



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

**Special Court Monitoring Program Update # 84**  
**Trial Chamber II – AFRC Trial**

**Week ending 28 July 2006**

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**SUMMARY**

The trial was adjourned for two days this week, due to a lack of available defence witnesses. On Thursday the Bench expressed extreme frustration at the situation and threatened that should the Defence continue to have problems presenting its evidence after the August recess the Court would consider declaring the Defence case closed.

The First Accused complained of ill health again on Friday and, waiving his right to be present under Rule 60 of the Special Court Rules, was not present in Court on Friday afternoon.

**SUMMARY OF WITNESS TESTIMONY**

Witness DAB-91

This witness comes from the village of Yomadugu, near the town of Kabala. He testified about an attack on his village by “rebels” and named SAJ Musa and Superman as the leaders he had heard were responsible for commanding the attack. He told the Court that he was not aware of any rapes, amputations or killings but that houses had been burnt following the departure of SAJ Musa. Under cross-examination the witness admitted that he did not really know the difference between rebels and soldiers and that he had not been present in the village during much of the attack as he and his family had fled to hide in the bush.

Witness DAB-088

This witness comes from Bambukuro village. He testified that he had been captured and taken to Yomadugu by RUF forces. He named SAJ Musa, Superman and Gibbo as the commanders in charge of the forces. He also testified that his wives had been abducted

and raped but that he had not seen any amputations. Under cross-examination he also admitted that he did not really know the difference between RUF and SLA soldiers.

Witness DAB-090

This witness also came from Bambukuro village. He testified that he had been told by a woman about gunmen who were attacking Kabala and were dislodged by government soldiers. He also testified that he had been a victim of RUF rebels and showed the Court scars on his forehead and chest, which read “RUF”.

Witness DAB-089

This witness comes from Yifin village. He testified that the “real rebels” attacked the village 4 times. He named High Firing, Major Sheku and Major Ngawuja as the men he understood to be the leaders. When asked how he distinguished these rebels from soldiers he told the Court that he knew the people attacking his village were rebels because their uniforms were not clean and tidy. He testified that he had never heard of the three accused being involved in the attacks. Under cross-examination he stated that the attacks appeared to be committed by combined SLA and RUF forces.

Witness DAB-086

This witness comes from Yifin village. He testified that first junta and then rebel forces had taken over the village, led by High Firing and Sheku Siaka. He testified about a rape committed by a rebel who he later saw lying on the ground, having been beaten. He also testified that he had not heard any of the three accused being associated with the invasion of the village. There appeared to be a number of details which the witness gave in his oral evidence that were not contained in the summary provided to the Prosecution. The Prosecution therefore accused the witness of lying during cross-examination. In particular, the Prosecution noted that in the witness summary it did not state that the witness had been present during the alleged rape by the rebel. It was not clear from the witness’ response whether he was or was not in fact present or had simply found out about the rape at some later stage.

Witness DAB-087

This witness also comes from Yifin village. He testified that the village was taken by rebels. He told the Court that the only SLA soldiers he saw were those that fought against the rebels. The Prosecution again identified a number of matters not contained within witness summary provided by the Defence and put it to the witness that he was lying about those matters. Defence counsel objected to what it termed, “harassing” the witness and argued that the witness was entitled to refer to matters not contained within the summary. Defence counsel also noted that the Prosecution could simply request a copy of the statement, as it had done in the past, to clarify whether there were inconsistencies in the witness’ evidence that needed to be tested under cross-examination.

The Prosecution sought an order from the Court that the Defence provide copies of statements for all remaining defence witnesses but the Court declined to make such an order. However it was noted by the Bench that, in its view, the Prosecution was entitled to test the credibility of witnesses based on the summary it had been provided and that there was nothing untoward about the manner of questioning adopted by the Prosecution.

Witness DAB-079

The initial parts of this witness' testimony were heard in closed session to protect his identity. He subsequently testified in open session to being in Freetown when the 1997 coup took place. He testified that he had fled back to Kabala after this and that he believed the AFRC had remained in power for approximately 9 months until February 1998. At that time, he told the Court, SLA troops had come to Kabala, led by SAJ Musa and Colonel Kis Kamara.

Witness DAB-079

The beginning part of this witness' testimony was heard in closed session to protect his identity. He subsequently testified in open session about fighting in which he had participated in the Koinadugu district in the east of the country and in Kabala town, as a member of the Civil Defence Force ('CDF'). He named SAJ Musa and Superman as the commanders in charge of the joint RUF and SLA forces against whom he fought with ECOMOG and surrendered SLA soldiers. The witness also told the Court that he had seen Sam Bockarie in Kabala, an event the Prosecution disputed during cross-examination. He told the Court he had not heard of any of the three accused being connected with any of the fighting in which he was involved, although during cross-examination he accepted that the accused may have been in Kabala without him being aware of it.

