangura denied that, as Kargbo testified, Mansaray asked if he and Kargbo were the persons the Rwandan prisoners sent to ask TF1-334 to change his testimony and Kargbo said yes, because TF1-334 was his brother⁷⁷⁴ or that, as Kargbo testified, on the way to Mansaray's Bangura asked TF1-334 how much money he wanted the prisoners to offer him.⁷⁷⁵ These versions were not put to Kargbo.

550. When asked why, if Kargbo was a close friend and brother, he would falsely implicate him in the criminal scheme, Bangura answered that Kargbo had lied about him, and they never talked about that, but gave no reason why Kargbo should lie.⁷⁷⁶

551. Similarly, when asked why TF1-334, whom Bangura confirmed was a close friend, would falsely implicate him in this scheme, Bangura testified that TF1-334 had lied about him but gave no reason why Sesay should lie.⁷⁷⁷

552. Bangura denied TF1-334's evidence that he asked 334 if Kargbo had "told him," and TF1-334 said he had, and that Bangura had then asked him to cooperate with the Rwandan prisoners.⁷⁷⁸

⁷⁷¹ Transcript 4 September 2012, pp. 2124-2126.

⁷⁷² Transcript 4 September 2012, pp. 2126-2127.

⁷⁷³ Transcript 4 September 2012, pp. 2126-2127.

⁷⁷⁴ Transcript 4 September 2012, pp. 2127-2128.

⁷⁷⁵ Transcript 4 September 2012, pp. 2127-2128.

⁷⁷⁶ Transcript 4 September 2012, pp. 2129-2130.

⁷⁷⁷ Transcript 4 September 2012, p. 2135.

⁷⁷⁸ Transcript 4 September 2012, p. 2132.

553. Bangura affirmed that TF1-334 drove him and Kargbo to Mansaray's office.⁷⁷⁹
554. Bangura denied that he changed his statement because of Kamara's reaction to being confronted with it, or because Tamba Brima is not on trial.⁷⁸⁰
555. Bangura could not remember how often the Rwandan prisoners called him - they could call in a month or a week, and it would be many months before they called again.⁷⁸¹
556. Bangura testified that it had been a long time since he saw the Rwandan prisoners, he thinks that he last saw Kamara and Tamba Brima face to face in 2000, when they were all in prison.⁷⁸²
557. Bangura confirmed that he had no difficulty recognising Kanu, Kamara or Tamba Brima's voice when he spoke to them in Mpanga Prison.⁷⁸³
558. Bangura confirmed that he was in Pademba Road Prison with TF1-334 and others for approximately four years and that he went to church there. He confirmed that TF1-334 was a deputy pastor at the time. Bangura stated that he could not remember whether Kanu attended prayer meetings with him and TF1-334, because he and Kanu were in different blocks and church was not compulsory.⁷⁸⁴
559. Bangura confirmed that he spoke to Kanu in Pademba Road Prison, and said that it was there that they made peace, because before they had a conflict. He denied that Kanu had made peace with "his men," stating he only made peace with him (Bangura). Bangura cannot remember seeing TF1-334 and Kanu speaking in Pademba Road Prison, but he did not think they were on good terms.⁷⁸⁵
560. When Independent Counsel put that in the meeting they had 20 April 2011, Bangura said that Brima, Kamara and Kanu all used the number to call him, Bangura responded that he could

⁷⁷⁹ Transcript 4 September 2012, p. 2132.

⁷⁸⁰ Transcript 4 September 2012, p. 2132.

⁷⁸¹ Transcript 4 September 2012, p. 2136.

⁷⁸² Transcript 4 September 2012, pp. 2136-2137.

⁷⁸³ Transcript 4 September 2012, pp. 2139, 2141.

⁷⁸⁴ Transcript 4 September 2012, pp. 2141-2144.

⁷⁸⁵ Transcript 4 September 2012, p. 2144.

not remember that he told Counsel that “I ever called him.” He said that they called him. He denied telling Independent Counsel that he had called the mobile number in Rwanda and Tamba Brima answered and they spoke.⁷⁸⁶

561. Bangura denied that he told Independent Counsel in the same April 2011 meeting that some time in 2010 in Sweissy, TF1-334 told him that the Special Court did not do anything for him, that he was not happy with the evidence he gave. Bangura then denied that he told Independent Counsel that he called Tamba Brima to relay this information about TF1-334. Bangura stated that he only told Counsel that TF1-334 always talks about travel, and that TF1-334 wanted to go to France to his sister’s.⁷⁸⁷ I note that the record of the interview referred to in these series of questions was not tendered into evidence.

562. Bangura identified Prosecution Exhibit P14, the MTN call records call on 12 November at 7.07 pm for about 11 minutes and confirmed that the number on record is his phone number, but he cannot remember who called him, or what was said. He said that normally when they talk its just “greetings.”⁷⁸⁸

563. Independent Counsel asked Bangura who called him on 22 November at 1.25 am for about 2 minutes and Bangura testified he did not remember, but normally it was Tamba Brima or Bazy who would call him, and said it was just “greetings.”⁷⁸⁹

564. Bangura testified that he does not know this phone number ending in 395, which is Keh for Keh’s.⁷⁹⁰

565. Bangura stated that he does not remember who called him on 23 November 2010 “for 472 seconds,” (he did not indicate the time of day), saying that when he talks to “them” he only tells them he prays for them and to endure, etc.⁷⁹¹

⁷⁸⁶ Transcript 4 September 2012, pp. 2145-2147.

⁷⁸⁷ Transcript 4 September 2012, p. 2147.

⁷⁸⁸ Transcript 4 September 2010 p. 2148.

⁷⁸⁹ Transcript 4 September 2010 p. 2149.

⁷⁹⁰ Transcript 4 September 2010 p. 2150.

566. Bangura gave the same testimony about the next calls on 26 November 2010 at 3.05 pm; 1 December 2010 at 6.12 pm for eight minutes; and 7 December 2010 at 4.02 pm.⁷⁹²
567. When asked whether a phone number on the MTN call records is Kargbo's, Bangura says that he does not know and did not have Kargbo's number memorised, it was in his phone.⁷⁹³
568. Bangura denied that he and Kargbo and the Rwandan prisoners were engaged in a plan to have insider witnesses like TF1-334 recant their testimony for money.⁷⁹⁴
569. In cross-examination by Counsel for Kanu, Bangura confirmed that the interview notes from the Independent Counsel's meeting with him on 20 April 2010 were never read back to him, and he was never given a document to sign, and he was never given notes. Bangura reiterated that he was surprised when he came in to the Special Court, because he thought they were going to ask about the war.⁷⁹⁵
570. Bangura confirmed his testimony that he previously met Independent Counsel "some years before" "when we were released" on King Harman Road, saying that Counsel called him on his mobile phone and said he wanted to speak to him, and Bangura told him that he would like to meet at King Harman Road, so they scheduled a time, met and spoke. He had never spoken to Independent Counsel before this. Independent Counsel told him that TF1-334 had given him his number, but he never spoke about this to TF1-334. Counsel wanted Bangura to testify against the AFRC men, but because he and Five Five "have a problem," Bangura said that he could not testify because "they might use that against me."⁷⁹⁶ I note that following a Rule 33 request for information from the Registrar it was accepted that Independent Counsel was not in Sierra Leone in 2004.

⁷⁹¹ Transcript 4 September 2010 p. 2151.

⁷⁹² Transcript 4 September 2010 pp. 2151-2154.

⁷⁹³ Transcript 4 September 2010 pp. 2154-2155.

⁷⁹⁴ Transcript 4 September 2010 pp. 2155-2156.

⁷⁹⁵ Transcript 4 September 2010 p. 2157.

⁷⁹⁶ Transcript 4 September 2010 pp. 2157-2159.

571. Bangura confirmed that in 2004, he knew that the Prosecution was speaking to TF1-334 as a potential witness for the Prosecution and gave details of this.
572. He first became aware of this when they were in prison, when “they” would take him out and return “them,” and “they” told us that they were coming to testify. When asked whether people like TF1-334 returned with food or other things after they had spoken to the Prosecution, Bangura confirmed that he used to see “them” bring in parcels including food, chicken, and other things.⁷⁹⁷ I note that “they” and “them” were not identified and I do not consider this evidence relevant to this trial.
573. Bangura testified that between his meeting with Mr. Herbst on 20 April 2011 to the present, no one has approached him from the Prosecution about his case, and no one asked him to plead guilty.⁷⁹⁸
574. Finally, on re-examination by his Counsel, Bangura confirmed that he told Mr. Herbst in the 20 April 2011 meeting that it was Tamba Brima who instructed him to go to Mansaray.⁷⁹⁹
575. Bangura affirmed that he spoke frequently to Kargbo during November and December 2010, but he also spoke frequently to him before this.⁸⁰⁰
576. Bangura confirmed that he never persuaded any witness to change his Special Court testimony.⁸⁰¹

Ahmed Keh Kamara – Keh For Keh

577. Keh For Keh was called as a witness by Brima Bazy Kamara. In his evidence-in-chief he gave his name as Ahmed Keh Kamara, alias Keh For Keh, and testified that he lives at Fourah Bay Road, in Freetown and is a taxi driver.⁸⁰² The Court asked him whether he came into Court to listen

⁷⁹⁷ Transcript 4 September 2010 pp. 2169-2171.

⁷⁹⁸ Transcript 4 September 2010 p. 2171.

⁷⁹⁹ Transcript 4 September 2010 p. 2173.

⁸⁰⁰ Transcript 4 September 2010 p. 2173.

⁸⁰¹ Transcript 4 September 2010 p. 2174.

⁸⁰² Transcript 4 September 2010 p. 2178.

to any of the earlier witnesses, to which he responded that he came to the first appearance, but had not come after this date.⁸⁰³ His evidence proceeded thereafter.

578. Keh testified that he joined the Sierra Leone Army in 1988, he was taken from Wilberforce and trained in Daru, and then returned to Wilberforce.⁸⁰⁴ Keh knows Bangura very well, and has known him since the NPRC days, when Bangura and Keh were both bodyguards to Julius Maada Bio, the Vice President.⁸⁰⁵ Keh also knows Kargbo well, testifying that in 1992, Kargbo was a military personnel, attached to Colonel Mamadi Keita and then later sent to Tongo.⁸⁰⁶

579. Keh for Keh knew Kanu as a comrade in the army, but he does not remember the commander to whom he was attached.⁸⁰⁷ Keh testified that he knows Kamara very well, as he was attached first to AJB "Pa" Gooding at Cockerill headquarters. Kamara is also his in-law, and Keh has a daughter, Hamida Keh Kamara, by his sister Habiatu Kamara.⁸⁰⁸

580. Keh testified that Kamara was the public liaison officer 3 in the AFRC government. During the Freetown invasion of 6 January 1999, Keh was with general SAJ Musa, and when SAJ Musa died he was led by "FAT," Alex Tamba Brima (Gullit) and other commanders. They withdrew to the West Side.⁸⁰⁹ As a result of the Lome Peace Agreement, he became a battalion commander and came to Freetown with "Honourable" Bio Gbao, Five Five (Kanu), Colonel Sakido and some UN.⁸¹⁰

581. Keh was arrested and sent to Pademba Road Prison after peace was restored, in 2002. He met Bangura, Kargbo, Kanu and Tamba Brima there. He was there for five years and eight months

⁸⁰³ Transcript 4 September 2010 p. 2179.

