អង្គជំនុំជម្រះវិសាមញ្ញក្នុងតុលាការកម្ពុជា

Extraordinary Chambers in the Courts of Cambodia

Chambres Extraordinaires au sein des Tribunaux Cambodgiens

ព្រះរាជាណាចក្រកម្ពុជា

ជាតិ សាសនា ព្រះមហាក្សត្រ

Kingdom of Cambodia
Nation Religion King

Royaume du Cambodge
Nation Religion Roi

អង្គជំនុំជម្រះសាលាដំបូង

Trial Chamber

Chambre de première instance

TRANSCRIPT OF PRELIMINARY HEARING
ON FITNESS TO STAND TRIAL
PUBLIC

Case File Nº 002/19-09-2007-ECCC/TC

31 August 2011, 0905H

Before the Judges:
NIL Nonn, Presiding
Silvia CARTWRIGHT
YA Sokhan
Jean-Marc LAVERGNE
THOU Mony
YOU Ottara (Reserve)
Claudia FENZ (Reserve)

Trial Chamber Greffiers/Legal Officers:
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The Accused:
NUON Chea
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For the Accused:
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Michiel PESTMAN
PHAT Pouv Seang
Diana ELLIS
ANG Udom
Jasper PAUW

For Civil Parties:
PICH Ang
Élisabeth SIMONNEAU-FORT
VEN Pov
Philippine SUTZ

I N D E X

WITNESS: Pr. JOHN P. CAMPBELL

List of Speakers:

Language used unless specified otherwise in the transcript

Speaker	Language
MR. ABDULHAK	English
MR. CAMPBELL	English
JUDGE CARTWRIGHT	English
MR. PAUW	English
MR. PESTMAN	English
MR. PICH ANG	Khmer
THE PRESIDENT (Nil Nonn, Presiding)	Khmer
MR. SENG BUNKHEANG	Khmer
MS. SIMONNEAU-FORT	French
MR. SON ARUN	Khmer
MR. VEN POV	Khmer

PROCEEDINGS

(Court opens at 0905H)

(Judges enter courtroom)

MR. PRESIDENT:

Please be seated.

The Court is now in session and we will proceed to have a hearing on the report prepared by Professor John Campbell regarding Nuon Chea.

[09.06.48]

Yesterday, we left off with the session…

Court officers are now instructed to assist the defence counsel regarding his headset.

Yesterday, indeed, we left off with the hearing on Nuon Chea and questioning by the Judges of the bench to the expert, and that session was already completed and it is now the opportunity for Nuon Chea defence counsel to put questions to the expert.

[09.07.57]

However, before handing over to the defence team, the Chamber would like to inform the parties regarding putting documents before the Chamber as follows. The issue of putting documents that are classified as confidential or strictly confidential before the Chamber was raised yesterday. The Chamber notes that it has initially classified most documents relating to the medical condition of the accused as strictly confidential on an interim basis.

The Chamber recalls that, according to Article 9 of the Practice Direction on Classification of Documents, reclassification is possible at any time. In this process, interested parties are consulted.

[09.09.03]

The Chamber further recalls its decision of yesterday that the discussion about medical issues and fitness to stand trial should proceed in a public hearing. To expedite proceedings, the Chamber advises the parties of the following procedure.

Each party who wishes to put a document initially classified as confidential or strictly confidential before the Chamber in a public hearing can do so without making any formal application. Provided the Chamber does not object, that document is then deemed to have been reclassified as public.

This is just the information -- clarification concerning putting documents before the Chamber. I have noted that the International Co-Prosecutor would like to make some observations. The floor is yours.

MR. ABDULHAK:

Good morning, and thank you, Mr. President.

[09.10.17]

Only a brief procedural matter that we felt may be useful to raise at this stage. Perhaps it could be considered during the day. And it is whether or not the Chamber envisaged inviting submissions at the end of these proceedings.

We know it's the Chamber's instructions that Professor Campbell is only available today, and we will certainly facilitate examinations in a way that is brief. We would just note in relation to perhaps proceedings following Professor Campbell's, we would simply state that the matter of Ieng Thirith obviously remains open. At this stage, we don't think that submissions would be necessary.

[09.11.02]

But in relation to Nuon Chea, just looking at the submissions and the positions the parties took, when the evidence concludes today we feel that it would be appropriate to make submissions as to the way forward.

Thank you.

MR. PRESIDENT:

Counsel for Nuon Chea, you may now proceed.

MR. PESTMAN:

Your Honour, sir, I would like to support that request. We intend to file a request as described in Rule 31, Section 10 of the Internal Rules asking for the appointment of an additional expert or additional experts to carry out an additional examination or re-examination of a matter which has already been examined by an expert.

[09.12.00]

So I'm just announcing that we intend to do that. It would be helpful if you would give indication of the time we will have to

file such a request after terminating this procedure.
Thank you.
(Short pause)
[09.15.18]
MR. PRESIDENT:
The Chamber has noted the observation by the International Co-Prosecutor concerning the oral submissions, whether it is invited or not concerning the accused person during this three-day hearing, including today, of course. And also, we noted the observation by defence team of Nuon Chea.
[09.16.04]
The Chamber has already planned this hearing and, of course, for clarity, first parties to the proceedings during today's session -- parties are allowed to make oral submissions by the end of the hearing session.
With regard to the request by Nuon Chea's team concerning the submission of the other application regarding the urgent application assigning experts to conduct further assessments of their client, they can do so at the end of the hearing through oral submission and, of course, such application can be done today or, if needed, it can also be made tomorrow if such a session is required.
[09.17.46]
We will see whether the session can be concluded by the end of today or whether we need a further session. Then defence counsel

for Nuon Chea can be allowed to make such specific submission on the urgent matter concerning the assignment of the expert in that particular section as well.

[09.19.58]

The Chamber wishes to clarify on this. With regard to Nuon Chea's defence team's request for additional experts to assess the fitness to stand trial situation of accused person, Nuon Chea, the defence can do so according to the provision, Rule 31(10), and that, in their submission, they should also lay out the reasoning behind such application.

We would like to hand over to Nuon Chea's defence team to put questions to the expert with regard to his reports.

MR. SON ARUN:

I am Son Arun, defence counsel for Nuon Chea. Good morning, Mr. President. Good morning, Your Honours and everyone around this courtroom.

QUESTIONING

BY MR. SON ARUN:

Q.Good morning also to Professor Campbell. I have about five to six questions, but my colleagues will have more questions to put to you.

[09.22.02]

First question. When you met with Nuon Chea and conducted the assessment on three occasions, first, I think I already indicated this on the 29th of August; however, my question was interrupted

by the prosecutor. That's why I need to raise this question again.

I would like to put this question again to Professor Campbell. When you met Nuon Chea on three occasions, are you able to tell the Court and the public the details, I mean further details than what you indicated in your report? That is question No. 1, please.

MR. CAMPBELL:

A.Good morning. In my assessment, I, as I outlined in my report, discussed the purpose of my visit with Nuon Chea. I then took a history from him of his medical problems and reviewed his previous history with him.

[09.23.15]

I then conducted a physical examination involving all relevant systems, including the neurological system. In the afternoon of my first assessment, I again reviewed my findings of the morning with Nuon Chea, asked of him if he had any additional facts that he wished to raise. I checked his blood pressure again at that stage.

On his reassessment, I discussed with him any change in his condition since I had seen him on the first occasion and then reviewed my findings with him.

Q.Yesterday, you indicated that you felt no need to have -- to conduct a lengthy test and proper tools for that because you have already noted that Nuon Chea was fit, and he did not experience

any difficulties participating in the proceedings.
[09.24.48]
Since your findings is more conclusory, do you think that it is objective and that beneficial to assess the genuine status of fitness to stand trial of Nuon Chea?
A.As I indicated, I undertook a full review of Nuon Chea. I think you are referring specifically to detailed psychometric testing, which I did not feel was necessary.
I did have results from previous testing as contained in my report.
[09.25.30]
I do not feel at any stage that I was short of time or that I required additional testing to be done.
Q.Have you also discussed with Nuon Chea concerning the stroke he experienced previously? Because I met him on several occasions and he indicated that he had a stroke, but he didn't indicate that such assessment has been conducted to see whether he experienced these incidents in the past.
[09.26.30]
What would you have to say regarding this?
A.I discussed Nuon Chea's stroke with him. I also completed a neurological examination. He did have a stroke in 1995, as is documented in my report. This was a lacuna stroke, a small stroke affecting the white matter of the brain. I have elaborated on that previously, but can do so again if required.

I am fully aware of the impairment that Nuon Chea has had as a consequence of his stroke.

Q.Thank you.

[09.27.21]

Nuon Chea cannot remain sitting for lengthy period of time because he complains of his back pain or lumbago ailment. Have you also noted the situation during your observation?

A.I have taken a history from him about his ability to sit and I have examined his back and back movements.

[09.27.51]

As I've indicated in my first report, Nuon Chea told me that he could sit for two to three hours. The holding cell is available, and if a shorter time is required, then that would be available to him.

Q.Nuon Chea indicated previously that he could sit for a period of two to three hours, but in the hearing currently, he indicated that he could remain sitting in the proceedings up to one hour and a half or so because his health is deteriorating.

[09.28.41]

Do you agree with such assertion?

A.On my second review of Nuon Chea, he indicated that he had difficulty concentrating for more than an hour and a half. This was not specifically related to his back problems. I think his difficulty with concentration is due to a combination of physical problems that he has, and I can understand that he may have

difficulty concentrating for more than an hour and a half.
Q.You are an expert. Now, when it comes to his back pain, before the pain was minimal, but it keeps increasing and his concentration also is deteriorating.
[09.29.44]
As an expert, what would be the best remedy to assist him to make sure that his situation improves so that he is able to meaningful participate in the proceedings?
A.I have reviewed Nuon Chea's management and consider that the medications that he is on are appropriate and that all necessary steps have been taken to minimize his physical problems.
In terms of his sitting, the issue of a different type of chair was not raised on my first occasion when I met with him. I'm not sure that that would contribute very much to his comfort. I think the best arrangement is the use of the seat that he has and the use of the holding cell if he is finding sitting difficult for him at any stage.
Q.In your report on the 4th of April 2011, paragraph 5, you indicated that Nuon Chea has difficulty concentrating and it is because he -- the effort to deal with his daily activities and psycho-social factors.
[09.31.22]
As an expert, what would be your recommendation or advice to him or to other social workers to assist him to overcome these problems so that he can better participate in the proceedings

because I feel that his health is deteriorating and if it is not cured or dealt with then he will not be able to attend the proceedings fully?