The witness also gave evidence about the different fighting styles of the RUF and SLA forces. He testified that, while he received information about RUF forces in the Koinadugu and Kabala area looting, raping and indiscriminately killing civilians, he had never received information of SLA forces being involved in looting, sexual violence, abductions, attacks on civilians or the use of child soldiers. During examination-in-chief by counsel for the Second Accused, the witness testified about direct knowledge he had of rapes carried out by RUF fighters. He testified about having spoken to women who claimed to have been raped by Superman. He also told the Court that it was the rapes that had motivated the forming of the CDF but that the CDF had only had to protect the civilian population against attacks by the RUF, not SLA soldiers.

During cross-examination the witness testified that he had heard the name Alex Tamba Brima in connection with the 1997 coup and as a member of the AFRC government. He testified that he had not, however heard of the other two accused being connected with the AFRC regime and that their names had only come up in connection with the actions of the West-Side Boys. The witness also agreed that, through the media, he had heard that both the First and Third Accused had been involved in the 1999 invasion of Freetown and

that the Second Accused had been a member of the West-Side Boys, although he testified that he did not know the Second Accused had been a commander.

#### Witness DAB-025

This witness is of the Kono tribe. He testified in Krio and told the Court he lives in Yengema town with his two wives and three children, where he has worked as a miner since 1985. The witness testified that he fled Yengema town with his family after RUF entered the town around the time of the AFRC coup in 1997. He told the Court he was subsequently arrested in a nearby village by the RUF for the food he and his family had gathered and forced to march, carrying rice, to Koidu. He gave evidence that he was held under house-arrest in Koidu before escaping and being re-captured in Mortema. When asked if he knew the names of any commanders in the Kono district, which he testified he knew to be under RUF control, he named Superman, Colonel Monica and her deputy Ritchie and another commander called Hamidu who was in charge of mining. The witness also gave evidence regarding an RUF training camp called Joe Bush, outside of Yengema town run by commanders Long Life and Gatewa, where he was beaten and forced to complete training.

During cross-examination the witness told the Court that he had heard of the three accused and knew they were “big men” but did not know if they were commanders or associated with the actions of the RUF in Kono district. He agreed with the Prosecution’s suggestion that SLA forces had assisted the RUF with gaining control over Kono district but in re-examination by counsel for the Third Accused he also told the Court he knew of SLA soldiers who were unwilling but were forced to fight with the RUF.

#### **ALLEGED HARASSMENT OF WITNESSES BY THE PROSECUTION**

As noted above in relation to witness DAB-087, Defence counsel for the First and Second Accused have objected to the manner of cross-examination adopted by the Prosecution. They submitted to the Court that by accusing crime-based witnesses of lying when they testified about issues not contained within the witness summary, counsel for the Prosecution were intimidating and harassing witnesses. The Court did not accept this submission and found that the Prosecution was simply testing the evidence of the witness in a manner, which was acceptable. However, the Prosecution approach to crime-based witnesses has appeared somewhat overly harsh at times.

#### **LACK OF AVAILABLE WITNESSES**

The lack of defence witnesses available to testify necessitated Defence counsel requesting a status conference on Tuesday afternoon.

Defence counsel told the Court that logistical difficulties had made it very difficult for witnesses in the provinces to be present to give evidence and that this situation could not be resolved until the following week, allowing for the two day’s notice necessary to

organise transportation. The reasons for why the witnesses were not available were diverse, from health to family and work-related problems.

It was observed by the Bench that a number of the witnesses on the witness list were based in Freetown. Defence counsel told the Court that these witnesses were not available for other reasons. It appears the witnesses wished to meet with the accused prior to giving evidence and were not able to do so due to the Registrar's restrictions on visitation rights which limits visitors to the hours of two and four pm and one visitor at a time. The Bench was not satisfied with this response, asking why it was necessary for the witnesses to speak to the accused prior to testifying. When counsel for the First Accused requested an adjournment until next Monday the Court stated that it was more inclined to grant an adjournment of the trial until Thursday, allow counsel to investigate the situation further overnight and hold a further status conference the following morning to avoid further time being wasted.

In its response the Prosecution proposed that the Defence be required to either subpoena witnesses it wished to call or drop them from the list in order to avoid further delay.

On Wednesday morning the status conference was resumed. Defence counsel told the Court that the reason a number of protected witnesses were reluctant to testify was because they believed their identities had been comprised during the course of investigations. Defence counsel submitted that it would therefore not be appropriate to subpoena these witnesses at this time. While not expressly stated, it seems the Defence was referring to investigations done by the Prosecution.

Defence counsel also requested that the date for the provision of a final list of defence witnesses be changed from 21 August 2006 to a date closer to the re-commencement of the trial following the August recess on 4 September.

#### **EXPERT WITNESSES**

Also in the status conference the issue of expert witnesses was raised with the Defence counsel. Counsel for the Third Accused had previously indicated that they may be calling up to three expert witnesses. The Court noted however, that no further details had been provided and no expert reports had been filed. Counsel for the First Accused indicated that there was an intention to call a military expert, an expert on child soldiers and potentially an expert on forced marriage. They informed the Court that the report of the military expert was almost finalised and the expert on child soldiers had also started work on a report but that the terms of engagement of these experts still needed to be agreed with the Defence Office.