⁸⁰⁴ Transcript 4 September 2010 p. 2180.

⁸⁰⁵ Transcript 4 September 2010 pp. 2080-2182.

⁸⁰⁶ Transcript 4 September 2010 pp. 2182-2183.

⁸⁰⁷ Transcript 4 September 2010 p. 2183.

⁸⁰⁸ Transcript 4 September 2010 pp. 2184-2185.

⁸⁰⁹ Transcript 4 September 2010 pp. 2185-2191.

⁸¹⁰ Transcript 4 September 2010 p. 2194.

without a conviction, and then was set free.⁸¹¹ Keh confirmed that he gave evidence for Kamara in the AFRC trial.⁸¹²

582. In 2009, after the Accused were sent to Mpanga Prison, Keh was living with Kamara's family at his house with Kamara's younger sister, Habibatu Kamara.⁸¹³ While living there, he started calling Kamara through the "prison office," and talked about family issues. Kamara would also call Keh, and Keh would encourage him and urge him to be patient and to do God's bidding.⁸¹⁴ In October 2010 Keh had problems with Kamara's sister and mother, and he spoke with Kamara on these issues. Kamara's mother would call Kamara and report to him that Keh was causing a disturbance in their compound.⁸¹⁵

583. On 30 November 2010 around mid-day, Keh was at Sweissy, with "Eddie," Kargbo, Sakido, Churchill, Manga, V-Boy, and other men. Sweissy is a place of business, and every evening ex-soldiers meet there and discuss.⁸¹⁶ That day Keh met his colleagues, ex-soldiers, there and "discussed." He then called Bazy (Kamara) and Kamara picked up the phone. During this discussion, the phone was "crackling." Keh told Kamara that "all our men" were there - including Eddie, Manga, Kargbo, and Churchill. Then Kargbo asked whom Keh was talking to, and Keh said he was talking to Kamara. Kargbo said "Eh, bo" and said that since he had been in prison, he has not communicated with Kamara.⁸¹⁷

584. Keh told Kamara that his phone was crackling, and "[t]hen Samuel Kargbo, then he called. When he called, Bazy did not know that that was his number. Then Bazy called. Then he talked to us. We offered words of courage to him. He spoke to call of us. Then we asked for the other brothers."⁸¹⁸

⁸¹¹ Transcript 4 September 2012, pp. 2197-2198.

⁸¹² Transcript 4 September 2012, pp. 2198.

⁸¹³ Transcript 4 September 2012, pp. 2199-2200. Kamara's sister's name is also spelled Habiatu.

⁸¹⁴ Transcript 4 September 2012, pp. 2200-2201.

⁸¹⁵ Transcript 4 September 2012, pp. 2201-2202.

⁸¹⁶ Transcript 4 September 2012, pp. 2202-2203, 2205, 2207.

⁸¹⁷ Transcript 4 September 2012, pp. 2204-2205.

⁸¹⁸ Transcript 4 September 2012, pp. 2207-2208.

585. Keh testified that “Then Bazy called.” It is not clear, because of a breakdown in the video link, whether Keh was referring to a second call from Kamara or is repeating testimony concerning the previous call. When Kamara called, Keh testified, “we picked up the phone” and offered encouragement. Kargbo was talking, he was offering encouragement, and “we all started encouraging him.” Then “we” said we wanted to talk to our other brothers, Five Five and Tamba Brima. His (i.e. Kamara’s) credit finished. Bazy called again.⁸¹⁹
586. At that time, Tamba Brima was there and he picked up the phone, and the men talked to him for some time. They asked for Five Five, but Tamba Brima said he was out in the field, so they were unable to talk to him. They spoke to Tamba Brima until the credit finished.⁸²⁰
587. During this phone call, Keh testified, Kamara spoke to Keh’s “men” and said that they should tell Keh that Kamara’s mother made a complaint to him. His men said to him that now that Kamara was not present, he should replace him. Be patient, and if his sister or mother does anything, he should “bear it.” Keh agreed and said that Kamara was “his man” and his brother in law.⁸²¹
588. Later that day, Keh received a call from Kamara, who tried to advise him to that he should be patient towards the family, for his sake. He said that his mother was old and would become stubborn, but he should bear it.⁸²² Following this, there was a long line of questions concerning the location of Keh’s house, which Counsel submitted was asked because Kargbo gave evidence on the location of this house.⁸²³
589. Keh testified that he was not on the list of approved phone numbers at the prison, and he could not make a call to the prisoners like he used to. “It’s been a long time.”⁸²⁴

⁸¹⁹ Transcript 4 September 2012, pp. 2207-2209.

⁸²⁰ Transcript 4 September 2012, p. 2209.

⁸²¹ Transcript 5 September 2012, p. 2210.

⁸²² Transcript 4 September 2012, pp. 2210-2211.

⁸²³ Transcript 4 September 2012, pp. 2212-2215.

⁸²⁴ Transcript 4 September 2012, p. 2215.

590. The witness was cross-examined by Independent Counsel, and confirmed that he gave evidence at the AFRC trial, that at that time he had a relationship with Kamara's sister, and conceded that he denied, on the record, that he had this relationship.⁸²⁵
591. Keh left the army when he was released from prison in 2005, and after this he was a petty trader. He got his taxi in 2006 "after the election."⁸²⁶
592. Keh for Keh gave lengthy evidence concerning on the charge that led to his arrest in 2002 and his suffering in prison. He testified that he was charged because he was a fighter for the SLA.⁸²⁷
593. Keh started having problems with Kamara's sister and mother around December 2010. His taxi was giving him problems, so he started spending money on it. He asked Kamara's sister for money, but she refused, and so he quarrelled with her and hit her in the face. The mother told him to leave so that he would not "kill my child," and in December 2010, he left for six months. After four to six months he started returning to visit his child. Kamara is still his "brother," because of the army and his sister having his child. Keh had testified for him, because "I know what the game is." He now lives in Aberdeen.⁸²⁸
594. Keh testified that the final day that he left Kamara's sister's house was in December 2010, and when asked when the problems started before this, he answered that "a problem between a man and a woman never ends."⁸²⁹ The disturbance that he testified to in the compound was just jealousy and violence between him and Kamara's sister.⁸³⁰
595. Keh For Keh's phone number at that time was 07-694-2355. He did not recognise the number of +232-7-633-7395, and said he did not know it.⁸³¹ It was put to Keh For Keh that there was

⁸²⁵ Transcript 4 September 2012, p. 2216.

⁸²⁶ Transcript 4 September 2012, pp. 2216-2217.

⁸²⁷ Transcript 4 September 2012, pp. 2218-2219.

⁸²⁸ Transcript 4 September 2012, pp. 2222-2224.

⁸²⁹ Transcript 4 September 2012, pp. 2224-2225.

⁸³⁰ Transcript 4 September 2012, pp. 2224-2225.

⁸³¹ Transcript 4 September 2012, pp. 2226-2228, 2231.

evidence from witnesses in Rwanda that they called him on +232-7-633-7395. He replied that it was not his number, and that he had no idea about it.

596. Keh testified that after 30 November he did not call the prisoners, and they did not call him.

He has lost his phone and does not have a phone.⁸³²

597. When asked on what day, before 30 November, he called the prisoners or they called him, he gave a confused answer. When asked whether he called on 29 November, Keh said that he could not remember specific dates. The witness had to be instructed to stop looking in the corner of the court room when answering.⁸³³

598. Keh For Keh testified that he could remember the conversation with Kamara on the specific date of 30 November because he was involved in a bike accident that day with a person named “something Hassan on the Beach Road,” but he could not remember the person’s surname because it had been a long time.⁸³⁴

599. Independent Counsel put that Keh was called by Kamara on 19 November 2010. Keh responded that they used to talk, but he does not remember the date, and that he was in the city, in Freetown.⁸³⁵ He was in Sweissy with some soldiers and civilians, including Manga, V-Boy, Churchhill, Kargbo and some other men. He confirmed that they all got on the phone, and that the line was “crackling,” and that Kargbo had to call back on another line. Kamara did not know it was Kargbo. Then Kamara called, and the discussion was still going. They were giving him encouragement.⁸³⁶ I note that this is the same evidence he gave about the 30 November 2010 call.

⁸³² Transcript 4 September 2012, p. 2229.

⁸³³ Transcript 4 September 2012, pp. 2229-2230.

⁸³⁴ Transcript 4 September 2012, pp. 2231-2232.

⁸³⁵ Transcript 4 September 2012, p. 2233.

⁸³⁶ Transcript 4 September 2012, pp. 2232-2235.

600. Independent Counsel asked if Kamara called Keh on 22 November 2010, and Keh responded that he could not remember the date, but that Kamara would call. Keh cannot remember how many times in November Kamara called.⁸³⁷
601. Keh denied that one of the things he spoke about to Kamara was contacting witnesses to get them to change their testimony. Keh stated that he could not involve himself in talking to a Prosecution witness, because he was a Defence witness in the AFRC trial. He “would spend time in gaol more than the man who is in gaol because I know what I’m doing because I testified here.”⁸³⁸
602. Keh For Keh identified page 25 of the MTN call records and the call on 19 November 2010 at 4.01 pm to +232-7-633-7395. Keh denied a second time that this was his phone number at the time.⁸³⁹ I note that this is a contradiction of Kamara’s evidence.
603. Keh confirmed that he is familiar with Wilberforce Barracks, he was not born there but he has “a woman” there at Lumley Road. He denied that between 2009 and 2011 he was in Wilberforce Barracks, saying he was in “the village” because he is a taxi driver. After work he normally goes to Bottom Mango.⁸⁴⁰
604. When asked whether he knows Idriss Kamara (Leather Boot), Keh answered that he only “hear(s) about Leather Boot.” He then said that he was his “comrade in the army.”
605. When asked whether he knows the “Dinking Bar” in Wilberforce Barracks owned by Leather Boot’s sister, he said yes, he knows “Dinking Bar.” When he is tired, he parks his taxi there and takes one or two cold drinks and leaves.⁸⁴¹

⁸³⁷ Transcript 4 September 2012, pp. 2235-2236.