A. A number of the social and stress factors that Nuon Chea will be affected by are, of course, unchangeable. I think the important thing is to make sure that his physical comfort is as good as possible and I have commented on that. And the physical circumstances, he complained; for example, at the initial hearing that the cold was in the courtroom was difficult for him and, again, suggested remedies for that. Obviously, the stress associated with the proceedings cannot be removed entirely. I feel that as far as his heart condition is concerned, the necessary steps to deal with that have been taken and his medications are appropriate.

Q. In your reports to the Court, you indicated that there is no concern with regard to the health of Nuon Chea and that he can participate in the proceeding and you based this observation on the test -- the outcome of the test that Nuon Chea scored perfectly; 30 out of 30 questions, as you indicated. Is that correct?

A. No, that is incorrect. I have based that judgement on my assessment on three occasions with him and my taking of his history and examination. The score is just a supplement inconsistent with my findings. I have not based my findings on that score.

[09.33.54]

Q.You also further noted that it is not your concern -- you have no concern with regard to the health of Nuon Chea; however, the defence team is very concerned with regard to your report or conclusion to the Court. I wish to make it clear to you that Nuon Chea's health status is deteriorating; his mental fitness, his physical fitness and also his blood pressure has been high at all times. I think have you also noted this situation when you assessed his health condition?

A.I have noticed those conditions. I think it is wrong to say that I have no concern. He has a number of chronic conditions which affect his health. As I've indicated, those problems are being managed as well as is possible. His blood pressure has actually been well maintained and has been taken regularly by the Calmette Hospital doctors and the results are satisfactory. He is a man of 85 years. He does have cardiovascular disease and cerebral-vascular disease and one would expect change over time with those conditions. With that change, though, there has been no development recently, since I saw him last, of symptoms that would interfere with his ability to participate here.

Q.Since Nuon Chea was arrested and detained before this detention facility, I have been very close to him because I have been with him and I have noted that at one point his blood pressure reaches 21 in 2007 during the time when he gave interview to -- or he was interrogated by the Co-Investigating

Judges. It was out of my suspicion -- and I noted that he was in ill health -- that I allowed the doctors so that emergency medical service is -- was provided. And during another occasion in the pre-trial hearing his blood pressure increased again. And also on the 20th of January during the pre-trial hearing his blood pressure increased to 20 again.

MR. PRESIDENT:

Counsel Son Arun, could you please wait a moment. International Co-Prosecutor is on his feet.

[09.37.15]

You may proceed.

MR. ABDULHAK:

Thank you, Mr. President. We object with all respect to my learned friend. I think he's entering an area where he's giving evidence. His observations as to Nuon Chea's past conduct or conditions are not appropriate. He's not a witness and if he wishes to refer to documents which record such conditions then that may be appropriate and those documents can be brought to the Professor's attention and appropriate questions asked.

MR. SON ARUN:

I wish to respond to the Co-Prosecutor and, indeed, if I respond then it really affects the third party. I do not really want to point a finger to anyone, but I wish to make it clear that Professor Campbell is assisted and that -- just to know whether he is fully familiar with the conditions -- the high blood

pressure of my client during his observation as well. I wish to indicate a document.

MR. PRESIDENT:

Would you wish to respond to the objection by the Co-Prosecutor? Please make it clear that your response or reply is, of course, aimed to address what indicated by the Co-Prosecutor because the Chamber wishes to know so that we can determine immediately. We do not really want further exchanges and you are allowed to really reply to the objection by the Co-Prosecutor and that the Chamber will note and then make a decision on this before you can proceed to the questioning session again.

[09.39.42]

MR. SON ARUN:

I wish to pause responding -- putting -- or replying to the prosecutor, but I would like to finish my questioning to Professor Campbell.

(Deliberation between judges)

MR. PRESIDENT:

I would like now hand over to Judge Silvia Cartwright to deal with this objection and also a reply by the defence.

JUDGE CARTWRIGHT:

Yes, thank you, President.

[09.41.31]

The Chamber considers that the objection made by the Co-Prosecutor was a valid one. It is not appropriate for a

lawyer representing a party to give evidence in effect of his own experiences; however, if you have a document which states that on a certain date Nuon Chea's blood pressure was extremely high -- something of that nature -- then you can certainly put that to the expert, but you can't ask a question that includes information that you have learned because you are not a witness. You are representing Mr. Nuon Chea. Is that clear enough for you, Son Arun?

MR. SON ARUN:

I thank you, Your Honour.

I think I have evidence in the form of the report by a doctor. I have already notified this number -- coding number to the office of administration or the Court officer and the situations when his high blood pressure extremely were high were recorded and, of course, will make this known or put before the Chamber. I just wish to only seek clarification or make this known to Professor Campbell so that he could respond to my question, but the Co-Prosecutor objects.

The defence is of opinion that Professor Campbell's assessment has not been seriously conducted. That's why our concern is that my client would not be able to fully participate in the proceedings -- in the actual full proceedings. It is not considered as the defence counsel is having no professional skill in presenting information or document to the Chamber because we did not wish to really make this known in public for it is rather

confidential.

[09.44.20]

MR. PRESIDENT:

Counsel for the civil parties, you may proceed.

MR. PICH ANG:

Mr. President, my sincere respect to Venerable Monks and the public as well. I think the issue being raised here is about the expertise of Professor Campbell and, indeed, we are of the position that Professor Campbell conducted thorough investigation or observation with regard to the assessment already and I think it is really inappropriate for the defence counsel to challenge such assessment without proof. And if you feel that the expert has failed to seriously conduct such assessment then you can challenge by submitting in the report.

MR. SON ARUN:

I do not know whether I am allowed to address the lead co-lawyers.

MR. PRESIDENT:

Judge Silvia Cartwright, you may proceed.

JUDGE CARTWRIGHT:

Thank you, President.

Now, counsel are making submissions and this is not the time for arguing this point. Counsel Son Arun, you can put a document to the expert and ask for his comments on it, but I don't think that -- it is inappropriate for you or for counsel for the civil

parties to be making submissions at this point. There will be ample opportunity for that at a later stage. You are more than -- you are entitled to challenge the expertise of the expert, but you must do that by putting questions or putting documents to him for his comment, not by making submissions.

[09.46.32]

MR. SON ARUN:

Thank you very much, Judge.

I think that I am not entitled to provide document directly to the expert; only the Court or the Chamber or the prosecution. I do not know. I haven't known that. I have only learned from the document. That's why I would like to inform the Chamber I simply bring up some example in order to inform the Chamber that the assessment conducted by the expert which I have already included in my written submission and I would simply like to inform the Chamber and the public at large that Dr. Campbell have not diligently and fully conducted assessment on my client.

And if I cannot inform this matter to the Chamber and the public, I would like to simply ask my final question, but what I would like to emphasize that if you haven't looked at the past medical record -- particularly in relation to his hypertension and blood pressure -- then this is not going to be a correct conclusion on the status of my client's health.

MR. PRESIDENT:

What is your specific question really? If you want to make

submission, it is not the right time to make submission now because you will be granted the opportunity to make your submission at the end of these proceedings.

[09.48.30]

Yes, international -- the international -- the defence, you may now proceed.

MR. PAUW:

Thank you, Mr. President, Your Honours, members from the prosecution, civil party co-lead lawyers, Professor Campbell. Good morning. Thank you for being here today with you -- with us again.

QUESTIONING

BY MR. PAUW:

Q.I will continue the cross-examination that we finished on Monday by referring more to the report that you prepared regarding Nuon Chea and as a preliminary matter, I would like to discuss some documents that you reviewed according to the report and I want to start with the CT scans that are mentioned in the list of documents. And my first question is, do you know the reason why three CT scans were made of Nuon Chea?

MR. CAMPBELL:

A.Before I comment on that I just want to come back to the previous issue to indicate that I was aware of those pressures and if the Court would like me to comment on those I would be very willing to do so.

Q.Excuse me, I ---

(Short pause)

MR. PRESIDENT:

Professor Campbell, you are now allowed to elaborate on that.

[09.51.11]

MR. CAMPBELL:

Thank you very much. I was aware of those pressures -- blood pressures which were high. I think it's important to recognize that blood pressure does fluctuate considerably and in situations of stress, any person's blood pressure goes up and clearly being in Court in any capacity is likely to raise blood pressure. The important issues are that the blood pressure is under the appropriate medication to try and control it. Nuon Chea is on a drug Tenormin or atenolol which is a beta-blocking drug the effect of which is to lower the effect of stress on blood pressure. His blood pressure, as I've said, is well controlled most of times. It will, undoubtedly, on other occasions go up, but the medication is appropriate.

If I could move on to address the questions of the CT head scans. There have been a number of CT head scans done. They have demonstrated a degree of cerebral atrophy consistent with age and also evidence of his previous stroke. I did not order any or ask for any additional CT scans. I felt that all scanning necessary had been done.

MR. PAUW:

Q.Thank you, Professor Campbell, but the actual question was whether you knew why three CT scans had been made in the past, the reason for that.

MR. CAMPBELL:

A.No, I mean I could detect in the notes no strong clinical reason for the repeated scans. There'd been no change in his neurological symptoms as far as I was aware.

[09.53.10]

Q.Could you comment on the quality of the CT scans that you looked at?

A.The quality of the CT scans was adequate to make a decision on those particularly that there was no additional neurological problem that he had other than the degree of atrophy consistent with age and that small stroke.

Q.I did not read in Nuon Chea's report that you had any other medical professional like -- such as a radiologist look at the CT scans. Is that correct?

A.That is correct. I was comfortable in interpreting those myself and on using the report that had been produced by the radiologist who reviewed the films.

Q.In general, can a radiologist detect issues that you, yourself, might not be able to detect with your medical training?

A.Always with films, particularly with scans, the clinician reviews those with the radiologist because the clinician brings clinical knowledge to the review and the radiologist; his or her

experience in reviewing. We had both the radiologist's opinion and my clinical opinion on the CT scans.

Q.And with all due respect, Professor Campbell, you did not answer the question. Does a radiologist see things on a scan that you cannot detect or could the radiologist detect things on a scan that you could not detect?

