



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

Special Court Monitoring Program Update # 82
Trial Chamber II – AFRC Trial
Week ending 14 July 2006

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SUMMARY

Six new interpreters were sworn in this week, among them the first female court interpreters to work in the Special Court.

AVAILABILITY OF DEFENCE WITNESSES

The Trial Chamber began the Monday session by referring to the adjournment granted last week to the Defence because the Defence had claimed its witnesses were not available to testify. The Trial Chamber stated that the Witnesses and Victims Support Unit ('WVS') had since informed the Court that there had in fact been witnesses ready on Friday. The Trial Chamber therefore informed Defence counsel that no further adjournments would be granted without assurances that Defence counsel had checked with WVS and were certain there were no witnesses available. It was also noted by the Chamber, however, that there was no suggestion of Defence counsel having acted unprofessionally.

SUMMARY OF WITNESS TESTIMONY

DBK-085

The first witness called was a common defence witness. Thus, the Trial Chamber reminded the parties that each of the defence counsel were entitled to lead evidence from the witness and to re-examine the witness, and that only the Prosecution would be able to cross-examine the witness.

The witness testified in Madingo. He comes from the town of Bonoya, a town not far from Karina where the Prosecution has led extensive evidence regarding atrocities allegedly committed under orders of the accused. The witness testified to having seen forces led by Adama Cut-Hand marching on the road towards Karina in 1998. He also testified to having seen his brother killed on Adama Cut-Hand's orders, buildings and cars being burnt and having his own leg amputated on SAJ Musa's orders. He told the Court that he had never seen any of the three accused in Bonoya Town, nor had he ever heard their names used in connection with the attack on the town.

In cross-examination the Prosecution disputed the presence of SAJ Musa in Bonoya Town and put to the witness that he had made this up. The witness was asked to give a physical description of SAJ Musa and he said he was unable to do so but was sure that it was SAJ Musa who had given the order for his leg to be amputated.

The Prosecution also put to the witness that he had been a diamond miner in Kono, where he stated he had lived for 15 years working as a machine repairer. He denied this, stating that he had repaired machinery that was used in mining but had not himself been a miner.

During Witness DBK-085's testimony the Prosecution noted that he was referring to an event (the burning of his brother's car) which was not contained within the witness summary provided to the Prosecution by the Defence. Prosecution cross-examined him on this and he testified that he had said this in the statement he provided to the Defence. Prosecution therefore requested to see a copy of the witness statement and re-iterated its comments made during the status conferences in May that the witness summaries provided lacked adequate detail.

The Prosecution also referred the witness back to his statement after he stated on cross-examination that he had never referred to Adama Cut-Hand as a soldier. After the Prosecution had put the issue to the witness by paraphrasing the inconsistency in his statement, the Court intervened and informed Counsel for the Prosecution that the correct procedure before the Court was for the relevant section of the statement to be read to the witness and his comments sought. Counsel for the First Accused objected on the basis that the statement was based on a collection of interview notes and that it was more appropriate for the interviewer to be cross-examined on this point but this objection was over-ruled by the Court.

It was also put to the witness that had his leg been amputated in the circumstances he described and not been taken by the Red Cross to receive medical attention until the next day, he would have bled to death. He agreed with this statement but there appeared to be some confusion as to his understanding of the proposition being put to him. On re-examination he stated he believed he would have bled to death had he not been taken to a hospital in Makeni.

Following the parties completing their examination of the witness the Bench sought to ask him a number of further questions regarding his statement that many people were

“mutilated”. He was asked what he meant by the word, “mutilated” but appeared not to understand the question and eventually the issue was abandoned.

DBK-103

This witness also testified as a common witness. He testified about an attack on Makeni on 23 December 1998 by the RUF. In evidence led by Counsel for the Third Accused, he named Augustine Gbao, Issa Sesay and another member of the RUF called Hindolo as the commanders responsible for controlling Makeni following this attack. He told the Court that he was not aware of any other group being present in Makeni during this time.

In cross-examination it was put to the witness that in his statement he referred to soldiers of the Sierra Leonean Army (‘SLA’) having been present in Makeni but not having remained for as long a period as the RUF fighters. He finally conceded that there may have been SLA soldiers present in Makeni, he had just not been aware of them.

The witness was asked by the Bench how he knew the names of the RUF commanders present in Makeni, to which he answered that there had been a meeting held for civilians where there were introductions made.

The Prosecution once again noted that there were matters referred to by the witness that did not appear in the summary provided by the Defence.

DBK-83

This common witness testified about an attack on Kamayombo, a village in the vicinity of Karina. He stated it had been committed by ‘rebels’ and told the Court he had not heard of any of the accused being involved in the attack. He also stated that he had never seen a soldier from the SLA in his village.

Counsel for the First Accused requested a closed session to allow him to establish the position of the witness as a leader of his community. However, the Court held that this was unnecessary as it was possible firstly to simply ask the witness if he was a leader of his community and secondly, his position in his community did not necessarily make him a more credible witness than another person who did not hold such a position of authority.

DBK-084

This witness testified in Madingo. As with Witness DBK-085, he comes from the village of Bonoya.

It seems from the testimony of this witness and Witness DBK-085 that in Madingo there is no distinction between the words, “amputation” and “mutilation”, which explains the confusion arising out of DBK-085’s testimony.

DBK-082

This witness gave evidence regarding an attack on Karina on 8 May 1998. He testified that he assisted with digging two “mass graves” in which the bodies of seven people were buried. He also testified that people were abducted from Karina and many houses burnt but that he was not aware of any rapes or mutilations. He told the Court these acts were committed by “rebels”. He also testified that he was not aware of an attack or anyone being killed at the mosque in Karina on 8 May 1998, an attack which the Prosecution has led evidence that was .

ADEQUACY OF DEFENCE WITNESS SUMMARIES

The Prosecution has made ongoing requests for more detailed witness summaries and pointed to a number of occasions where the witness’ oral testimony departs significantly from what is contained in the summary or covers information not referred to in the summary at all.

PROSECUTION HANDLING OF CRIME-BASE WITNESSES

During his cross-examination of Witness DBK-085, counsel for the Prosecution accused the witness on a number of occasions of lying, including about the circumstances in which the witness lost his leg. There has been an issue in the past of Defence counsel being considered too aggressive in their cross-examination of Prosecution crime-base witnesses