⁸³⁸ Transcript 4 September 2012, pp. 2236-2237.

⁸³⁹ Transcript 5 September 2012, p. 2282.

⁸⁴⁰ Transcript 5 September 2012, pp. 2283-2284.

⁸⁴¹ Transcript 5 September 2012, pp. 2284-2285.

606. Keh denied that he was in this bar with Bangura and Leather Boot when the idea came up to talk to Prosecution Witnesses to recant their testimony.⁸⁴² I note that since Keh for Keh was not in the bar, no inferences can be drawn or findings made about the conversations therein.
607. In cross-examination by Counsel for Bangura Keh For Keh agreed that he did not see Bangura at the bar at Wilberforce when he stops there. Bangura did not discuss getting TF1-334 to recant his testimony with Keh for Keh.
608. In cross-examination by Counsel for Kanu, Keh For Keh agreed that Kanu did not call him, but Kamara sometimes had Kanu speak to him during his calls. They did not discuss any witness recanting evidence. He did not have regular contact with other prisoners while in Pademba Road Prison. He confirmed that he had one mobile phone number ending in 355 in November or December 2010, and he did not use any other person's phone to call Kamara. He only spoke "to the men in Rwanda" once, on 30 November 2010.

DELIBERATIONS

609. I will deal first with the following matters put forward by two Accused in their defence. Two Accused, Bangura and Kanu, put forward reasons which, in their respective views, were the real reasons for these allegations and subsequent trial. Bangura alleged that he was interviewed in August 2004 following his release from Pademba Road Prison by the Independent Counsel for the Prosecution with a view to his giving evidence for the Prosecution in the AFRC trial.⁸⁴³ He now acknowledges, and the Court fully accepts, that the interviewer was not the Independent Counsel Mr. Herbst as he initially alleged. I note also that, when I asked if he recognised me from a prison visit while he was in Pademba Road in 2004 he did not.⁸⁴⁴ I accept that his identification of Mr. Herbst was an honest but mistaken belief after a lapse of eight years.⁸⁴⁵ He

⁸⁴² Transcript 5 September 2012, p. 2285.

⁸⁴³ Transcript 3 September 2012, pp. 2059-2060.

⁸⁴⁴ Transcript 3 September 2012, p. 2010.

⁸⁴⁵ Transcript 6 September 2012, p. 2367.

persists, however, in stating that his refusal to give evidence for the Prosecution is the basis of the present proceedings.⁸⁴⁶

610. Given the lapse of time, the fact that in 2004 no one could foretell where the Accused in the AFRC trial would be in 2010, and the indications during this trial that other persons were also interviewed as prospective witnesses for the AFRC trial, I find it totally without foundation that after eight years the OTP would maliciously set up a complicated scheme of retribution. I find there is no basis to substantiate this claim and Bangura's persistence in maintaining it detracts from his credibility.

611. Kanu's repeated several times with vehemence his claim that the entries in the prison log book (Exhibit P15), which in Kamara's evidence were referred to as "written over" or "gone over" and in Kanu's evidence "bolded over," were a manipulation by the combined work of the Independent Counsel and Witness Sengabo.⁸⁴⁷ Kanu's Counsel has submitted that the Court should not put weight on this and that Kanu was in effect saying "It was done by somebody, it was not done by me."⁸⁴⁸ However, Kanu repeated this in the course of his evidence and added to it by noting that he had seen Sengabo and the Independent Counsel "going up and down" and remaining together, apparently, in the court room.⁸⁴⁹

612. This evidence was not put to Sengabo, and given that Defence Counsel had met with Sengabo and seen the prison phone call records but Independent Counsel did not see Sengabo until a later date, and that Kanu's premise is based on allegedly seeing Sengabo with the Independent Counsel, I find this evidence of a conspiracy to manipulate evidence to incriminate Kanu totally without foundation, and it seriously detracts from his credibility.

613. Kanu also stated that Witness TF1-334/Sesay and he had a major confrontation in 2000, during which TF1-334 made insulting, vicious and wounding remarks about Kanu's mother. He

⁸⁴⁶ See Transcript 6 September 2012, p. 2422.

⁸⁴⁷ Transcript 30 August 2012, pp. 1769-1770.

⁸⁴⁸ Transcript 6 September 2012, p. 2442.

⁸⁴⁹ Transcript 1 September 2010, pp. 1942-1944.

says that as a result, there have been no communications between them since, and implies animosity between them.⁸⁵⁰ This was not put to TF1-334/Sesay in the course of cross-examination, and therefore 334's views and reply are not on record. Likewise, this incident was not put to Bangura who, according to Kanu, was TF1-334's superior at the time. It is not apparent from the evidence or the submissions how an insult levied at Kanu by TF1-334 would motivate TF1-334 to make false allegations against Kanu some ten years later. If there was a motive of revenge I think it would normally emanate from the injured party. Further, given the lapse of time, the distance between the parties, and their lack of communication since, at least 2004 following their release from Pademba Road Prison, I find Kanu's allegation and defence without merit and draw no implications or findings from it.

Use and Procedure for Kamara and Kanu to Make Phone Calls from Mpanga Prison

614. The witness Hillary Sengabo gave evidence of a change in the system permitting prisoners to make telephone calls from the prison in 2011 following an investigation. Independent Counsel has sought to refer to evidence of a telephone charger and telephone air time being found during that search. The search took place long after the Indictment period and did not arise because of the allegations in the Indictment. I consider that the search is unconnected with this Indictment and that evidence concerning the system for making telephone calls introduced in 2011, as well as evidence concerning the search and its subsequent report in 2011, have no relevance to this case. I will rely solely on the evidence relating to the telephone regime that existed during the period of November and December 2010.
615. Sengabo stated that when the prisoners arrived at Mpanga Prison in 2009 they brought an incomplete list of persons they were permitted to telephone. He said there was no system in place whereby the prisoners could call their families.⁸⁵¹ The list of people that prisoners could call was updated in early 2010 and is shown in Exhibit P13. Sengabo confirmed that prisoners

⁸⁵⁰ Transcript 28 August 2012, pp. 1547-1549, 1570.

⁸⁵¹ Transcript 2 July 2012, p. 985.

were not allowed to call anyone who was not on the approved list and were not allowed to call persons on the list using different phone numbers from those approved. Sengabo agreed that there was no phone number approved for some of the names on Kanu's list, and I note that several of the numbers shown on the MTN call record, Exhibit P14, are not on the approved list, and these include the telephone numbers of Kargbo and Bangura. It is not clear if the number for Keh For Keh was approved, for it is not on the current call list, Exhibit P13. Sengabo stated that either the prisoner or the staff member on duty filled in the prison call log (Exhibit P15), then testified that it was the caller who filled in the called number. He agreed with Counsel for Kanu that officers sometimes requested the prisoners to fill out the log because they were not used to Sierra Leonean names, and that staff members wrote the phone numbers called by the prisoners. He did note that staff members were instructed to check the phone and write the number called, but because the phone is moved it can be dialled and the number changed at any time. He testified that there was a speaker on the mobile phone.

616. Kamara and Kanu also gave evidence concerning the procedure for making phone calls at the time relevant to the Indictment. In examination-in-chief, Kanu acknowledged that he had a list of phone numbers that had been sent to the authorities in Rwanda when he was transferred and had added handwritten numbers on that document subsequently. In cross-examination Kanu gave some confused evidence on the method for making phone calls. He said he could not remember everyone that he called, and that he has family, girlfriends, and a lot of men whom he calls. Some calls he did identify.⁸⁵² He stated that at the time relevant to the Indictment there were no restrictions on who they could call; they could call one number and ask the person called for another person's phone number and then call that person.⁸⁵³

617. Kamara stated that when the prisoners arrived at the prison, Sengabo was the liaison who would "conduct the calls." Prisoners would request a guard to make a call, the prisoner would sit at the

⁸⁵² Transcript 30 August 2012, p. 1741.

⁸⁵³ Transcript 30 August 2012, p. 1766.

table with the guard, give the guard the number they wanted to call, and the guard dialled the number. The guard retained the phone until it was answered and then handed the phone to the prisoner. It was the guard who made the entry in the phone log and Issa Sesay would “always sit” and listen to their conversations in Krio and interpret them for the guards if required. I note that this latter piece of evidence on the presence of Sesay was not put to Sengabo and was not mentioned by Kanu. Kanu too said that the procedure changed in 2011 and if the guard dialled a number that was not approved it did not go through. The prisoners gave the administration a list of their relatives. Kamara acknowledged that he called Andrew Daniels and Keh For Keh, although there is no indication that these names or numbers were approved. Kamara conceded that he started speaking to Bangura and that is certainly borne out in both Exhibits P14 and P15.

618. I find from the evidence, particularly the evidence of the Defence, that there was no restriction on whom prisoners could call in the time relevant to the Indictment, that they could call one number and ask to speak to people other than those on the approved list, and that they could call other numbers. I find as a fact that there was a speaker on the mobile phone provided to the prisoners.

619. Notwithstanding Kanu’s vehement answers in cross-examination that he only signed for calls and did not fill in his name or other details I find that, as put by counsel for Kanu to Sengabo, on some occasions the prisoners filled out the log themselves.

Relationships among the Accused and with TF1-334/Sesay

620. Each of the Accused gave evidence of his relationship with the other Accused. Kanu and Kamara in particular stressed that they had no dealings with Kargbo. Kanu emphatically denied any contact or relationship with TF1-334, Sesay. Kanu emphasises that he never knew Kargbo in his life, never spoke to him and saw him for the first time at this trial. He knew his co-Accused Kamara, who was like a relative. Kanu knew Bangura, who was a colleague in the army, saying

“he is my brother,” and was an “honourable” during the AFRC regime. Honourable was, however, not defined by the witnesses. Kanu also knew TF1-334 through TF1-334’s relationship with Bangura, as TF1-334 was a security of Bangura, he was Bangura’s “boy.”⁸⁵⁴ Kamara also knew Bangura: although they were not born and raised in the same part of Wilberforce, they joined the army in the same year and trained together. Kamara knew TF1-334 as a soldier although they did not train at the same time. Both Kamara and Kanu stated that Kargbo was not known to them and was not of the same rank they were. Kamara spoke of Kargbo as “not on the same level,” and this rank did not permit them to be friends. Notwithstanding this, I note that in cross-examination that Counsel for Kamara asked Kargbo whether he regarded Kamara as an elder brother and if he known Kamara since he joined the army in 1991 and Kargbo agreed to both of these propositions. Kamara also stated that he knew Kargbo at Pademba Road Prison but had no communication with him thereafter. This appears to conflict with his own evidence.