[09.54.46]

A.I think it's more that the radiologist may interpret things in a different way from a clinician and have greater experience in interpreting change.

Q.Nuon Chea, as you, yourself, mentioned suffered a stroke in 1995. Did you, perhaps, examine any brain scans that may have been made at the time?

A.No, I didn't, but brain scans at the time often don't show change. It is sometime later that the changes from a stroke become evident so that I would not have expected to pick up any additional information from reviewing scans at that time.

Q.After how long do certain impairments become evident; how much time after a stroke?

A.You mean on the CT scan ---

Q.Yes.

A.--- or clinically? On the CT ---

Q.On the CT.

A.It depends on the type of stroke. In a small stroke like this, it may be not evident for a number of days.

Q.So did you, perhaps, examine any brain scans that were made in the period after his stroke in the days or weeks after the stroke occurred in 1995?

[09.55.59]

A.No, I didn't and I don't think they would have added any additional information.

Q.Okay, thank you. MRI scans -- as I told you on Monday, I'm a layman on these issues -- would an MRI scan have provided information not provided by the CT scans or would there have been any reason to conduct an MRI scan rather than a CT scan?

A.MRI scans at the time of the acute stroke -- at the time -- are useful and more effective than CT scans, but at this stage, the MRI scan would not add anything more to the information that we can gain from the CT scan.

Q.You also mention, in your list of documents, the reports -- the weekly reports as prepared by the Calmette doctors. Do you know whether a formal cognitive testing is part of those weekly medical check-ups? And I would like to use your term, "psycho-metric testing." Is that the term you use?

A.Yes, that is so and as far as I'm aware, it is not.

Q.Then moving on to page 4 of your report, you mention under (c) that you asked Nuon Chea to provide details of the problems which had in the past or were now affecting his health. Do you remember which problems Nuon Chea mentioned?

A.As far as I recall, they were to do with his mobility, his

back and muscular-skeletal problems, his heart troubles and his previous stroke.

[09.57.58]

Q. Did he complain about memory -- issues with memory?

A. The problems which he has been complaining are for at least four years the heaviness in the head. The issues that you have documented in your submission, again, were commented upon, yes.

Q. I'm not sure what your answer just was. Did Nuon Chea raise that initial assessment's -- his problems with memory?

A. He raised the problems of concentration more than of memory.

Q. Then under (d) you mentioned that you reviewed with Nuon Chea any additional problems that you were aware of, but that he, himself, had not raised. Do you remember which issues were those?

A. I cannot remember specifically, but I would consider that they were probably the issues around kidney function and his previous gastrointestinal problems; his previous bleed that he had had.

Q. I hear you say that Nuon Chea mentioned issues of concentration in that first assessment, but I do not see it reflected in your report. Why did you omit this if Nuon Chea mentioned this?

[09.59.34]

A. I felt that he had concentrated throughout the discussion I had had with him adequately. I do not think it was a big issue that he raised at that time.

Q. You also mentioned that you read our urgent application before you went to assess Nuon Chea?

A. That is correct.

Q. In that urgent application there is a number of references that relate to Nuon Chea's brain and I would say they can fairly be construed as relating to concentration issues and/or memory issues and I will quote from our urgent application that in September 2007, Nuon Chea informed the Investigating Judges that his brain was not normal. In October 2007, he mentions that his head is heavy. In March 2008, he stated that his thinking was generally unclear. In June 2008, he mentioned that there were serious brain function problems and that his brain was tense. In 2009, well, relating to memory, he says "I'm experiencing trouble with my memory", but then he says "I cannot read more than two pages without my head spinning; my indication that that related to a concentration. In June 2009, is that -- here, he mentions that he has "problems with my brain" and his defence counsel, Mr. Pestman, indicated that he suffers from a problem with concentration. And then in 2009, October 2009, he claims again he has memory problems.

Again, if I read that list, I -- as a layperson again -- would understand this to mean that Nuon Chea has issues of concentration, and I hear you say now that Nuon Chea mentions these problems in his first assessment by you.

Would it not have been appropriate to at least comment on this

issue in your report, considering that it's an important part of our urgent application and that Nuon Chea raised this issue during his initial assessment?

A.Yes, I do comment that I did not feel he had any cognitive impairment that would affect his ability to participate.

As I've said in my more recent report, those problems -- those subjective problems -- have been complained about for four years, but I was not able to detect, either on that first visit or on the subsequent visit, any objective evidence of that.

And others who have seen him regularly over that time, for example, Professor Lafont, have also found no change objectively, despite those continued subjective symptoms.

They've also not been associated with any change in his CTC scanning.

So those complaints that he has, but they have not been evident at all when he has been examined.

Q.Okay. We'll get to the underlying reports at a -- the later stage, but for now let me ask you for how long did you see Nuon Chea on that first day; how long did your first assessment take?

A.My assessment, when I was with him, would have been, from memory, just over an hour. It would have been from an hour to an hour and-a-half.

Q.Yeah, okay. I thank you for your answer.

The quotations I've just read to you of Nuon Chea making statements about his health mostly stem from these -- the

detention condition interviews that we briefly spoke about on Monday. These were detention condition interviews that were specifically related to his well-being. And you countered that you did not see any reason to look at the video footage of these detention interviews.

Do you think now that you hear these comments, do you think it might have been appropriate to, at least, review some of the video footage?

A. I was not aware of any problems during that hearing and, therefore, did not review those films. I had been aware of the problems with the other accused and, therefore, reviewed those.

Q. Then in your report under "F", you mentioned that you reviewed his career, family and social history with him as part of an assessment of cognitive function.

Do you remember what questions you asked him?

A. Yes. I asked him about his background, his experience over the years as much as I could, going back over his history and his family circumstances.

Q. And can you comment on how Nuon Chea responded?

A. He was fluent and was able to give me the information that I asked for, and I did not detect any problems with recall during that discussion.

Q. Did you detect any hesitation on the part of Nuon Chea to share this information with you?

A. No. I mean, clearly, I was going through an interpreter and

I've also discussed with the interpreter whether he noticed any hesitation or speech problems with him, or problems with memory, and he detected no problems there. I did not discuss the more sensitive issues related to this trial, obviously.

Q.But to summarize your answer, you felt that he participated eagerly with you?

A.He participated willingly with me.

Q.Thank you.

Then you mention in your report that you assessed systems of concern that you gave particular attention.

Can you briefly state what those systems were and how did you give them particular attention?

A.His cardio-vascular system because of his history of a previous heart attack. I reviewed his history and all previous investigations. I took a history of him, from him, of cardiac systems, possible cardiac systems, and I also examined the cardio-vascular system.

Q.Thank you.

Nuon Chea has indicated in the past and also in these hearings that he loses concentration and he gets tired after an hour and-a-half, or around an hour and-a-half, and you have already indicated that you think this is plausible. And you also already addressed some of the possible reasons why, but I would like you to elaborate a bit more what could be the underlying medical reasons for him to lose his concentration after, let's say, an

hour and-a-half?
A.As I've said, I think we're looking at a combination of factors that contribute. Age may well be one; he is now 85. He has physical problems which may well mean that he tires more easily, and those include his difficulty with mobility, getting to and from the courtroom. His cardio-vascular disease, although that's under good control at present. His previous stroke and his poor mobility, again, make every effort that he has to take and more physically demanding and that additional stress is likely to impair concentration after a period.
Q.Thank you. And you, yesterday, on a question by the Trial Chamber, you indicated that you found an hour and-a-half of concentration span plausible, but that -- you indicated that if Court would break, upon resumption the trial sessions, Nuon Chea would be able to attend again.
Is that how I understood you correctly?
A.Yes, I think that is reasonable and especially used in conjunction with the holding cell.
Q.You say it's "reasonable". Do you base this on a verifiable medical standard?
A.I base that on my clinical judgement and my assessment of him.
Q.So how long would it take for Nuon Chea to recharge -- forgive me the layman's term?
A.I think that's very difficult to estimate. I have felt that the breaks that the Court takes would probably be adequate for

him to stretch, get back on his feet, to relax for a short time and then come back.

Q.I agree that for, let's say, most participants in this courtroom, that would be valid, but have you actually medically assessed whether that would be adequate for Nuon Chea?

A.I have assessed Nuon Chea with that in mind and as adequately as I can.

I think it's also important to remember that it's not only the immediate short-term time of a day's concentration, it is time over a long period too that may be affected. So that if it's short times -- if the Court times are very short and shortened it may have a longer-term problem for him given, as you indicate, that his health has been deteriorating.

Q.Do you have any -- has anybody given you any estimate as to how long this trial might last?

A.I have had difficulty getting an idea as to how long the trial would last. People have suggested a number of years and, clearly, if it lasts a number of years then that would have the potential to have an effect on Nuon Chea's ability to participate throughout that length of time. The longest estimate I've ever heard is around four years, but I am not able to judge that at all.

Q.All right. Thank you for the comments so far.

I would like now to move into an issue that was discussed both yesterday but also was touched upon on Monday. It's the issue of

participating in standardized tests and you indicated that in the conditions that Nuon Chea is in, a person in Nuon Chea's conditions might not do so well on purpose in these tests, or might not do his best.

Is that a correct reflection of your words?

A. That would always be a concern in this situation, yes.

Q. I'm hesitant to use medical terms that I'm not familiar with, but in literature I came across the term "malingering". Is that the medical term used for patients that try to either pretend to have a disease or pretend that they are less fit than they are?

A. It's a very pejorative term and not one that is used now.

Q. M'hm.

A. I mean, I certainly would not use it in the circumstance.

Q. Okay. Then I will drop that term and will not use it.

But I observe that you did let Ieng Thirith make some selected test questions and you observed that as far as you could tell, she was not trying to fool you. Is that correct?

A. As far as I could judge, that was correct.

Q. And I heard you say yesterday that you could conclude this based on being a clinician administering those tests a great number of times over the years. I'm paraphrasing because we don't have the actual transcript, but that's what I heard.

Is this a correct reflection of your words?

