



U.C. BERKELEY WAR CRIMES STUDIES CENTER
SIERRA LEONE TRIAL MONITORING PROGRAM
WEEKLY REPORT

Special Court Monitoring Program Update #78
Trial Chamber II - AFRC Trial
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The evidence-in-chief of the First Accused continued throughout this week. He concluded on Friday by testifying up to the point of his arrest and indictment by the Special Court.

Summary of Evidence

The First Accused continues to deny any involvement with the RUF in any of the areas contained within the indictment. He testified that he did witness abductions and killings of civilians whilst traveling between Kailahun and Kono in early 1998 but these had been carried out by the RUF. He stated that he had not ordered any of these acts and he had not been in a position to prevent them because he was first under arrest by the RUF and then managed to escape them but was on the run. He also told the Court that he had not witnessed any rapes or women being forced to accompany rebels.

During the course of the First Accused's testimony the Prosecution objected to evidence led regarding whether the RUF and AFRC fighters worked together, arguing that he could not know whether this was or was not the case among all fighters. However, the Court overruled this objection and accepted the submission of Defence Counsel that, as the First Accused was charged with command responsibility, he should be entitled to respond to the allegation that the RUF and AFRC worked together with a common purpose. The First Accused testified that this was not the case, that the AFRC had ceased to exist in February 1998 and that the soldiers who remained in the Sierra Leonean Army did not recognize the RUF as legitimate soldiers and so would not have collaborated with them.

The First Accused testified that, after escaping from the RUF in Kono, he was subsequently detained again in Yarya by Commander O-Five of the Sierra Leonean Army and taken to Colonel Eddie Town along with other AFRC

“honorable”. As the First Accused gave evidence regarding the command structure in Colonel Eddie Town, the Prosecution objected a number of times on the basis that the First Accused was not a military expert. However, the Court overruled the objection on the basis that, as a detainee in the camp he could testify as to what he observed about the command structure in place. The First Accused therefore testified that it was SAJ Musa who was the commanding officer in Colonel Eddie Town and who led the forces towards Freetown. He also testified that SAJ Musa was killed in December 1998 in Benguema and that he escaped shortly afterwards and was not even present in Freetown on 6 January 1999 when Freetown was attacked. He told the Court that he had been in Makeni and remained there until August 1999, when he attempted to return to Freetown and was ambushed by the West Side Boys, under the command of a soldier called Junior Lion. He went on to state that he was freed and finally returned to Freetown in November 1999, following Johnny Paul Koroma negotiating with the West Side Boys.

Defence Counsel referred the First Accused to the testimony of various prosecution witnesses who had placed him at various towns listed in the indictment and had testified that they had heard or seen him order the commission of the crimes the Prosecution has alleged. The First Accused testified that these witnesses were lying and that he had either not been present in the towns at the relevant time or had been under arrest or in hiding from the RUF. In particular, he explicitly denied that he had ordered a letter to be written to the civilians of Makeni warning them that those who supported ECOMOG forces would be punished and authorizing amputations. He also denied ever having declared “Operation Save No Soul”. He claimed the prosecution witness TF1 334 who testified in relation to this had lied and was a paid witness.

The First Accused also testified that he had been told that the reason for his arrest and indictment by the Special Court was his refusal to testify against Johnny Paul Koroma. Finally, when asked by his counsel if he wished to respond to anything contained within the indictment the First Accused told the Court that he did not understand why he had been indicted when other higher ranking officers were still serving in the Sierra Leonean Army. He stated that he considered the prosecution of himself and the Second and Third Accused to be politically motivated and asked why the amnesty provisions contained within the Lomé Peace Accord had not been applicable to him. The Presiding Judge intervened and asked that anything further the First Accused wished to say on this matter be reserved for closing submissions as they did not constitute evidence.

Defence Counsel’s use of leading questions, their failure to lay adequate foundations for the First Accused’s knowledge of certain events and issues relating to command structure have been the source of many objections from the Prosecution this week. The Court has often upheld these objections and also raised these issues with Defence Counsel independently.

There were also some minor problems of interpretation noted by both the First Accused and the Bench on Friday. In two instances the interpreter chose a literal interpretation of the Krio word rather than its meaning in the context of the First Accused's testimony, which led to some confusion. This was however remedied after the interpreter was requested to attempt to find the most appropriate sense of the word in context and it does not seem to have fundamentally affected the understanding of the First Accused's evidence.

Use of Notes by First Accused While Testifying

There was an issue during the afternoon session on Tuesday regarding the notes the First Accused had before him. The Prosecution drew the Court's attention to these notes and asked to see copies of them. It appeared that among these notes was the draft of a personal letter and a computer manual that the First Accused had brought into Court with him. The Bench adjourned to review and consider the contents.

On Wednesday morning the Presiding Judge stated that, after reviewing the notes, the Court was satisfied that they did not contain anything improper. They appeared to be notes taken contemporaneously by the First Accused as he answered questions through the course of his testimony. Both parties were given the opportunity to review the documents and address the Court. The Court then directed that the folder be returned to the First Accused at the end of the day's session but that he was not to bring the folder with him to Court again. Should he require paper in the future he was directed to request it from the Court. He would then be provided a pen and paper, which he could use in Court and which he would be required to return to the Court at the end of each session, including short adjournments during the day. The Court also directed that the First Accused be provided with a copy of the indictment upon request, to assist his memory in relation to specific allegations.

The Prosecution's request for copies of the notes was denied as the Court felt the matter had been adequately dealt with by the orders it had already made and its finding that the notes did not contain anything improper.

Health of the First Accused

The Prosecution also sought from the Court a note for the record assessing the health of the First Accused. It was submitted that this would be of assistance should there be some issue made on appeal regarding the fitness of the First Accused to give evidence or the effect of his health on his credibility as a witness. The First Accused has been complaining of ill health and apparently also sought the services of a psychiatrist on the weekend. The Court, however, decided that as the reports of the doctor on the state of health of the First Accused were not public documents, it was not prepared to put them on the

record. The Court further decided that any future issue relating to the First Accused's health could be addressed by the Court when it arose but in the meantime the Court was satisfied that the First Accused's presence in the witness box was a sufficient indication of his being well enough to testify.