621. Each of the Accused knew Bangura, as he was in the army with Kanu and Kamara and a senior person at the West Side and in the AFRC. Kargbo described Bangura as a “friend and brother.”⁸⁵⁵ TF1-334/Sesay testified that he had known Bangura for a long time, he was Bangura’s military transport officer and Bangura was his boss. TF1-334 was Bangura’s aide-de-camp at the West Side. In cross-examination by Bangura, TF1-334/Sesay replied that Bomb Blast was everything to me, “a boss, a friend, a brother,” called him regularly, and spoke like a brother.

622. I am satisfied on the evidence that these relationships and hierarchies which existed among the four Accused and Sesay were known among all five of them. I am satisfied on the evidence that there was a hierarchy or a perceived hierarchy and friendships among the Accused and between some of them and Sesay. Kamara’s evidence is contradictory about his relationship with Kargbo,

⁸⁵⁴ Transcript 30 August 2012, p. 1840.

⁸⁵⁵ Transcript 21 June 2012, pp. 123-124.

but it is clear that Bangura was senior to both Kargbo and TF1-334, Bangura's was TF1-334's boss, Sesay was Bangura's "boy" and Sesay saw Bomb Blast both as a boss and a brother. I find that Bangura was superior to Sesay and therefore had influence on him. I also find that Kargbo and Sesay (TF1-334) were friends and that Kargbo could use that friendship to attempt to influence Sesay. I find that Kanu and Kamara knew of Bangura's superior position from their years in the army together and their contact during the AFRC period when all three were "honourables" and that Kanu in particular was aware of the relationship between Bangura and Sesay.

623. Kargbo acknowledged that Bangura was a friend and brother and that they did not have any quarrel together. Kanu also acknowledged that Kargbo was a friend of TF1-334. TF1-334/Sesay was to subsequently acknowledge this in his evidence and conceded in cross-examination that when Kargbo was in need he gave him accommodation.

624. A chronological consideration of the evidence in this trial shows that the Registrar of the Special Court visited all eight of the prisoners at Mpanga Prison in late 2010. According to Kanu, she came before November 2010 and each of the prisoners received a letter from her on 4 November 2010. Despite Kanu's emphatic denials, it is apparent from his own exhibit that the issue of review under the provisions of Rule 120-122 were discussed. Kanu insisted that he did not receive copies of the Rules as indicated in this exhibit. These were subsequently admitted following an order for disclosure to the Registrar. I note that discussions on the terms and implementation of the Rules of the Special Court are legal and, on the evidence before me, do not imply any criminal activity.

625. The lawyer Andrew Daniels testified that in late 2010, he received a phone call from the Accused Kamara whom he had previously represented in the AFRC trial. Kamara informed him that "they" were contemplating filing a petition before the Special Court for a review of their

sentence or conviction.⁸⁵⁶ Kamara and Tamba Brima told Daniels that they had information that some witnesses who had previously given testimony in the trial were prepared to change their evidence. Daniels did not recall any witnesses being named by Kamara, although he “got the impression” that they were insider witnesses, and he acknowledges that the most important witness in his view was TF1-334/Sesay.

626. Again, I repeat that as I stated previously in an earlier decision⁸⁵⁷ and above, discussions of the terms of the Rules of the Special Court and their implementation are not criminal and this evidence does not imply or prove any criminal activity or *mens rea* on the part of Kamara or Kanu. It does, however, clearly indicate that in late 2010 review of conviction or sentence and the provisions of Rules 120-122 were in the minds of both Accused.

627. The Prosecution adduced evidence of the MTN call records of telephone calls from the mobile phone used by the prisoners at Mpanga Prison, and the prison telephone log record of the calls made by the prisoners before, during and after the temporal period of the Indictment. Counsel for Kanu has noted that he was not served with the MTN call records, but instead they were given to the Office of the Principal Defender. I note that they were served through the Office of the Principal Defender at an unspecified date and therefore I cannot determine whether they were so served before or after Counsel’s appointment to represent Kanu. In any event, they were served on the Principal Defender, an officer who is obliged to represent the interests of accused and suspect persons before the Court, and have been admitted into evidence in this trial. If exception was to be taken to them, Counsel could have applied for and, in accordance with the procedures and precedents of this Court, been given time to consider them.

628. That record shows an increase in calls to the numbers identified by the Accused as those of Bangura and Keh For Keh in early, mid and late November 2010. As Independent Counsel has

⁸⁵⁶ Transcript 25 June 2012, pp. 393-394.

⁸⁵⁷ SCSL-11-02-T-58 (“Decision on Prosecutor’s Additional Statement of Anticipated Trial Issues and Request for Subpoena in Relation to the Principal Defender.”)

said in submissions, there is no recording of what was said during those calls, we have no minutes of what was said during those calls, and all that the record shows is that the calls were made, and in relation to Bangura and Keh For Keh, were made more frequently than previously. Each of the Accused has given evidence as to what the content of these calls were. The highest that any trier for fact can say on this Prosecution evidence is that calls were made to Bangura, Keh For Keh, and a large number of relatives of Kanu. However, the Accused elected to give evidence on these calls.

629. Kanu insisted that it was Tamba Brima who was calling Bangura, and that Tamba Brima would tell Bangura not to forget his daughters, his “girl children.” Bangura made no mention of repeated phone calls concerning the welfare of Tamba Brima’s children, particularly his daughters, though he conceded that he spoke more frequently to Tamba Brima because he is “a brother” and stated that he never called the prisoners, they called him.⁸⁵⁸ He agreed that he received phone calls in November and December 2010 from both Tamba Brima and Kamara but not from Kanu although he inquired about Kanu and they would talk, again showing that the phone was passed between detainees during calls although it is not reflected in the prison log.⁸⁵⁹

630. Kamara states that he spoke to Keh For Keh frequently because of problems within their family and disputes between Kamara’s sister (who had a relationship and a child by Keh For Keh) and Kamara’s mother. Kamara as a chief and a senior family member was called upon during these disputes. Keh for Keh agreed that he received calls from Kamara, then denied that the number Kamara (and Kanu) repeatedly said was used to call him was his. Keh For Keh in his evidence gave details of the relationship and the causes of the dispute. He gives detailed evidence about one call in particular which he initially identified as occurring on 19 November 2010 in cross-

⁸⁵⁸ Transcript 3 September 2010, pp. 2120-2122.

⁸⁵⁹ Transcript 3 September 2010, pp. 2120-2122.

examination but subsequently changed to the 30 November. I will return to this call in due course.

631. Samuel Kargbo, also known as Ragga, an Accused, pleaded guilty and agreed to give evidence for the Prosecution. I note that Kargbo was a quiet and reserved witness, careful in his answers. He did not exaggerate, and made it clear when he did not recall detail. He testified that in late November or December he received a call from Kamara. Kargbo asked why he was calling and Kamara said he was expecting Kargbo and others to assist them. Kamara stated that he would like TF1-334/Sesay to recant his statement because of advice that if this occurred they could reduce their sentences or be set free. Kargbo called TF1-334/Sesay and arranged to meet him. Kargbo told TF1-334 that both Kamara and Kanu called him asking him to talk to TF1-334 because the promises of the Special Court to TF1-334/Sesay had not been fulfilled and they wanted to raise funds so that he could recant his statement. TF1-334 asked if Kargbo knew what he was saying. Kargbo replied and among other things referred to "Papa," Bangura, to whom TF1-334/Sesay agreed to talk. TF1-334 did speak to Bangura. Kargbo noted that TF1-334's face changed, and he would not talk to Kargbo any longer.
632. Sesay's version of these events is that he received a call from Kargbo, asking him where he was, and telling him that he had something very important to discuss but could not talk about on the phone. Kargbo called him the next day when he was preparing to travel to Newton. Kargbo met up with Sesay and they travelled to Newton and en route Kargbo told Sesay that he did not tell him "something" over the phone because he has a hot temper. I pause to note here that Sesay was an excitable and occasionally touchy witness in testifying. He was very of conscious and frequently referred to his fears for his own safety. He saw challenges in questions put by Counsel on some unrelated matters as directed towards him personally. However, his temperament did not convey attempts to cover up, exaggerate or fabricate evidence.

633. Kargbo told Sesay that “those men” in prison in Rwanda had called him and told him to talk to Sesay because Kargbo and Sesay had a very good relationship. Sesay refused to listen, and Kargbo persisted telling him of the advice received by “those men,” they wanted his help because the only way they could be released from prison was to get key witnesses to change their testimony. Once they were driving, Kargbo’s phone rang and it was Bomb Blast, Bangura, asking to speak to TF1-334. Bangura asked if he had been told “exactly.” From the evidence I find “exactly” was to ask TF1-334 to cooperate and to change his testimony and that because “money would be poured into the issue,” there was financial support.
634. and asking him to cooperate. TF1-334/Sesay described Kargbo persisting and stressing that they would financially benefit. When Sesay asked who those men were, he was told “Bazzy” and “Five Five.”
635. Neither Kargbo nor Sesay identified the date for this meeting and phone call other than late November or early December (Kargbo) or November 2010 (Sesay). Joseph Saffa, an Investigator at the OTP of the Special Court took a statement from TF1-334/Sesay which also described the meeting between Kargbo and Sesay following a phone call from Kargbo. Based on Sesay’s instructions, Saffa recorded a statement noting that the meeting was on Friday 26 November 2010. I note that the actual meeting between Saffa and TF1-334/Sesay occurred on 3 December 2010 and followed from a phone call between Saffa and Sesay on 1 December 2010 following what Saffa noted as “another call from Ragga.” Sesay was to be cross-examined on these dates.
636. Kargbo stated that he called TF1-334/Sesay a second time when TF1-334 was at Souralla Hospital going to PWD Junction and Kargbo met Sesay and travelled with him there. Again, Kargbo does not specify the date on which this occurred. On that occasion, when they got to PWD Junction Kamara called on Kargbo’s phone and asked Kargbo if he had spoken to TF1-334, and Kargbo informed Kamara that he was with TF1-334. Kamara asked to speak to TF1-334 but TF1-334/Sesay refused to do so. Sesay’s version of this incident was that sometime after

the first meeting with Kargbo,⁸⁶⁰ Kargbo called Sesay again and asked where he was, Sesay told him he was going to PWD Junction, and Kargbo said he was by Souralla, so Sesay picked him up. As they were driving, Kargbo again told him that “those men were desperate” he put other pressure upon him and said that “those men” were “ready to pour money into this thing.” Kargbo received a phone call on his mobile phone and said Kamara was calling for Sesay but did not hear what was said. Kargbo asked Sesay several times to talk to Kamara but Sesay refused. Sesay described Kargbo as “begging,” saying that they were together and Bazy was going to call Five Five so they could both talk. TF1-334/Sesay said they were “pressurising him.” Kargbo then received another call and said it was Five Five and tried to convince Sesay to talk to “these men.”