A. That's a correct reflection.

Q. Could you then not have used the same approach with Nuon Chea?

A.I could have, but there were two reasons not to.
One, that my initial assessment of him and my subsequent assessment had not shown any evidence of cognitive impairment, and that had not been evident on any of the previous tests as well. And, also, we had the MMSE test done in February by a different party.
Q.That is an answer but my question was, could you have used the same approach with Nuon Chea; could you have Nuon Chea -- let Nuon Chea take these tests and could you have observed him with your experience as a clinician for many years?
A.Yes, I could have.
Q.Thank you.
You also mentioned yesterday that you were conscious that Ieng Sary in the case of Ieng Thirith, when talking about his wife was not a disinterested party, but that you still felt that he was genuine in his statements. Is that correct?
A.That is correct.
Q.Could you have used the same approach with Nuon Chea's wife if you had approached her to talk about Nuon Chea's mental condition now and in the past?
A.I had more easy access, of course, to Ieng Thirith's husband. I did not have access to Nuon Chea's family.
Q.Did you try to get access to Nuon Chea's family?
A.No, I didn't.
Q.You mentioned just now that you had the feeling that Nuon Chea

was participating willingly in your assessment of him, and in your report you also mention -- you actually write this down -- that you thought -- that Nuon Chea thought that his memory was good.

Is that, to you, a sign of a person trying to impress as weaker than he actually is?

A.No, it's not.

Q.Nuon Chea also told you clearly and fairly convincingly about his past. Is that, to you, a sign of a person that's trying to impress as weaker than he actually is?

A.No, it's not.

Q.And the MMSE score that we have been talking about a lot for the past few days -- I feel maybe a bit too much -- but this 30 out of 30 score apparently stems from a test that was conducted on the 22nd of February of this year. And I point out that our urgent application to appoint an expert dates from the 2nd of February from that year -- from this year, so it precedes the MMSE.

So if Nuon Chea was indeed eager to be declared unfit to stand trial or was eager to impress as weaker, could he have manipulated that MMSE by scoring lower than 30 out of 30?

A.I'm not quite sure of the -- if a line of questioning -- had he been, yes, he could have, I suppose, yes.

Q.In short, are there any objective indications that Nuon Chea is trying, or has been trying, to manipulate his medical

examinations?

MR. ABDULHAK:

If I may, Mr. President. Just very briefly.

If the expert could be asked on the basis of the interviews he conducted with him? I think the question is a little bit broad if it relates to the entire medical history and examination Nuon Chea's undertaken over the past several years. I think it wouldn't be reasonable to expect the expert to opine on those prior examinations and whether or not Nuon Chea was attempting to present an inaccurate picture.

MR. PAUW:

I will point out that my question was very general. The question is, "Are there any objective indications that you are aware of that Nuon Chea is trying, or has been trying, to manipulate his medical examinations?".

I don't see anything improper in that question. I'm not asking anything of the expert that he cannot know.

MR. PRESIDENT:

Counsel, you may proceed with your questioning.

MR. PAUW:

Q.Excuse me. Are there any objective indications that you are aware of, that you've seen in his medical files, that Nuon Chea is trying, or has been trying, to manipulate his medical examinations?

MR. CAMPBELL:

A.No, but I'd like to reiterate that was not my primary reason for not doing these tests. As I've indicated before, they are a supplement and, as you've indicated in your own question, maybe too much attention has been placed on them.

And, secondly, from my reading of his previous history and from my discussions and examination of him, I was not concerned about a significant impairment of memory.

Q.I've heard you say this, Professor, and thank you for that. I do want to point out that yesterday on questioning by the Trial Chamber, you mentioned that part of your normal practice is preparing court reports for -- on people to assess capacity to function normally in society. Is that correct?

A.That is correct.

Q.You also mentioned earlier that, in general, subjects in those studies try to perform well. Is that correct?

A.That is correct.

Q.Would it be fair to say then that you do not have extensive experience when compiling reports for the courts with patients that attempt to manipulate the system to score lower?

A.There are very few circumstances in which that occurs.

Q.So can I understand your answer to mean that you do not have extensive experience?

A.That is so.

Q.You mentioned that there are very few circumstances in which this occurs, but there's actually one circumstance where it might

occur much more than in your practice and that's the practice of preparing reports for fitness to stand trial.

Are you aware that there are medical specialists that conduct numerous of these reports each year?

A.I'm sure that is so.

Q.Would you say that in preparing reports for assessment of fitness to stand trial, those medical professionals might be better in dealing with -- I've written down "malingering" but I will refrain from using that word -- might be better to detect patients that consciously try to score lower to fool the system?

MR. ABDULHAK:

Mr. President, I would to object to this question. I don't think it's appropriate and I don't think it's within Professor Campbell's expertise to opine on the skills of other experts. If he can be asked questions about his qualifications and background, then certainly that would be appropriate, but he shouldn't be asked to opine about whether other experts may have been more qualified. It's not an appropriate question.

MR. PRESIDENT:

The objection is sustained. The defence counsel is advised to refrain from making a question concerning his opinion regarding other experts either national or international skill.

MR. PAUW:

Thank you, Mr. President, I will refrain from those questions then.

Q.Then let me ask you personally, do you think that standardized tests or, in your words, psychometric testing can be used in assessments of fitness to stand trial?

MR. CAMPBELL:

A.They can be used and they are a supplement, and had I thought that they would be useful, I would have administered them. As you indicate, Nuon Chea was participating with me in my assessment of him.

Q.I'm not sure I understood that last ---

MR. PESTMAN:

I'm sorry to interrupt my colleague and cross-examination of the expert witness, but my client has indicated that he's not feeling well and he wishes to go downstairs. If necessary at all, obviously, he waives his right to be present during the hearing today.

If possible, he would like to be taken to the detention centre and not to the holding cell.

MR. PRESIDENT:

Since it is close to the time for the adjournment, it would be appropriate if he can hold on until that break time and the defence counsel is advised to make a few more questions to fill this gap before the break.

MR. PAUW:

Thank you, Mr. President.

Q.Professor Campbell, could you repeat the answer you just gave

because I missed the content?
MR. CAMPBELL:
A.What I was indicating was that, as you had emphasized as well, Nuon Chea had been participating willingly with me in my interviews of him. There had not been any question that he would be deliberately falsifying any of the information that he gave me.
As I said, that possibility was not the reason that I did not do the testing.
Q.That's a clear answer, thank you.
Then moving on the part of your report that is titled "Cerebr-Vascular Disease", you mentioned that this was a small stroke and it affected white brain matter.
Could you elaborate a bit more?
A.The cells of the brain, the neurones, cell bodies, lie on the outside of the brain in what is called "the grey matter", and then they send their messages down through fibres to the spinal cord and throughout the rest of the body. And those fibres are what's called "the white matter".
And the stroke that Nuon Chea had is a small stroke affecting that white matter and the white matter that carries the connections to the right side of his body; so that it did not affect the thinking area of his brain, it affected the wiring or the connections of his brain.
Q.I came across the word "thalamus" in reading the medical

reports. Can you explain how the thalamus is related to the white matter that you just described?

A. It is very close to what's called "the internal capsule" which is a concentration of these fibre pathways and it's in that area that he had the stroke.

Q. But must I understand this to mean that he had what is called a "thalamic stroke" or was his stroke of a different kind?

A. It's really what we'd call a "lacunar stroke" or a "white matter stroke" in the area of the thalamus. The thalamus is part of what's called the extrapyramidal part of the brain which has to do with stability and mobility but through a different process.

Q. Is the thalamus affected by this type of stroke?

A. Yes, it can be.

Q. And has it been in the case of Nuon Chea as far as you can tell?

A. No, there are no indications of thalamic problems with Nuon Chea. The main problem has been the connections to the right side of his body, but there are minimal changes now of that stroke difficult to detect.

Q. Is it possible that the thalamus has been affected but that it would not show up on CT scans?

A. That's certainly possible, but there's no evidence of thalamic dysfunction.

Q. So, again, in your medical terminology, how would you call the

type of stroke that Nuon Chea suffered; if it were one of your patients, how would you call it?

A. I'd describe it as a lacunar stroke -- lacuning meaning a small hole -- a lacunar stroke likely as a result of his hypertension and affecting the right motor system.

Q. Okay. My French is not that good -- I will refrain from saying "either" -- but my French is not that good so I apologize to the French speakers in this courtroom, and I refer to the report of Dr. Kong Sonya. It is -- actually, it's attached to your medical -- your second assessment of Nuon Chea -- and there they speak of a "lésion séquellaire ischémique du thalamus gauche".

And how would you translate that into English?

A. It's a small stroke in the region of the left thalamus. It is, in actual fact, very difficult to see on the CT scan. It is a very small area.

Q. But I would, with my limited French, still translate it as a lesion of the left thalamus. That's my understanding and I put that before you. Could you comment?

A. Yes. The lesion functionally is of the motor system affecting the right side.

Q. Sorry, could you repeat that.

A. The effect of the stroke is the effect on the right motor system, the power on the right side or the upper motor neuron signs on the right side.

Q.I understand that but that's not the question. I understand this French to mean that it's a lesion of the left thalamus. So, could you comment on that.

A.Often lacunaran strokes are silent. That is, they do not have a manifestation clinically that one can detect on examination. And it's certainly possible that he has had a small thalamic stroke. The stroke that is of importance is in that area, but it is affecting the motor system. That's the effect of the -- his stroke in 1995 has been.

Q.Then, let me rephrase the question because I think we are suffering from a translation issue between the medical, professional and the lawyer. Do you have a medical explanation as to why Dr. Kong Sonya would refer to his lesion as a lesion of the left thalamus?

[10.31.30]

A.As I've said, these lacunar strokes are often small, they may be clinically insignificant, and it is possible that he's had a stroke affecting the thalamus. The stroke that is of importance in its clinical effects is one that's affected the other motor neuron connections, connections from the brain to the right side of his body. But as I've said, the changes from that now are minimal and difficult to detect.

MR. PAUW:

Thank you, Professor Campbell. Mr. President, I get - I'm informed that Nuon Chea really does feel bad. Are we continuing?

MR. PRESIDENT:
Since it is an appropriate time to take the adjournment, the Chamber will take the adjournment for 20 minutes. Nuon Chea is allowed to be returned to the holding cell, observing the proceedings through remote participation starting from now until lunch break.
The security personnel are instructed to take him to the holding cell and bring him back to the courtroom before the session of the afternoon.
THE GREFFIER:
All rise.
(Accused exits courtroom)
(Judges exit courtroom)
(Court recesses from 1033H to 1059H)
(Judges enter courtroom)
MR. PRESIDENT:
Court will now resume. Please be seated.
I will now turn the proceedings over to Judge Cartwright.
JUDGE CARTWRIGHT:
Thank you, President.
The parties and the Trial Chamber have the advantage of a wide range of documents, and in this context, particularly medical documents, but the public has not had the same information so I just want, on behalf of the Trial Chamber, to make the following comments. And I emphasize that the parties are entitled to

submissions on these matters after the expert's evidence is concluded and at the time when we're hearing submissions.