637. Kargbo’s version is that Kamara called him and asked him if he had spoken to TF1-334/Sesay, Kargbo told him he was with TF1-334. Kamara asked to speak to TF1-334 but TF1-334 refused, he did not want contact with the men. Kargbo relayed this message and Kamara said he was going to “drop the phone,” so that Five Five and Gullit and he could call on the speaker phone and they could all talk to Sesay. Kamara then called again and begged, saying that he was going to pass the phone to Five Five and passed it to Gullit. Kargbo said to TF1-334/Sesay “I am begging you ... the men are harassing me too much ... talk to them ... I’ll be at peace.” TF1-334 continued to refuse. When asked again, he took the phone, went a distance and talked. Sesay testified it was Kanu. Kanu spoke to him saying “you are our brother,” and “we’ve gotten advice from some of our lawyers that the only way is if we can talk to some of you people who can at least cause us to be released or reduce our prison term” and that they were “still trying to work out our modalities” and “put things in place financially so that it can reach you.” He returned the phone to Kargbo. Kargbo “got back on the phone” and Kamara said they had spoken to “that man,” and they were going to raise money to send it. Kamara then asked Kargbo the

⁸⁶⁰ Transcript 25 June 2012, p. 448.

whereabouts of a protected witness TF1-033 whose name was disclosed in closed session. Kamara disclosed the name of the witness to Kargbo as one of the men who had prosecuted him in the Special Court, and told Kargbo that he wanted to talk to this man so that he could recant his statement. Kargbo gave the information to TF1-334 and they discussed this.

638. Saffa testified that on the 1 December 2010 he received emails and an instruction to call TF1-334. The emails copied to him showed that Shyamala Alagendra, a former OTP trial lawyer, had received a call and information from TF1-334/Sesay on 30 November 2010 alleging the receipt of calls from Kargbo and Kanu. That email was admitted into evidence as Prosecution Exhibit P4 and reads as follows:

11/30/2010 05:15 PM

Dear Brenda,

I received an "sms" and call from 334 this evening. He informs me that he was contacted by Sammy "Ragga" (who was recently released from prison, he was with the Westside). He went to 334's house and informed him that the AFRC accused persons have been advised by their lawyers that if the main insider witnesses were to change their statements they would get an early release from prison soon. The AFRC accused are requesting that 334 make a statement that his statement to OTP and his testimony to the court was a lie. He was told to say that he was released from the prison by OTP so that he would lie in order to convict them, that OTP had paid him money to provide his false testimony.

334 spoke to 55 today on Ragga's phone. 55 told him "we are brothers and we will soon be released and we expects [sic] you to help us with the release." 334 is expecting he will be contacted on this again.

The AFRC accused have promised to pay 334 large sums of money, and to do "what the special court were [sic] supposed to but did not do for him," which is to take care of his security and relocate him and his family. He says

Bomblast is aware of this, and maybe they have contacted him. He believes they may have also contacted Samuel Kargbo.

[...]

639. I note at this point that the email is hearsay but the electronically recorded date is 30 November 2010 and records a complaint received on the same day. Independently of this email, Saffa received a call from TF1-334/Sesay telling him of another call from Kargbo instructing him to meet in the Sweissy area of Freetown. I pause to note here that in their oral evidence neither Kargbo nor Sesay gave a specific date of this meeting and the calls from Rwanda. Saffa would later record a statement from TF1-334 in which he records details of a meeting between Kargbo and TF1-334, and phone calls being received from Rwanda on 29 November 2010. In his evidence-in-chief he did not explain where this date, 29 November, came from nor was he asked in cross-examination. He did confirm, and I do believe him that the statement was read to Sesay and Sesay agreed to the content of the statement before signing it; this accords with Sesay's own evidence.
640. As noted, both witnesses speak in similar, but not exactly the same, detail of a meeting and journey to PWD Junction, a call from Kamara, another call from Kamara and Kanu speaking to both Kargbo and Kanu speaking to TF1-334 and pressure being put upon TF1-334 as instructed by Kamara, by Kargbo, and by Kanu.
641. Prosecution Exhibits P14 and P15 both show phone calls made on 30 November 2010. The MTN call records show three calls made to Kargbo's phone. This accords with both Kargbo's and Sesay's evidence that a call was received from Kamara, he wanted to speak to TF1-334, the phone was "put down," another call was made to Kargbo's phone, there was some minutes of conversation and a further call was made. Exhibit P15, the prison call log, shows three calls made: two attributed to Kamara and one which Sengabo stated was signed by Kanu and which Kanu emphatically and vehemently denies he signed for.

642. The prison log entry for 30 November 2010 has been the subject of considerable dispute and evidence. In particular, it was stated by Kamara that the entry was “gone over” and by Kanu as been “bolded.” Kanu also denied that the signature recorded at one of the three entries was his. Sengabo identified the signature as Kanu’s, but conceded that it was different from another signature. that of 26 November 2010 of Kanu’s on the same record. As has been pointed out in evidence and submissions, this is the only signature that Kanu has denied as his in Exhibit P15. It was not put to Sengabo that this signature was a forgery but, as I have noted above, Kanu vehemently, emphatically and aggressively stated that not only was this not his signature and the entry was a manipulation by Sengabo and the Independent Counsel.
643. A considerable amount of submission and motions have been put before the Court to the effect that only expert evidence can show whether this signature is Kanu’s and that specific entries, in particular the third phone number, have been interfered with, changed or are different from an original entry. What is very clear from the Defence evidence is that both Kamara and Kanu testified, regardless of which terminology I adopt, that the entry had been interfered with. It does not require an expert to notice the difference in the figures between these and other entries in Exhibit P15, which both Kamara and Kanu insist were entered by a prison officer. The Defence evidence shows that they were interfered with, but I do not have find who, in Kamara’s terms, had “gone over them,” because the MTN call records, clearly show that the actual phone calls were made to Kargbo. As I have already noted from Kanu’s own evidence, there were no restrictions on who the prisoners could call, and they could call one number and then ask that person for another person’s phone number and call that person; in Kanu’s words “it was open.” Before considering the evidence of Kamara and Kanu, I will record that in accordance with Article 17 of the Statute, Kanu, Kamara and Bangura heard all trial evidence, including each other’s evidence. Sesay, however, did not hear Kargbo’s evidence because he was in hospital and Kargbo had completed his evidence before Sesay was able to testify.



644. As I have noted, Kamara elected to give sworn evidence. He was clear and concise in his evidence-in-chief. However, as his cross-examination continued, he prevaricated and contradicted himself on some matters, denying that he heard Andrew Daniels' evidence and denying that he spoke to Bangura. He argued on minor points such as details of his home in Wilberforce, and he brought in matters that were not put to Prosecution witnesses in a manner that detracted from the evidence he gave in chief. He distanced himself from Kargbo both during the war and at Pademba Road Prison in an unconvincing manner.
645. In relation to the phone calls of 30 November, he stated that Keh For Keh had called him and said that he (Keh For Keh) was at Sweissy with some "soldier friends," and wanted to talk to him and he asked Kamara to call him. Kamara, through the prison officer, called Keh For Keh. He was told that "your men" were there and wanted to talk to him, and that "his boys," like Eddie, were there. The phone was passed to Eddie (Pastor Eddie or Maf), then Manga, then Conteh, and then to "Ragga" (Kargbo). As they were speaking the phone was "breaking up," so Kargbo gave Kamara his number and Kamara called on Kargbo's phone. The other men wanted to talk to Kanu and "Alex" (Tamba Brima). Kamara switched off the phone to call Kanu and Tamba Brima, and then called back on Kargbo's number and Kargbo answered Kanu, before passing the phone to Eddie and V-boy. Tamba Brima came and spoke, and then the air time allocated to them finished. I note that this evidence of the presence of others was not put to Kargbo in cross-examination, nor was it put to Sesay that Eddie, V-Boy, Manga and others were present when he was with Kargbo and the calls were received from Kamara and Kanu on Kargbo's phone.
646. Kanu denied in his evidence-in-chief, that the signature in Exhibit P15, the prison call log, for 30 November was his, and denied knowing the phone number listed. When it was subsequently put to him in cross-examination that there were only two digits difference from the number recorded in Exhibit P15 and the number shown as phoned in Exhibit P14, Kanu became

aggressive and confrontational. He denied knowing Kargbo's phone number, denied making the call and denied his signature, stating that it was a manipulation by Independent Counsel and Sengabo to "give me problems." His explanation for this was that Independent Counsel gave money to Sengabo and that "money can do anything."

647. There were several objections by his Counsel to cross-examination questions as to whether the numbers had been "bolded over," but eventually Kanu stated that he did not know the number recorded, that it was a manipulation, and that he did not know Kargbo's phone's number, or Kargbo, who he saw "on screen" in Court. Hence, there is a conflict between Kamara and Kanu's evidence, where Kamara states he called Kanu to talk to Eddie, V-Boy and others. It was never put to Kamara that he was wrong in saying his co-Accused Kanu was called by him to speak to Eddie, V-Boy and others on Kargbo's phone. Counsel for Kanu challenged Sesay concerning the day and date of the PWD Junction incident as recorded in his statement - to which Sesay said that he gave the time he thought it happened⁸⁶¹ - and it was not put to him that Kanu never spoke or that the phone call never occurred.

648. When Kargbo was cross-examined by Counsel for Kanu concerning the PWD Junction incident, it was to the effect that he only spoke to Kamara and not Kanu. As I have noted, it was never put to him that Eddie, V-Boy and others were present. Independent Counsel has noted the inconsistencies in Kamara's evidence as to who he spoke before and after the phone call was passed to Kargbo and a call was made on Kargbo's phone. I do not put a great deal of weight on such inconsistencies given the large number of persons Kamara says were present and the lapse of time. What I do find striking is the fact that there can be such detail about this call in comparison to the vague information about other calls which were usually referred to as "greetings" and prayers and more particularly the fact that Kargbo was never challenged on this

⁸⁶¹ Transcript 27 June 2012, p. 669.



version of events. I find Kamara inconsistent and not credible in his version of who talked to him on 30 November 2010 on Kargbo's phone.