[11.00.52]

The first comment is that the documents that have been put to Professor Campbell, the medical documents during this morning, largely pre-date the time when the co-investigating Judges made an order appointing psychiatric experts to examine the accused. So there was an opportunity when those psychiatric experts were appointed for the accused, Nuon Chea, to be examined by expert psychiatrists, Professor Ka and Dr. Brinded.

Yesterday, I referred briefly to the fact that Nuon Chea had not taken advantage of that examination, but it needs to be clear to the public that he declined to participate in a psychiatric examination and, in spite of persistence on the part of the two experts, he continued to hold this position. Therefore, there has been ample opportunity for him to have a psychiatric examination two years ago.

[11.02.32]

This in no way stops the defence for him from seeking further expertise, and that has already been indicated to the Chamber and the Chamber has responded by reminding counsel that reasons for such additional expertise have to be given.

The final comment that I wish to make on behalf of the Chamber is this. The expert, Professor Campbell, who is being examined today, was -- his appointment was notified to the parties some

time ago and ample opportunity was given to the parties to challenge his qualifications or his appointment. And they did not do that.

[11.03.30]

Again, the parties are quite entitled to examine his expertise and his qualifications in Court today, but it just needs to be made clear to the public that they've had that opportunity before this week and have not taken it up.

Thank you, President. I think that's all that you wished me to clarify to the parties and the public.

MR. PRESIDENT:

Thank you, Judge Cartwright.

[11.04.10]

We now hand over to the defence counsel for Nuon Chea to proceed with the questioning to Professor John Campbell.

MR. PESTMAN:

Before I give the word to my colleague to continue the cross-examination, I just spoke to Nuon Chea downstairs in the holding cell. You mentioned before the break that our client would be allowed to follow this session through remote participation. I wish to inform, and so does my client, inform this Chamber that he will not do so. The television is turned off because he feels too ill to watch tele and follow what's going on upstairs.

[11.05.05]

As the holding cells are only meant to hold accused who are still able to effectively participate through remote participation in the proceedings and Nuon Chea is clearly not at this very moment, I request Your Honours to order his transfer to his detention cell, his temporary home.

[11.05.31]

I'm of the opinion that holding cells should not be used to create the illusion that an accused is participating effectively in a proceeding when he's actually not.

To be completely clear, I repeat that my client expressly waived his right to be present, whether here or in the holding cell, so you may continue with the hearing.

MR. ABDULHAK:

Mr. President, if I may, very briefly and by way of a general observation, today and on previous days this week we've seen similar requests, obviously, and observations made and we take them as they are.

[11.06.25]

I would simply indicate or perhaps suggest a matter to be considered by the Trial Chamber as we go forward that perhaps it may be appropriate to have a medical practitioner on standby to provide additional information for the Chamber where situations such as this arise. I do note that we have a medical facility within the Court. Such opinion can be sought and presumably obtained within a short period of time so that the Chamber has a

more -- perhaps a fuller appreciation of any difficulties any accused may be facing.

Thank you.

(Short pause)

[11.09.41]

MR. PRESIDENT:

Having noted the application by Nuon Chea's defence team and also having deliberated on these and with regard to the health condition of Nuon Chea, that he indicated that he finds it difficult to follow the proceedings in the courtroom. And this morning we heard clearly from the defence that Nuon Chea could not really follow the proceeding inside the courtroom but that he could do so from the holding cell.

[11.10.31]

However, there was an additional observation regarding the waiver of the rights of the accused person to participate in the proceeding, as it is not useful for him to remain in these proceedings since he is of ill health and requested the Chamber to transfer him to the detention facility.

The Chamber has also noted the observation by the Co-Prosecutors that we should seek a medical opinion from the doctors on duty at the ECCC, who can assess his health status before the Chamber can make a decision to ensure that such a conclusion by Nuon Chea is genuine or not.

And therefore, the Chamber first decides to order the doctors who

take care of Nuon Chea to examine the health condition of Nuon Chea from now on and report to the Chamber before the session resumed in the afternoon. And No. 2, order the court officials to coordinate with the doctors who are in charge of supervising the medical care of the accused person.

[11.12.28]

And No. 3, the Chamber does not allow Nuon Chea to be transferred to the detention facility now. He shall remain in the holding cell pending medical examination until there is any other new order from the President of the Chamber otherwise.

We now hand over to the defence counsel to proceed with his questions.

MR. PAUW:

Thank you, Mr. President.

Q.Professor Campbell, before the break we were talking about the stroke that Nuon Chea suffered in 1995, and I believe in the end you indicated that it might well be possible that he suffered some form of thalamic stroke. Is that how I understood your words correctly?

MR. CAMPBELL:

A.Yes. The internal connections on the thalamus are in very similar areas. It may well have been that the stroke affected the thalamus as well, but there's been no evidence of thalamic dysfunction.

Q.Does the thalamus play a role in numerous aspects of

cognition?
A.No. The primary role of the thalamus is as part of the extra-pyramidal system, which has to do with mobility. It also -- an area in the region of the thalamus can cause pain as a consequence of the stroke, but there's been no evidence of that.
Q.Can a thalamic stroke affect memory?
A.No. The primary problem we're looking at here is a stroke involving the motor connections from the left hemisphere.
Q.But then you're speaking about the assessment of Nuon Chea personally. I'm speaking about thalamic strokes in general.
[11.14.40]
Can they affect memory?
A.A small thalamic stroke such as described here would not be expected to affect memory, no.
Q.Can a thalamic stroke of any size affect memory? In thalamic stroke, again.
A.No. We're talking about a stroke here which is very small, which would not affect memory.
Q.But I'm talking about thalamic strokes in general, to later become more specific.
[11.15.09]
So thalamic strokes in general, can they affect memory?
A.No, they would not be expected to affect memory.
Q.Can they affect concentration or attention span?
A.No, they wouldn't.

Q.Is it true that inattention, as a general feature of thalamic lesions, irrespective of where the damage is found and that a loss of attention is a common denominator in patients with thalamic infarctions?
A.I think we're talking specifically here about a very small stroke in the area of the thalamus. And as I've said, I do not expect that would cause any problems with memory or concentration.
Q.Would you please answer my question?
[11.15.59]
I'm asking you whether it is true that inattention is a general feature of thalamic lesions in general, irrespective of where the damage is found, and then let me just limit my question to this first part.
A.No. As I said, I would not expect it to be a feature of this lesion.
Q.Is a loss of attention a common denominator in patients with thalamic infarctions, a loss of attention?
A.Loss of attention would be a feature of people with multiple lacuna stroke, but there's no evidence of multiple lacuna strokes, either on history or CT scanning, here.
Q.But again, Professor Campbell, I'm speaking about thalamic strokes in general. And I would prefer if you answer the question as it is put before.
A.It is not a feature of thalamic strokes.

Q.A loss of attention is not a feature of thalamic strokes.
That's your answer.
A.In a situation like this, no.
Q.Again, Professor Campbell, I'm asking you about thalamic strokes in general.
[11.17.08]
Could you please answer that question?
A.Well, thalamic strokes can be associated with other strokes, which can cause the sort of problems that you're indicating.
Q.Purely a thalamic stroke, is that associated with a loss of attention?
A.Any acute stroke, any acute event, can be associated with problems, but one does not expect a chronic problem to arise such as problems with memory in this sort of stroke.
Q.Professor Campbell, we're turning around in circles and you still have not answered my question.
[11.17.43]
Is a loss of attention a common denominator in patients with thalamic infarctions?
A.No, it's not a common feature.
Q.Thank you.
Is it true that in higher age, processes of attention become more vulnerable to disruption due to thalamic lesions?
A.Any lesions can cause problems, as we've indicated, that age does have an effect on concentration.

Q.But again, I will rephrase -- I will repeat the question, rather.

[11.18.18]

Is it true that in higher age, processes of attention become more vulnerable to disruption due to thalamic lesions?

A.They can become more subject to disorders of thalamic problems, yes.

Q.Is it true that severe deficits in executive functioning and attention have been noted in thalamic patients?

A.They're more an association of sub-cortical strokes, which can be associated also with thalamic lesions, lacuna strokes.

Q.So how must I understand your answer? Are severe deficits in executive functioning and attention -- have they been noted in thalamic patients?

A.As I said, thalamic strokes, lacuna strokes affecting this area are commonly associated with other small strokes, sub-cortical strokes, which can be associated with problems of executive function. But that is in multiple problems; not in small lesions as has been described here.

Q.Thank you.

[11.19.34]

Is it true that simple attentional deficits seem a rather general trait of thalamic lesions and occur more frequently with higher age?

A.They can occur with sub-cortical strokes.

Q.And so let me repeat the question.

[11.19.56]

Is it true that simple attentional deficits seem a rather general trait of thalamic lesions and occur more frequently with higher age?

A.In a pure thalamic stroke, that would be unlikely.

Q.Okay. Might there be additional brain damage in Nuon Chea's brain that is so subtle that it cannot be detected on the CT scan?

A.That is so, but there's been no evidence of that clinically, or on examination.

Q.Thank you.

[11.20.35]

Nuon Chea has been complaining about the effects of his stroke, as he puts it. I put it before you that it's possible that he's actually suffering from mental impairments that do not actually stem from the stroke but are, rather, caused by other underlying medical impairments.

[11.21.02]

Is that a possibility, according to you?

A.As I've indicated, I feel his tiredness and his inability to sit and concentrate for prolonged periods is due to a combination of factors, his general physical health, the additional effort required because of his stroke and his lack of outside activity, physical activity, and his age.

Q.And beyond that, is it possible that there are other underlying causes that have not been detected on the CT scan but still affect his cognition?

A.As I've said, they've not been detected on CT scan and they've not been detected clinically, any additional factors.

Q.Thank you.

[11.21.50]

As far as you are aware, has the long-term memory of Nuon Chea ever been tested through any form of standardized testing or psychometric testing?

A.The only recorded, definite test is the one that we've referred to of February of this year that I've been able to detect in his notes.