649. One exception to the vagueness on detail of calls is Kamara's evidence on the content of his calls to his brother-in-law, witness Ahmed Keh Kamara (Keh For Keh). Many of these calls related to family disputes between Keh For Keh, Kamara's mother and Kamara's sister. Keh For Keh gave sworn evidence and corroborated Kamara's details about the family dispute, as I have recited in his evidence. He also gave evidence about the phone call of 30 November. He too said that many others were present when he was at Sweissy with Eddie, Kargbo, Sakaido (not mentioned by Kamara)⁸⁶² Vamboy, as well as many other ex-soldiers whom he could not remember.⁸⁶³ He testified that he called Kamara, the phone was "crackling," and then Kargbo called Kamara, after which Bazy called and talked to them.⁸⁶⁴ I note that whilst Keh For Keh's version of the incident was slightly different, it shows that two calls were made to Kargbo. Keh For Keh also testified that they asked for the "other brothers," whom he identified as Kanu and Tamba Brima. They were able to speak to Tamba Brima but not Five Five. This contradicts Kamara's evidence.

650. Keh For Keh could not remember any call on 29 November, and he testified that he did not make any other calls after 30 November because he had lost his phone.⁸⁶⁵ He was able to remember the 30 November phone call because he was involved in an accident that day. Keh For Keh was asked if he remembered a call from Kamara on 19 November.⁸⁶⁶ He then, as Mr. Herbst has pointed out, started reciting the names Manga, V-Boy, Churchill and Samuel Ragga as meeting at Sweissy (not the Western area, as asked by Counsel in cross-examination) and spoke of the presence of Manga, V-Boy, Churchill and Sammy Ragga. As Mr. Herbst has

⁸⁶² Transcript 4 September 2012, p. 2202.

⁸⁶³ Transcript 4 September 2012, p. 2207.

⁸⁶⁴ Transcript 4 September 2012, p. 2207-2208.

⁸⁶⁵ Transcript 4 September 2012, p. 2229.

⁸⁶⁶ Transcript 4 September 2012, p. 2232.



submitted, Keh For Keh appears to be confusing the 19 and 30 November phone calls, a matter that goes to his credibility, as does his constant tendency to turn his head away from the Court and look to the side when answering questions. Again, the presence of Keh For Keh was not put to Kargbo.

651. It is very clear that despite Defence submissions that the evidence changed, and that the “goal posts” were changed concerning the phone calls on the 29 or the 30 November, that the Defence themselves concentrated on the phone call on 30 November.
652. It has been submitted that only an expert can give evidence as to changes to the record of the calls on 30 November in the prison call log, Exhibit P15, whether they have been changed and whose handwriting changed them. As I have noted, it is clear that this writing differs, and the Defence themselves say that it has been tampered with. Kamara says it was “gone over,” Kanu said it was “bolded,” and Kanu says that the signature ascribed to him by Sengabo is not his. I find based on the Defence evidence and the appearance of the record that the entry for 30 November in Exhibit P15 was tampered with.
653. The first question that follows from this is how this record was tampered with. It is not apparent if there was another number recorded instead of +232-3-328-5697. That, as Mr. Metzger says, requires more than looking. I do not have to make a finding on this, however, because Exhibit P14 shows that the number actually called on three consecutive times between 1.09 and 1.49 pm on 30 November 2010 was +232-3-325-5597. It is common ground that this is Kargbo’s number, and Kamara has testified that he called this number twice.
654. The other question that arises from the evidence is who tampered with the record for the 30 November 2010 in Exhibit P15. Independent Counsel has cross-examined Kanu at length on the diaries and notebook which Kanu insisted should be shown to the Court. I note that he was not ordered or subpoenaed to produce these documents. It was done voluntarily on his part. Counsel cross-examined Kanu on the various records in the diaries spanning a period from

2006 and 2011 where he wrote over, or “bolded,” entries. Kanu conceded that he did highlight or bold some entries and showed them to the Court. Counsel points to Kanu’s habit of bolding over writing, and notes that the entry of 30 November is the only entry to be bolded over in this way. Whilst Kanu’s habit of bolding or writing over entries in his diary may be similar fact evidence, I do not consider this is sufficient to identify the person who tampered with the entry. I do not accept Kanu’s explanation that it was a manipulation on the part of Sengabo and Independent Counsel. I find that a totally unsubstantiated and malicious allegation. In any event, I do have to identify who tampered with the entry of 30 November as it is not an element of the Indictment.

655. Kanu denies emphatically that he was called to talk to Kargbo or that he talked to Kargbo and TF1-334/Sesay about putting things in place financially.⁸⁶⁷ He denied that he knew Kargbo’s number and, by implication, stated that he never spoke to him.⁸⁶⁸ This evidence from Kanu contradicts the evidence from Kamara, his co-accused, that he called Kanu during the conversation on 30 November 2010, telling him that some of the boys wanted to talk to him, and that Kanu spoke on Kargbo’s phone to Eddie and V-Boy. Keh For Keh also said Kanu did not speak during the call. However, given the confusion between the calls on the 19 and 30 November 2010, together with his denial that the phone number Kamara attributes to him is his, I put no weight on this evidence.

656. I find on the Prosecution evidence that three phone calls were made in succession to Kargbo on 30 November, and I find on Kamara’s evidence that at least two calls were made on Kargbo’s phone on 30 November. I find that both Kamara and Tamba Brima spoke to Kargbo, and I do not accept Kanu’s denials in the face of the overwhelming evidence of his co-accused, Kargbo and Sesay, and I find that Kanu spoke to Kargbo. I do not accept the version put forward by the Defence that Kamara spoke to Eddie, V-Boy and others. This evidence was not put to Kargbo or

⁸⁶⁷ Transcript 31 August 2012, p. 1896.

⁸⁶⁸ Transcript 28 August 2012, p. 1560.

to TF1-334, and in my view was fabricated by Kamara, who is not even supported by Kanu, in an attempt to eliminate the obvious evidence that calls were made to Kargbo on 30 November 2010. I accept Kargbo's evidence, corroborated by Sesay, that Kamara and Kanu both spoke to Kargbo and Kanu spoke to Sesay. The subject of that conversation to Kargbo was whether he had spoken to Sesay about changing his evidence. I find subsequently, there was a conversation with Sesay in which Kanu said they had advice that the only way is "if we talk to some of you people who can at least cause us to be released"⁸⁶⁹ and telling him that "we're trying to work out modalities ... and "putting things in place financially so that we can see how best it could reach you." This, according to Kargbo, caused Sesay's face to change so that Kargbo knew he was upset. I find this call distressed and disturbed Sesay sufficiently for him to make a contemporaneous report to Shyamala Alagendra, Prosecution attorney in the AFRC case, and to subsequently report it to Saffa.

657. I accept that the content of the Alagendra email is hearsay, but it confirms both a contemporaneous report on 30 November, and that this report emanated from Sesay. I find that it corroborates Sesay's version of the phone call he received and the content of the phone call as it relates to Kanu. I do not believe Kamara, Kanu and Keh For Keh's version of the phone call on that date and find that the version given by Kargbo and Sesay is what actually occurred.

658. Kanu but not Kamara raised the issue of voice recognition during the phone calls. In relation to Kamara, Kargbo testified that he had known Kamara for a long time, he had become close to Kamara when he joined the army. He was not challenged that he could not recognise Kamara's voice and I find that he could recognise Kamara when Kamara telephoned him.

⁸⁶⁹ Transcript 25 June 2012, p. 449-451.

659. Sesay in his evidence agreed in cross-examination that Kamara had no direct contact with him during any of the incidences and that it was Kargbo and Bomb Blast who communicated with him.
660. In relation to Kanu, Counsel has strenuously objected to evidence concerning voice recognition and referred to recent case law in United Kingdom on the need for expert evidence on voice recognition. I have not been referred to any cases on this issue in the international tribunals. In *Independent Counsel v. Eric Koi Senessie*⁸⁷⁰ I held that the warnings on recognition and identification given in *R. v. Turnbull*⁸⁷¹ apply to identification and recognition of a voice. Hence, recognition of a voice that the witness has known before is usually more reliable than identification but mistakes can be made. That decision has not been appealed or overruled and therefore I consider it applies in the instant case. Kargbo testified that he knew Kanu's voice. He stated that he had built his relationship with Kanu in the army,⁸⁷² evidence that was not challenged in cross-examination but was later denied by Kanu in his evidence.⁸⁷³ He said that Kanu spoke very fast, like he is stuttering, and that he "announced his name."⁸⁷⁴
661. TF1-334/Sesay also stated that he had known Kanu during NPRC days when he was with Strasser and that Kanu was one of the senior commanders with him during the 6 January 1999 invasion of Freetown. In cross-examination, Sesay stated that he knew Kanu's voice, although it had been a long time since they last spoke together.⁸⁷⁵ He too said that he recognised Kanu's voice and Kanu stutters as he speaks.⁸⁷⁶ Bangura testified he recognised Kamara, Kanu and

⁸⁷⁰ SCSL-11-01-T-27, para. 31.

⁸⁷¹ 1976 2 ALL. E.R.

⁸⁷² Transcript 21 June 2012, pp. 159-160.

⁸⁷³ Transcript 27 June 2012, pp. 255-256.

⁸⁷⁴ Transcript 22 June 2012, pp. 255-256.

⁸⁷⁵ Transcript 27 June 2012, pp. 674-675.

⁸⁷⁶ Transcript 25 June 2012, pp. 451-452.

Tamba Brima's voices. This was not challenged and he, like Kargbo and TF1-334/Sesay had not met Kamara or Kanu for years.⁸⁷⁷

662. Having heard Kanu give evidence for several days, I note his confrontational manner of replying to questions and his rapid way of talking, in short staccato sentences and I have no doubt that both Kargbo, TF1-334/Sesay and Bangura recognised Kanu's voice and recognised it correctly.

663. In relation to Counsels' submissions that the evidence was "swept under the carpet" and "the goal posts were changed," referring to the original statement of facts that a phone call was made on or about 29 November and evidence was adduced that the call was on 30 November. I have already noted that Defence witnesses concentrated on a call on 30 November 2010. I note also that Sesay himself did not specify the date but said "he thought" that it was on the 29 November, that Kamara himself led evidence that the call was on 30 November, and it was put to his witness Keh For Keh that a call was made on 30 November.⁸⁷⁸ I note that Saffa said this date was a mistake in recording the statement and he did not have the Alagenda email which clearly showed the call from Rwanda was made on 30 November. I note that the Accused received the MTN call records through the Office of the Principal Defender. I do not consider that the Accused had been misled by the statement that a call occurred "on or about 29 November 2010." I do not consider this a ground for dismissing the Indictment.

664. I find that Kanu did speak to Sesay. I find that he urged him to cooperate to have them released. I find that his words clearly conveyed to TF1-334 that he was to revisit his evidence, and that it caused TF1-334 upset and distressed and interfered with the witness. I find also that talk of finance being put in place and modalities being arranged clearly indicated a willingness to pay TF1-334 and an intention to influence TF1-334. The talk of finance and the statement that payment would be forthcoming were also intended to influence TF1-334 and I find this was an offer of a bribe to TF1-334 from Kanu. I find that Kanu made these statements and offer

⁸⁷⁷ Transcript 4 September 2012 pp. 2136-2141.

⁸⁷⁸ Transcript 4 September 2012, p. 2202.

of a bribe with the clear intent and knowledge that it could change a Court decision and thereby interfere with the Court's administration of justice. I thereby find Kanu guilty on both counts on this evidence.

665. I now consider the other contacts with TF1-334/Sesay. Sesay stated that after they left PWD Junction Kargbo went to TF1-334's home and told him that Kamara and Five Five/Kanu said they would raise money to give him and they would compensate him (Kargbo) as well. Kargbo testified that Kamara and Five Five promised him they would give Kargbo money as well as giving money to TF1-334. Sesay said that Kargbo told him that "those men are ready to pour money into the issue" and there was financial support if he cooperated.⁸⁷⁹ I find that Kargbo did this solely on the instruction of both Kamara and Kanu, and that he knew it caused Sesay upset and confusion.

666. After the meeting with Kargbo and the phone calls, Sesay was confused and tormented and so he sent a mobile text message and subsequently phoned Shyamala Alagendra, who was a lawyer in the AFRC trial, and told her what had occurred between himself, Kargbo, Bangura and Kanu. I note that Kanu and Bangura have both categorically denied talking to Sesay at this time. It was put to Bangura that he had originally told Independent Counsel that he met with TF1-334 and asked TF1-334 whether he would go to the Special Court and say he regretted his testimony; Bangura denied telling Counsel this. In his evidence-in-chief and cross-examination, he also denied talking to Sesay. Kargbo had stated that, when he was urging TF1-334 to "help these men," he told TF1-334 that even "Papa" wanted to talk to him. TF1-334 did speak to Bangura. Kargbo heard Bangura say "Sam [or 'Son'],⁸⁸⁰ this is what those men said" and that he should think about it. Sesay stated that Kargbo's phone rang whilst they were together and it was "Blast." Blast asked him whether "your man had told him" and Blast said to him "please, I want you to cooperate with these men." Sesay said he was considering it.

⁸⁷⁹ Transcript 25 June 2012, p. 441.

⁸⁸⁰ I again note that I heard the witness say "Son," not Sam.

667. In considering Bangura's version of the events, I note that the record of the interview between Independent Counsel and Bangura was not admitted into evidence. However, in his statement of 26 May 2012, which he did not change, Bangura stated that Bazy had called him on his mobile and he handed the phone to Kargbo. Bazy spoke to Kargbo for about ten minutes.
668. I also note that in the contemporaneous report that Sesay made to Alagendra and which she recorded in an email, she refers to Kargbo's visit to TF1-334's home. The email also records TF1-334 telling Alagendra that Bomb Blast was aware of this, and that "maybe they had contacted him" (i.e. TF1-334).
669. Kamara and Kanu both deny contacting Bangura in order to have him persuade TF1-334 to change his testimony or to assist them in any way. It is clear from the evidence, and from the records in Exhibit P14, that phone calls were made to Bangura and that the number of those phone calls increased in November and early December 2010. Kamara testified that it was Tamba Brima making the calls. I find the MTN call records, Exhibit P14, and Alagendra's email, Exhibit P4, to be corroborative of the consistent evidence of Kargbo and Sesay that calls came to Bangura from Rwanda and Bangura phoned Kargbo, and through Kargbo spoke to Sesay. I also find that Bangura urged Sesay to cooperate with the men in Rwanda, and that the pressure he put on Sesay left Sesay "confused and tormented." I have already noted that Bangura was superior to Sesay, and they had a relationship: he was Sesay's boss, and his "brother." This was a fact that must have been known to Kamara and Kanu given their relationship. I find that Bangura did contact Sesay, did pressurise him to cooperate with the men in Rwanda, and did so knowing that the intention was to have TF1-334 change his evidence given in the AFRC trial.
670. Following the call and text to Alagendra, TF1-334 was contacted the next day by Saffa, and TF1-334 came later in the day to meet investigators Saffa and Lamin. He told them of a contact with Ragga. Later in the afternoon of 1 December Saffa received a call from TF1-334 telling Saffa

that he had received yet another phone call from Ragga asking him to meet in the Sweissy area in Freetown. TF1-334 also told Saffa that Ragga asked him the whereabouts of another person, a protected witness, and that Ragga used the protected witness' real name. Kargbo's evidence was that Kamara had called him and said to him "we've spoken to that man; we are trying to raise the money to send it." Kargbo asked Kamara if he knew that he had talked to TF1-334 to which Kamara responded "yes." Kamara then told Kargbo that he should ask the whereabouts of another protected witness, TF1-033, using the witness' real name. Kargbo had not known the name of this protected witness prior to that call. He did ask TF1-334.

671. Sesay's evidence is that after meeting with the OTP investigators, he received a call from Kargbo asking to meet him at Sweissy. Kargbo told Sesay that he had spoken to Bazy and Five Five, they told Kargbo to ask Sesay to be patient, and they were putting things together so that they could honour what they said. Kargbo told Sesay that Five Five and Bazy wanted to know the whereabouts of a protected witness, TF1-033, and gave his real name to Kargbo. Kargbo related this to Sesay.⁸⁸¹ Sesay informed the OTP investigator Magnus of this.

672. Kamara did not deal with the inquiry concerning TF1-033 in his evidence-in-chief, although he acknowledged in cross-examination that TF1-033 was one of the most important witnesses that testified against him. He also denied naming him or asking his whereabouts of Kargbo in cross-examination. Notwithstanding, in his Rule 98 submission Counsel for Kamara submitted there was no evidence that a conversation took place at which Kamara inquired about TF1-033, no evidence was led in chief or rebuttal of Kargbo and Sesay's evidence. Kargbo's evidence is that Kamara told him the name of the protected witness, and this is direct evidence by Kargbo of what he heard Kamara say to him and was not rebutted in chief.⁸⁸² Sesay states that Kargbo told him that Five Five and Bazy requested Kargbo to tell them the whereabouts of the protected

⁸⁸¹ Transcript 26 June 2012, pp. 510-511.

⁸⁸² Transcript 21 June 2012, pp. 131-135.

witness. This, of course, is hearsay, as is Sesay's subsequent report to the OTP. However, that hearsay corroborates Kargbo's direct evidence of the words spoken to him by Kamara.

673. I find beyond reasonable doubt that Kamara gave Kargbo the name of a protected witness, a witness that Kamara knew gave evidence against him in the AFRC trial, whom he acknowledged gave evidence against him in the AFRC trial, and whom he knew or must have known was a protected witness during that trial. I find Kamara guilty as charged of knowingly and wilfully disclosing information relating to proceedings in knowing violation of an order of the Trial Chamber, contrary to Rule 77(A)(ii), by revealing the identity of the protected witness TF1-033 to Samuel Kargbo at a date on or about 29 November 2010, that is, the 1 December 2010.

674. At a date that Sesay did not specify, Kargbo met him at his home and told him that Bazy and Five Five asked him to be patient, and that they were putting things in place as they had promised. He said that he spoken to Bazy, and that Bazy was contacting his brother, the chairman of the All People's Congress in the United States. Kargbo also told Sesay there was no reason for him to fear because "this thing had great influence" and the men hoped for cooperation. Sesay reported this to the OTP. Saffa recorded that Ragga told TF1-334 that Kamara's brother was the chairman of the APC in the United States and that there was a proposed contact with the Vice President of Sierra Leone. TF1-334/Sesay did not give the name of Bazy's brother. Kargbo, in his evidence-in-chief, does not mention the involvement of Kamara's brother in the United States but did testify that Kamara and Five Five promised him they would give him (Kargbo) money as well as giving money to TF1-334.⁸⁸³ I note that there is one call recorded to Kargbo's number on 7 December 2010. Since the evidence concerning the brother in the United States is hearsay, I do not find beyond reasonable doubt that the brother of Kamara was mentioned to Kargbo as part of the pressure to be put on TF1-334. I do find that the pressure from Kamara and Kanu to Kargbo continued, and that this included a call on 7

⁸⁸³ Transcript 21 June 2012, pp. 138, 141.

December. In turn, Kargbo continued to pressurise TF1-334 to conform to the request to change his testimony.

675. Kargbo testified that in mid-December 2010 Kamara called him again and told him that he and “Papa,” Bangura, should go to a Defence lawyer, Mansaray, who lived at Roberts Street. On their way, they saw TF1-334/Sesay in his car and told (i.e. directed) TF1-334/Sesay to take them to Brooke Street. While in the car, Bangura asked TF1-334 how much money TF1-334 wanted “these men to offer him” and TF1-334 did not specify an amount. Sesay, in his evidence, stated that sometime after his conversation with OTP Kargbo called him and told him to meet him at Howe Street in Freetown. When he went Kargbo and Bangura were there and Bangura told Sesay to drive them to Roberts Street, which he did. En route, Bangura reminded Sesay “Bobbie, you are my man,” and asked him what he wanted out of the deal. Sesay said that this was a big deal but he was expecting them to come up with the amount because Kargbo wanted some of the money. Bangura asked if he wanted \$10,000 and Sesay said that this was “small”⁸⁸⁴ Bangura said that the Special Court had not done anything for him and he should take the money so that they all would have money. Whilst they were driving Bangura received two calls, and told Sesay to meet him at Sweissy later. Bangura in his original statement of 26 May 2012 said that sometime after he had spoken to Kargbo, Bazy called him and asked if he knew a lawyer Mansaray. Bazy directed him the lawyer’s office and gave the office address and the lawyer’s mobile phone number and told him to take Kargbo. He subsequently amended that statement to say that the call came from Tamba Brima. In his oral evidence he stated that Tamba Brima called him and told him that Kargbo was to meet him so he could take him (Bangura) to see the lawyer Mansaray. Kargbo called him with TF1-334, met him at Sweissy, and Bangura told them Mansaray was at Roberts Street and they drove there. Bangura denied talking to anyone in the car during the drive because Mansaray was calling him and he had

⁸⁸⁴ Transcript 26 June 2012, p. 521.

other calls. Bangura does not explain how Mansaray came to have his (Bangura's) mobile number.

676. Sesay left them at Mansaray's office. According to Kargbo, he and Bangura went to the office, en route Mansaray called Bangura to find out where they were. Mansaray told him he was defending Kamara and Five Five and asked them if they had been sent by those men. "We said yes, sir." There was a discussion about persuading TF1-334, raising money and Mansaray said it would be difficult. Kargbo did not state that Bangura was silent during the visit to Mansaray, nor was it put to Kargbo that Bangura remained silent throughout. Bangura in his oral evidence testified that Mansaray advised him just to tell lies (to the prisoners in Rwanda) and to say that they were trying to write to an NGO. In cross-examination, he denied knowing anything about the proposal that TF1-334/Sesay should change his evidence or that any witness should change his evidence until he heard Kargbo speaking to Mansaray. He merely went with Kargbo because Tamba Brima had asked him to. This is the first time such a version of the meeting was raised by Bangura either by way of cross-examination or his statements. Bangura also denied speaking to TF1-334/Sesay, trying to persuade to change his testimony given during the AFRC trial, or offering him a bribe or giving him a bribe. He also said he did not know in November or December 2010 that TF1-334/Sesay was a protected witness.