[11.22.16]

There has been repeated comment of normal intellectual function, and that's been consistent with people who have seen him over a prolonged period now.

Q.You're referring to the MMSE again.

You mentioned on the first day upon questioning by the OCP that the MMSE was good to detect certain impairments, but not so good in other fields. Could you elaborate, because it was kind of lost in the questioning of that day.

A.The MMSE is a good test of memory, structural problems, language. It does not fully test frontal lobe function.

Q.And is it a good test to determine long-term memory?

A. It is a test of memory generally, and most problems are -- it would be very unusual to have a problem of long-term memory but not short-term memory. And the short-term memory is tested fully in the MMSE.

Q. So let me read my question.

[11.23.26]

Is the MMSE a good test of long-term memory?

A. It does not test long-term memory specifically.

Q. Considering that Nuon Chea, if he gets to testify, he would have to testify about facts that took place over 35 years ago, do you think it might be useful to test his long-term memory?

A. Well, that is what I did as much as I could in taking the history of his previous experiences with him.

Q. Have you done any psychometric testing of Nuon Chea's long-term memory?

A. No, I have not.

Q. Has anybody else in the past, as far as you're aware, conducted a psychometric testing of Nuon Chea's long-term memory?

A. The only formal testing of his memory is the MMSE to which we've referred. And as has been indicated previously, he did not participate in other testing of memory and his higher cortical function.

Q. Again, you're not answering my question.

[11.24.35]

My question was, has anybody else, to your knowledge, ever tested

Nuon Chea's long-term memory psychometrically?
A.Not to my knowledge.
Q.As part of your assessment, did you test for how long Nuon Chea can read?
A.No. He indicated to me his attention span reading and indicated in part that it was due to his sight, difficult with his sight.
Q.What was his attention span in reading?
A.He said, as has been indicated, he can read for a quarter of an hour, half an hour, or a number of pages.
[11.25.20]
It's difficult for me to determine, not having observed his reading, of course.
Q.Could you have tested his reading?
A.Not in terms of his concentration in reading. I mean, it would be in a very artificial situation to try that.
Q.Are there tests that can test how well someone can read, both in accuracy and in speed, pages per minute?
A.Yes, certainly that could be tested.
Q.Do you think the ability to read -- and that includes, again, the speed of reading and the accuracy of reading -- is relevant when assessing someone's fitness to stand trial?
A.Clearly, the assessment of language, which reading is one component, is of importance, and there was no evidence of any problems with that.

Q.But again, you're not truly answering my question.

[11.26.14]

Do you think that an assessment of someone's reading abilities is relevant when assessing someone's fitness to stand trial?

A.I think that would be an extremely difficult task to carry out, to actually assess someone's reading ability in that sort of situation.

Q.But do you think it's relevant?

MR. ABDULHAK:

Mr. President, I'll object to this question.

[11.26.40]

Whether or not a matter is relevant for the purposes of fitness to stand trial is a legal matter, and for those purposes, obviously, there is a test. And in accordance with that test, experts can opine on a number of matters. But whether or not reading is something that's relevant to fitness to stand trial, which is a legal test, is not an issue for the expert.

MR. PAUW:

Mr. President, if I may comment.

[11.27.10]

Clearly, it has a legal component whether a person can read as part of his assessment of fitness to stand trial, but I'm asking for Dr. Campbell's medical assessment, whether in his medical assessment of Nuon Chea he felt that his ability to read, which is technically a physical and medical issue, was relevant. And

clearly, it would beg the question as to why someone would or would not test that ability.

[11.27.37]

So I think it's clearly a medical issue that can be answered by Professor Campbell.

(Short pause)

[11.28.24]

MR. PRESIDENT:

The questions you put to him may repeat what Professor Campbell has indicated so far regarding the issue concerning Nuon Chea regarding reading, and counsel is advised not to repeat questions.

Mr. Campbell is appointed by the order assigning the expert and that the instructions have already been laid out in that report, and that Mr. Campbell truly responds to the order and that counsel is advised to make sure that their questions are directly framed to the issues before us.

MR. PAUW:

Thank you, Mr. President.

Q.Professor Campbell, to continue on the reading aspects, which I feel is a medical assessment that you can comment on.

[11.29.55]

Before you went to examine Nuon Chea, were you informed as to how many pages of evidence there exists in this -- on the case file, as we call it, how many pages are on the file of this trial?

MR. CAMPBELL:

A.No, I was not.

Q.Do you think the volume of pages that an accused needs to read might impact on your medical assessment of someone's fitness to stand trial?

A.I think there are two aspects to the reading that need comment. One is Nuon Chea's ability to handle language, written language, and to understand what is written. And I have had no doubt in my examination of him of his capacity to do that.

[11.30.47]

The other issue is his ability to concentrate over time with that reading, and I have already commented on concentration. It's not so much an issue of his reading ability as in his general fitness.

Q.Thank you.

[11.31.03]

You told us before that you have examined Nuon Chea and that you made an assessment of how well he could be able to handle the stress of the courtroom proceedings. Could you elaborate a bit more on that; how do you see the stress of the courtroom proceedings to unfold in the period during this trial?

A.I looked at the effect of stress, particularly in the area of his cardiovascular health, and I've commented on that already, particularly in relationship to his blood pressure and any symptoms of angina or ischemic heart disease.

[11.31.53]
And the other issue is the stress. Clearly, stress increases the likelihood that the person will tire early, and the stress of the Court will affect that. And so I have made comments on the likely duration of time in which he will be able to concentrate and participate.
Q.And is it true that people that have -- excuse me. I will rephrase that question.
[11.32.23]
Is it true that fatigue may be caused by a cardiac condition and, in this particular, could Nuon Chea's fatigue be caused by his cardiac condition?
A.It may be a contributing factor, but I think it's important to recognize that his cardiac condition has been stable for a number of years.
[11.32.49]
His cardiac function is only mildly to moderately diminished. I think it is his general lack of fitness and activity rather than specific cardiac problems, although, as I indicate in my report, it is a contributing factor and one needs to take into account the whole picture.
Q.Referring to that whole picture, I'm not sure if I need to put it on the screen. I'm looking at the Trial Chamber. But I'm referring to the report that's an attachment to your second examination. It's on page -- it's got two ERN numbers, actually.

It's 00728023 or ERN 00726457. And it's within document E62/3/13.

[11.33.56]

Dr. Campbell, you see there under the heading "Pronostics et complications". And I understand that to mean prognostics and complications.

A.I'm not sure I've got the right page yet.

Q.Okay. It is your second -- it's the attachment to your second assessment of Nuon Chea. And it's a document that has on the front page, "Rapport médical" from the Calmette Hospital.

JUDGE CARTWRIGHT:

Do you have that page, Professor Campbell? That's the one that has the MMSE test on it, and it's dated the 22nd of February.

MR. PAUW:

Q.So under the heading "Pronostics et complications", there is a list of what I would assume are possible complications.

[11.35.21]

Could you comment on those complications?

MR. CAMPBELL:

A.(microphone not activated) -- heart failure, that's the build-up of fluid behind the heart. There has been no evidence of that clinically, as I've indicated. For his blood pressure to change, and I've discussed that already, that one would expect fluctuations of blood pressure in all people. And this may be greater in someone who is hypertensive, and especially an older

people with the particular type of hypertension that occurs in older people.

[11.35.58]

The trouble with heart rhythm, there has never been any suggestion that he has an underlying cardiac arrhythmia. He complains that his heart goes quickly at times, but that is a normal response to stress. And there has been full investigation of possibility of myocardial infarction, heart attack. And there has been no change, increased risk over a number of years of that.

He did have previous examination of his coronary arteries, which have a moderate degree of obstruction.

Q.And in your assessment, how would Court stress impact on those prognostics and/or complications?

A.We've indicated the effect of stress on blood pressure. I do not feel it is likely to increase the risk of heart failure.

[11.37.06]

Stress can induce angina, but he is on medications to prevent that and has not had angina for many years. I do not feel, from the reviews of his cardiac examination, that he is at greater risk than many other people with underlying cardiac disease would be.

Q.Thank you, Professor.

[11.37.28]

I would like to move now to the reports underlying your

assessment. And you also, in past days, have placed quite some emphasis also on those reports because you have reviewed his medical history based on those earlier medical reports. Is that correct?

A. That is correct.

Q. I assume, but do correct me if I'm wrong, that cognitive assessments or assessments of cognitive function lose either validity or accuracy after a certain period of time simply because cognition can change over time.

[11.38.10]

Is there a rule of thumb with regard to cognitive assessments after how long they lose their validity?

A. It depends very much on the circumstances. If someone has a progressive disorder, then one may well see change over a six-month period in the scoring.

[11.38.28]

Alternatively, if someone has an acute problem, that may be evident over a very short period.

Q. So can you give a rule of thumb after how many months or years a cognitive assessment should not be relied on any more by later professionals, but rather, retesting should take place?

A. No, there is no rule of thumb. I think it depends very much on the history. And if there is a history of change, then one redoes the tests. If there's no history of change, then that test may well still be reliable.

Q.You relied in your report on medical assessments of Nuon Chea by Dr. Antoine Lafont, Dr. Chour Sok, Dr. Panthongwiriyakul and Dr. Liv Chhinh. You remember those reports.
A.Yes, I do.
Q.Is it correct that all these doctors are cardiologists?
A.Yes. And the -- they are cardiologists. And -- but would have been trained as physicians as well, so they would have general training as well as their specific cardiology training.
Q.Thank you.
[11.39.48]
And do cardiologists, in general, possess any specific expertise beyond their normal medical training on the field of cognitive functioning and, more specifically, memory and attention span?
A.I would expect any competent clinician to pick up if there was change over time in a person's memory, especially if they were commenting specifically on that in a report.
Q.Let me repeat the question. Do cardiologists, in general, possess any specific expertise beyond their normal medical training on the field of cognitive functioning, and more specifically on memory and attention span?
A.All specialists will have undergone post-graduate training in internal medicine which would cover that, but not specifically in their cardiology training.
Q.So would cardiologists, in general, possess specific expertise beyond the training that all other medical professionals get as

part of their post-graduate training, such as, I would say, a neurologist or possibly a psychiatrist?

A.No, they wouldn't.

[11:41:03]

Q.Do you know whether these specific cardiologists, or the names that I just mentioned, whether they possess any specific expertise in the field of cognitive functioning?

A.No, I don't.

Q.And there's also a report prepared by Dr. Brinded and Dr. Ka, who are respectively associate professor of forensic psychiatry and professor of psychiatry, so -- and I -- let me put the question for you. Is it correct that they did not meet with Nuon Chea in person?

A.That is correct.

Q.Is it correct then to state that for their cognitive assessment of Nuon Chea they had to rely solely on the assessment of the aforementioned specialists or cardiologists?

A.They outline the sources of their information in providing their report.

Q.So did they rely solely for their cognitive assessment of Nuon Chea on the reports that were prepared by the cardiologists?

A.They were referring to those medical files, as I've said, the ones they document in their notes, yes.

Q.Again, your answer is not entirely clear. Did they have to rely in preparing their report solely on the reports as they were

prepared by the cardiologists earlier?

[11:42:32]

A.They certainly relied on them. I would need to go back to their report to see what other information they'd relied on.

Q.Thank you.

A.They documented that in their report.

Q.Did the ---

JUDGE CARTWRIGHT:

Just one matter. There is no purpose in repeating questions when you don't get the answer you like or want to hear. And the last question also asked the expert to comment on something that he cannot know about. He knows what reports were reviewed but he doesn't know whether they had to rely on those totally. We would have to ask the experts that. And of course they did not have the opportunity of examining Nuon Chea.

So please make your questions shorter, more to the point, and make sure we get a clear question from you that will greatly promote a clear answer.

Thank you.

MR. PAUW:

Thank you. I will proceed with what I hope are clearer questions.

Q.Do you have any information regarding the actual tests that were conducted by the cardiologists that we were speaking about a few moments ago?

MR. CAMPBELL:

A.No, but their comments indicate an examination to determine if there is any change neurologically.

[11:44:05]

Q.Do you know anything about the particulars of this examination -- of these examinations rather?

A.No, I obviously was not party to those examinations.

Q.There's also a Document B45. The Trial Chamber referred to it in questioning yesterday. And that is a report by Dr. Chan Samleng. He is a neurologist. Are you -- do you have the document before you? It's Document B45 and it's again entitled "Medical Report".

A.This report?

Q.It was not an attachment to your report -- your second report. It was sent to you as part of the original briefing.

MR. ABDULHAK: Your Honours, if it would assist, we have a spare copy. We're happy to share it with the expert.

MR. PAUW:

Q.Do you have the document in front of you?

MR. CAMPBELL:

A.I do.

Q.On page 1 there's a heading "Clinical Neurological Examination". I'll give you a moment to read it.

[11:45:55]

A.Yes.

Q.Do you know any particulars of the tests that Dr. Chan Samleng conducted, other than what is mentioned in this writing?
A.I don't know what examination he carried out. There is the examination under that, and that is a standard neurological examination.
Q.Which tests what exactly?
A.Nerves. That's the examination of the head for the nerves that involve the head. And then he examined for the motor components; that is strength, the reflexes, the tone and coordination. And I presume with upper body functions intact he's also referring to sensation. So a standard neurological examination I would have expected.
Q.Thank you. We, on Monday, briefly discussed your expertise, and I'm not going to revisit that, but I just want to clarify an issue that was raised by the prosecutor in that -- during that question. The prosecutor asked you, and I quote, "Have you undertaken any specialized study in the diagnosis and treatment of psychiatric conditions?" and your answer was "Clearly patients with psychiatric conditions do have medical problems and I am involved on occasions in their physical care."
It does not exactly answer the question of the prosecution. So did you have any specialized study in the diagnosis and treatment of psychiatric conditions?
[11:47:43]
A.I don't have post-graduate specialist training in psychiatry,

but clearly there is considerable overlap in psychiatry in my specialty area. I work closely with psychiatrists. I see patients with medical problems who have psychiatric illness. I see psychiatric patients who have medical illness. I am very aware of the overlap between psychiatric symptoms and medical symptoms in this age group.

Q.But you have not undertaken any specialized study in the diagnosis and treatment of psychiatric conditions?

A.I don't have post-graduate speciality training in psychiatry, no. I'm trained as a physician.

Q.You have mentioned when discussing Ieng Thirith that she is on medication which is sedating and will affect memory and cognition. Is the same true for Nuon Chea, as far as you know?

A.As far as I know he takes the occasional sleeping tablet.

Q.When you visited Nuon Chea in the detention centre did you assess which medication he was taking on that day?

A.I reviewed his medications. Yes, I saw his medications. I am not aware of what he actually took on that day, but I assume that it was his usual medications.

[11:49:22]

Q.And can you tell us, from memory, what were some of the medications that Nuon Chea was taking?

A.He is on -- he was at that time on atenolol, which is a beta blocker. He is on Prepridigal (phonetic), which is an agent that affects the platelets and is used to prevent strokes. He has an

agent to decrease acid production in the stomach and a drug for his gout -- to prevent gout. He was on a diuretic medication. He was on an agent to lower his blood pressure, what's called an ACE inhibitor. He was on vitamin tablets and he was on tablets for his bowels, paracetamol, and also the lorazepam, the sleeping tablet which he takes occasionally.

Q.I'm specifically referring to Lexomil -- the medication Lexomil. Would you -- could you elaborate a bit on that medication?

A.I think it's the bromazepam -- that is benzodiazepine.

Q.What does that do exactly?

A.benzodiazepine is used -- sorry -- in this situation it's used as a sleeping tablet.

MR. PAUW:

Mr. President, could I have a five-minute break to confer with my colleagues to see if there are certain questions that still need to be asked or that we can refrain from asking, because I do have quite a few questions left but I'm not sure if now is the right moment to ask them so I would like to reassess and I think the five-minute break would greatly assess the -- also the economy of the hearing?

[11:51:49]

MR. PRESIDENT: There is 10 minutes left for the proceedings, and of course the Chamber notes that we have been working our best to expedite the proceedings, so for the remaining 10 minutes we

would like the defence counsel to make the most of this to finish their questioning because there are still two more parties to put some questions. So we are afraid we will not break during this time, and you may proceed until 12 o'clock before we take the lunch adjournment.

MR. PAUW:

Thank you, Mr. President. I will proceed then.

Q. And I had some questions specific to the cardiovascular disease that have not been addressed by you, and I read that there is a 50 to 60 percent coronary artery obstruction. Can you tell us something about this? Is this a serious condition?

MR. CAMPBELL:

A. Such an obstruction would not be at all unusual in a man of his age, and it's not associated with symptoms.

Q. How must I understand that it's not associated with symptoms?

A. If the coronary arteries are narrowed then not enough blood may get through to the heart muscle and in that situation the person gets pain, angina. Now, he has not had any symptoms of angina.

Q. So there's no symptoms, I understand that, but are there any risks involved with an obstruction like that?

[11:53:44]

A. Atheroma -- that's the narrowing of the artery -- is always associated with risk. This is not a particularly severe obstruction and he is on agents to prevent further obstruction.

Q.Can you give an estimate to a lay person as to what his risk is? I don't know if you work with percentages or if you use verbal assessment of such risks.

A.No, I cannot I'm afraid. Life is very unpredictable at 85, especially with a history of heart problems.

Q.You`ve mentioned in your report and you`ve mentioned today as well that there are -- there is no history to suggest arrhythmia. Did you test him for cardiac arrhythmia or was there any reason to test him for cardiac arrhythmia?

A.I examined him and clearly noted his rhythm at that time and have seen previous ECGs which have shown normal cardiac rhythm.

Q.And arrhythmia, like the arrhythmia we're talking about, would that show up on a medical assessment like the one you conducted during that day?

A.Yes, it would. There can be intermittent arrhythmia's, rhythm disturbances, and obviously one doesn't catch those unless one is examining at the time, but again, there has been no history of that, other than periods when his heart -- he complains that his heart goes rapidly. As I've said, that is probably just a normal response.

Q.But you also mentioned that when he walked to the clinic room to be examined by you that he did so without shortness of breath. Do you remember this?

[11:55:23]

A.I do. He complained that he had a feeling of breathlessness

but was not obviously increasing his respiratory rate more than I would have anticipated in someone of his condition.

Q. So he did indicate that he was short of breath when he arrived in the examination room?

A. Yes, he did. And he said that he has other occasions where he feels short of breath but he finds he can relieve it by taking a deep and slowing his breathing or by lying down, and that is not characteristic of shortness of breath associated with heart failure.

Q. So am I correct to understand that this shortness of breath was not medically detectable but Nuon Chea did comment on the shortness of breath?

A. Yes, it was a subjective sensation.

Q. And can you assess what the distance was between his cell and the clinic room?

A. I think it's around 15 metres.

Q. All right. Is there any information, as far as you know, that suggests that Nuon Chea already has suffered from an infarction of the heart?

[11:56:48]

A. There was a possibility in 1995, from memory. I'd need to go back to my notes to recall that.

Q. Please do.

A. There's no mention of a specific infarct but he was first noted to have coronary artery disease -- that's the narrowing of

the arteries -- in 1995 and had angiography -- that's dye into the coronary arteries -- in 1995 and 1997 -- and 2007 -- I'm sorry -- which is when that degree of obstruction was found.

Q.And because on the same documents -- on the same page of the document that we have discussed before where the MMSE is discussed, and I just asked you to comment under the "prognostics et complications" -- it's the again the Calmette Hospital assessment of February 22nd. Under that same heading, the last line says "soit par un réinfarctus du myocarde". I would understand that to mean as a re-infarction, and I would like to get your comments on that.

A.Yes, the echocardiogram refers to changes due to hypertension and ischemia but no specific areas of infarction there, and his electrocardiogram indicates that the rhythm is normal, as is the access, and there's no specific mention of an area of infarction.

Q.I'm sure you gave me the answer to the question I asked but I failed to comprehend. Could you explain to me as a lay person why the Calmette Hospital would be speaking of a re-infarction? I understand that to mean, I will put it for you, that he already suffered from an actual infarction before. Could you explain in layman's terms whether that is true or not?