677. It is clear from all three witnesses that a trip was made to the lawyer Mansaray at an unspecified date after 30 November 2010. I note Exhibit 14 shows entries for phone calls to Bangura's number and to Kargbo's number on 7 December. In cross-examination Bangura said he did not recall what the phone call was about. Where the versions of events differ between Kargbo and Bangura is the content of the conversation in the car and the conversation with Mansaray. It was put to Bangura by Independent Counsel that, in their meeting in the presence of Mr. Serry-Kamal 20 April 2011, Bangura said that he told Kargbo he was going to Tamba Brima's lawyer, that Tamba Brima gave him the lawyer's number, that he went up to the office alone to see

Mansaray without Kargbo, and that he told Mansaray that “as a family they wanted to put a fund together to give 334 so that 344 would help by telling the Court that he regretted having testified against them.” Bangura denied this in cross-examination. He denied knowing what a protected witness was.

678. I find it difficult to believe that a person of Bangura’s seniority with his business acumen and commitments would just “go along” to a lawyer’s office without making any inquiries about the visit and sit mutely when hearing for the very first time that the man who drove them there, “his boy,” was going to change the evidence that he gave in the AFRC trial. Bangura also changed his version of the person who directed him to go to Mansaray from Tamba Brima to Bazy back to Tamba Brima. These several versions of what happened erode my belief in Bangura’s version given under oath. I have said earlier in recital of the evidence that I do not believe that a lawyer of professional experience and integrity would have an accused sign a statement without reading it. It was also put to Sesay that he never mentioned the conversation with Bangura about the \$10,000 as a possible payment. It is noted that this was not in his statement to OTP. Sesay’s explanation is that he forgot it. Sesay’s statement, Exhibit P3, is based on his statement of the 1 and 3 December. It is common ground of all three witnesses that the trip to Mansaray’s office was sometime later than 3 December but, based on Exhibit P10 on or before 16 December 2010. I find Sesay’s version that he forgot something as remarkable as a discussion about \$10,000 as not credible and I do not find that there was a conversation where \$10,000 was specified. However, I do find that on the evidence of Kargbo as corroborated by Sesay that while in the car, Bangura did ask Sesay how much money he wanted “those men” to offer him. I find that this inquiry was how much he wanted in order to change his evidence in the AFRC trial and that this can be the only inference to be drawn from the circumstances and preceding history. I find that such an inquiry conveyed to TF1-334/Sesay and conveys to me the intention to offer money in payment for recanting evidence. However, having found that the

trip to the lawyer Mansaray was on a date after 3 December 2010, I am satisfied that it occurred on a date outside the indictment period, of Count 1 (offering a bribe) but within the indictment period of Count 2 (otherwise interfering with a witness).

679. Bangura said in his evidence that he did not know there was an offence of contempt or interfering with witnesses. In his submission, Counsel reminds me that the Indictment imposes a *mens rea* obligation to have it proved beyond reasonable doubt that Bangura knowingly and wilfully interfered with the Special Court's administration of justice and that Bangura did not know about the proceedings before the Court and did not understand the concept of a protected witness.
680. It is clear that Bangura knew about the AFRC proceedings before the Court, he was asked to be a witness. He talked to Kamara and to Tamba Brima at least once a month. The *mens rea* is knowingly and wilfully interfering with the Special Court's administration of justice. Bangura knew that the intention of TF1-334/Sesay changing his evidence was with a view to having evidence in the trial changed, and that this would lead to an overturning of the conviction and/or the release of the detainees. The aim and the intent were to release the detainees and Bangura knew that this would change the outcome of a Court decision and order, i.e. conviction and/or sentence.
681. I find that Bangura did know that this would interfere with the administration of justice. I find that he put pressure on TF1-334 and on Kargbo because of his superior position in relation to both men with the intent and aim that TF1-334 would change his evidence given in the AFRC trial. I find that he knew that TF1-334 was a witness in the AFRC trial and I find that he discussed money with TF1-334 to change evidence on a date in late November 2010, between 27 November and 3 December, and this discussion clearly conveyed an offer that money would be forthcoming if TF1-334 agreed and changed his evidence.



682. After Bangura and Kargbo left the office of Mansaray they returned to Sweissy and met TF1-334 there. According to Kargbo, Bangura then said to TF1-334 that “they should not be afraid to help those people in Rwanda. If he was to be afraid, he should be afraid of me (Bangura) and Sammy (Kargbo), but he should not be afraid to assist them.”⁸⁸⁵ Sesay’s version of the events is that Bangura met him after the Mansaray meeting and told him that he should not have any fear, that “if there is anyone to be afraid of in this country it is I and Sammy.” He said it was a “clean mission.” Bangura in his record of the interview with Independent Counsel in the presence of Mr. Serry-Kamal on 20 April 2011 merely said that they wanted to put a fund together to give to 334. In his statement of 26 May and 28 August he makes no reference to meeting TF1-334 after the visit to Mansaray. In his oral evidence, he said that Kargbo met someone else and they separated and that Tamba Brima called him and asked him if they had gone to see Mansaray. He denied saying anything to TF1-334 to the effect that he should not be afraid to help and if there was anything to be afraid of it was himself or Kargbo.

683. Sesay and Kargbo’s versions of Bangura’s statement differ slightly but amount to the same thing. It tells TF1-334 not to be afraid of helping and if he is to be afraid of anyone it is Bangura and Kargbo. Bangura cannot give the Court any explanation of why his “boy” or friend who he has known and spoke to regularly should make up such a story about him. I find his bald denial unconvincing and I find that he did say to TF1-334 that the people he should be afraid of were himself and Kargbo. I find that this is interfering with a witness within the meaning of Rule 77(A) and I find that Bangura’s other overtures and persuasion of TF1-334 to assist the men in Rwanda and to remember that the Special Court did not do anything for him on dates of 30 November and early December 2010, rendering Sesay confused and disturbed were also interfering with a witness between the dates of 27 November 2010 and 16 December 2010. Accordingly I find Bangura guilty on both counts.

⁸⁸⁵ Transcript 21 June 2012, p. 158.

684. I find Bangura's words to Sesay in Kargbo's presence asking how much payment he wanted clearly conveyed to TF1-334 on behalf of Kanu and Kamara that payment would be made. The intent was to sway TF1-334 to recant. I accept Kamara's evidence that he did not speak directly to TF1-334/Sesay, Sesay testifies that this is so. However, the evidence of Kargbo shows that Kamara called both Kargbo and Bangura and that is clear from Exhibit P14, the MTN call records. Bangura called Sesay and pressured him to cooperate. Kargbo called and visited Sesay and pressured him to change his evidence to cooperate in order to help the men in Rwanda. That instruction came from Kamara, and to that extent that Kargbo felt harassed. I have no doubt that Kargbo and Bangura would have done nothing to Sesay if it had not been for Kamara's requests and pressure. I find that Kamara instructed others to pressure Sesay to help and to influence Sesay. I find that Kamara did so with the clear knowledge and intention of having Sesay change his evidence and achieve a change in a Court decision. I find he interfered with a witness through his instructions to Bangura and Kargbo knowingly and wilfully with the intent to interfere with the Special Court's administration of justice; instructions that Bangura and Kargbo carried out.

685. Evidence is attributable to Kamara that he spoke of assistance of a brother in the United States. It is not stated if this is moral or financial support. There is evidence that Kargbo said they would "pour money" and he mentions Kanu and Kamara. Kargbo's evidence emphasises pressure and persuasion from both. I find evidence that Kamara talked of money inconclusive and accordingly do not find that Count 1 is proved beyond reasonable doubt.

686. It was put emphatically to TF1-334/Sesay by Counsel for Kanu, Kamara and Bangura that the real reason the allegation has come about was that he was seeking relocation, to leave Sierra Leone and to go to France where his sisters were prepared to care for him. There is no doubt from Sesay's words, his demeanour and his repetition that he is afraid and was afraid having given evidence in the AFRC and Taylor trials. He found that the protective measures accorded

to him in the AFRC trial – which I note, again, are still in force under Rule 75(a) and (e) in relation to the AFRC trial – did not prevent others from identifying him and branding him “bastard 334.” I find his fears genuine. He also agreed that he wanted to go to France. The Special Court refused to allow him to go to France after he gave evidence in The Hague. A period of several years has elapsed and there is no evidence before me that he has done anything practical to try to leave Sierra Leone in the interim. I find that the submission and the suggestion in evidence that these allegations are made up purely to achieve relocation to be without any evidentiary basis and, in the light of Kargbo’s plea of guilty, to be without merit.

DISPOSITION

I find Hassan Papa Bangura GUILTY of:

Count 1: knowingly and wilfully interfering with the Special Court’s administration of justice by offering a bribe to a witness who has give testimony before a Chamber, in violation of Rule 77(A)(iv);

I find Hassan Papa Bangura GUILTY of:

Count 2: knowingly and wilfully interfering with the Special Court’s administration of justice by otherwise interfering with a witness who has give testimony before a Chamber, in violation of Rule 77(A)(iv);

I find Santigie Borbor Kanu GUILTY of:

Count 1: knowingly and wilfully interfering with the Special Court’s administration of justice by offering a bribe to a witness who has give testimony before a Chamber, in violation of Rule 77(A)(iv);

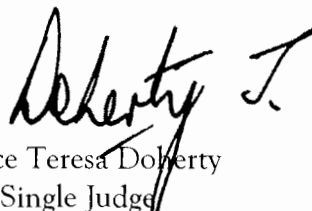
Count 2: knowingly and wilfully interfering with the Special Court’s administration of justice by otherwise interfering with a witness who has give testimony before a Chamber, in violation of Rule 77(A)(iv);

I find Brima Bazzy Kamara GUILTY of:

Count 2: knowingly and wilfully interfering with the Special Court's administration of justice by otherwise interfering with a witness who has give testimony before a Chamber, in violation of Rule 77(A)(iv);

Count 3: knowingly and wilfully interfering with the Special Court's administration of justice by disclosing information relating to proceedings in knowing violation of an order of a Chamber, in violation of Rule 77(A)(ii).

Done at The Hague, The Netherlands, this 1st day of October 2012.



Justice Teresa Doherty
Single Judge