A.I couldn't comment on their behalf. But what I'm referring to is the complementary examinations on page 2 there where it is indicated that the electrocardiogram shows sinus rhythm and a normal access with no mention of a heart attack or area of damage

that one would expect from a heart attack.
And the echocardiogram where sound waves are bounced off the heart indicate general changes of hypertension and ischemia but no specific area where the heart is not functioning that one would expect to see in an area of a heart attack or infarction.
[12:00:21]
Q.Would it be a fair reflection of your words if I say that you don't see evidence of a re-infarction in the medical files of Nuon Chea as you've assessed them?
A.I can find no evidence there in the ECG or the echocardiogram.
Q.Thank you. Then moving onto the muscular skeletal problems that you have documented, and you write in your report under 19 that Nuon Chea previously had lower back pain but he says this is now better. Do you have any idea what could be the medical cause of this back pain?
A.Osteoarthritis of his lumbar spine. That's wear and tear in the spinal column.
Q.Wear and tear. Could you elaborate?
A.What one often sees is that the disks -- that's the soft tissue between the vertebral bodies
-- becomes worn and narrowed and the small joints of the spine where they articulate and move shows signs of osteoarthritis -- that's the cartilage overlying the bone becomes warn and that causes pain.
[12:01:47]

Q.This is a normal symptom in patients of the age of Nuon Chea?
A.It is very common, yes.
Q.And is there any treatment or is one confined to appropriate medication to numb the pain?
A.Yes, one requires pain relief tablets. If the wear and tear impinges on the spinal cord or the nerves then surgery may be needed, but there is no evidence of that in his situation.
Q.And could you -- in your medical assessment could you pinpoint where exactly in his back disk wear and tear took place? Is this on one disk or is this ---
A.No, it is usually diffuse involving a number of disks and a number of the small joints.
Q.From memory, do you know if there's any other issue in his medical history that would suggest back problems?
A.Not as far as I'm aware previously, though he lived an active life, from what I can gather, which may well have predisposed him to lower back problems.
Q.I find in his medical information -- again the same Calmette document that we've referred to more often -- I see listed what I can only translate as a herniated disk on L4/L5. Were you aware of this condition when you examined Nuon Chea?
[12:03:33]
A.Yes. Yes, this is common and only becomes a problem if the herniated disk impinges on a nerve root sufficient to cause pain or affect neurological function, or if it impinges on the spinal

cord or the nerves leading down through the spinal canal from the spinal cord. There's no evidence of that with him.

Q.Did you personally assess that?

A.Yes, I examined both his back and his lower limbs for any neurological disorder and found none, other than those associated with his stroke.

Q.Again, I hope you can explain, but is the herniated disk in and of itself not ---

THE PRESIDENT:

Since it is the appropriate time to take the adjournment the Chamber wishes to take this adjournment now. We thank counsel and in particular Professor Campbell for assisting the Chamber with answering the questions. We may take the adjournment now and resume the session by one-thirty.

(Court recesses from 1205H to 1341H)

(Judges enter courtroom)

MR. PRESIDENT:

Please be seated. The Court is now back in session.

Before we hand over to Nuon Chea defence counsel I would like to hand over to Judge Cartwright to put a few questions to Professor Campbell with regard to the medical check-up by the doctor on duty after examining Nuon Chea's health status during lunchtime.

[13:42:56]

JUDGE CARTWRIGHT:

Thank you, President.

QUESTIONING
BY JUDGE CARTWRIGHT:
Q.Professor Campbell, I believe you have in front of you an abbreviated medical report with readings taken at 11:40 and 12:45, are you able to tell us what those four readings represent or are you unable to interpret them?
MR. CAMPBELL:
A.Thank you. My interpretation is that his blood pressure on both recordings were within the normal range. There was no concern about hypertension. The SA OT-2 reflects his oxygen saturation which indicates there is no pulmonary or cardiac problem there.
Q.Now, Professor Campbell, at the end we have both Khmer and French and I will ask the interpreter behind me to read those to you and if you have any comment on those comments we'd be grateful. Thank you.
MR. PESTMAN:
He complains severe lower back pain and feel like vomiting, and he should be taken to the holding cell.
[13:44:25]
JUDGE CARTWRIGHT:
Q.Is there any comment that you can make on that, Professor Campbell?
MR. CAMPBELL:
A.I think that's a very reasonable conclusion to draw from those

symptoms, that he may, especially with back pain, be more comfortable in the holding cell.

JUDGE CARTWRIGHT:

On the information -- medical information before us and on the comments made by Professor Campbell, the President has asked me to confirm that currently there is no reason for Nuon Chea not to participate in his trial and that he is to remain in the holding cells for the duration of this afternoon's hearing.

MR. PESTMAN:

You may not be surprised that I would like to respond to that. The question is not whether there's any reason why my client should participate in this trial, the question is whether he's able to do so.

I spoke to the doctor who wrote this report, the doctor is sitting behind me and I suggest that we hear him as a witness. I understand that he also talked to Nuon Chea about his ability or inability to watch tele downstairs in the holding room and to follow what's happening upstairs in this courtroom.

[13:46:35]

JUDGE CARTWRIGHT:

Mr. Pestman, if we had time to have a full examination this afternoon we would do so. There is no time, unless your questions are concluded and prosecution and any questions from the lead co-lawyers are going to be brief. That is the reason that we have taken an objective approach to this matter this

afternoon.
He is to remain in the holding cells and if you feel there's any further investigation needed tomorrow that can be done. We're not requiring him to return to the courtroom this afternoon.
MR. PESTMAN:
Just for the record, I would like to state that I was informed that he is unable to watch tele and therefore unable to follow the proceedings or actively participate.
JUDGE CARTWRIGHT:
That has not been reflected in this report.
MR. PESTMAN:
The doctor is willing to confirm that.
JUDGE CARTWRIGHT:
That is the ruling, Mr. Pestman. I've explained why; we don't have time this afternoon to go into a lengthy examination of this. The questioning has taken a very long time and it's necessary to continue while we have the benefit of the expert's presence this afternoon.
And I don't know what you mean by the "tele" but I can infer that you mean the audio/visual equipment, not a soap opera or something of that nature.
[13:38:08]
MR. PESTMAN:
There's a television screen --
JUDGE CARTWRIGHT:

Yes.

MR. PESTMAN:

-- installed in his room.

JUDGE CARTWRIGHT:

The President has asked me to make the ruling that I have made and you've noted it on the record.

Thank you.

MR. PESTMAN:

Thank you.

(Judges deliberating)

[13:48:38]

MR. PRESIDENT:

We shall now proceed with our remaining proceedings. We would also wish to know ---

Before we proceed the Chamber orders the security personnel to take Nuon Chea to the holding cell so that he can follow the proceedings through remote participation. Every officers are also instructed to make sure audio/visual record system is connected to the cell.

Next, defence counsel for Nuon Chea, would you wish to put further questions to the expert or you have already concluded your questions?

MR. PAUW:

Thank you, Mr. President.

I have a few remaining questions.

MR. PRESIDENT:
Since you have more questions, of course, we hand over to you to proceed. However, you only have 20 more minutes for this.
QUESTIONING
BY MR. PAUW:
Thank you, Mr. President.
I was just trying to explain that I hope to finish my questioning within 30 minutes, so considering your direction I will strive to do so within 20 minutes.
[13:50:52]
Q.Professor Campbell, directly related to what we just discussed, have you assessed for how long Nuon Chea can watch any type of screen, such as a television screen or such as the audio/visual screen as in place in the holding cells?
MR. CAMPBELL:
A.It's not an issue that one can actually assess. He indicated that he did have problems with the television. He does have cataracts and cataracts can cause glare as a symptom but his vision has been tested formally by the ophthalmologist, has been satisfactory.
Q.And that's his - let's say his physical ability to do - actually watch the screen with his eyes. Did you assess concentration-wise how long he could watch such a screen?
A.No, I didn't and that would not be possible to do.
Q.And did you assess for how long Nuon Chea can lie down,

physically, before he starts to feel uncomfortable?
A.He had no trouble lying down during my period of examination. When he lies down if he gets discomfort then often that is relieved by sitting up, lying down, movement, and there is no reason why he should not do that.
Q.For how long was he lying down while you were assessing him?
A.It would have been during the period of the examination, so a brief period. But he does sleep in bed at night and he's lying down at night as far as I'm aware.
[13:52:34]
Q.And then a final question about the cerebro-vascular aspects of your examination. It's a general question and the question is; is it true that people that have suffered from a cerebro-vascular accident complain about fatigue more often than others?
A.This is a comment that if the person has a disability resulting from a stroke then if greater effort is required with daily activities then that can lead to tiredness.
Q.In your assessments can you determine whether Nuon Chea might suffer from fatigue more often than others as a result of his stroke?
A.I think it's as a result of more things than his stroke. I think it is – the stroke is obviously affecting his walking, he needs to use a walking frame which requires more effort. And those combination of things, plus his lack of physical activity

over recent years, leading to a general level of unfitness will contribute to his fatigue with activity.

Q. Thank you. To briefly return to an issue that was raised by the Trial Chamber yesterday in your questioning, there was mention that in your normal practice you assess the competency of your patients in New Zealand based on the tasks they are supposed to perform. And I have understood your words over the past few days to mean that you have done the same when examining Ieng Thirith and Nuon Chea; is that a fair assessment of your words?

A. That's a fair assessment.

[13:54:24]

Q. Can you elaborate for us on how you assessed the specific tasks that Nuon Chea would have to conduct in the course of the trial?

A. I assessed his ability to think and reason and to remember, through the methods that I've indicated. I assessed his mobility and I assessed from history any symptoms that I felt may interfere with his participation, his sitting in the Chamber, with his responding to questions and participating.

Q. That's clear and I understand that would be the first part of any assessment, whether his general thinking and reasoning and ability to sit are intact. But when assessing someone's fitness to stand trial would not happen in the abstract, it's important that, in this case, Nuon Chea, not only can clear – can think clearly but also can understand, for example, the charges that

are actually brought against him.
On that note, did you assess whether Nuon Chea can actually understand the particular charges that were brought against him?
A.I did not discuss the specific issues around the charges. I thought that was territory which I should keep away from. I assessed, as I said, his general understanding of matters but did not get into any detail about the specific charges.
Q.Thank you. And also it is important when assessing someone's fitness to stand trial from a legal perspective that, in this case, Nuon Chea understands the proceedings. And again, it's not proceedings in the abstract but it's these proceedings. Can you elaborate on how much you knew about the proceedings as they take place at the ECCC?
[13:56:32]
A.Yes, I had discussed with Court officials about the proceedings to get an idea of what those proceedings would be. I understood from written material I had that he had not previously had any problem understanding the proceedings.
Q.And last point on this topic is the ability of Nuon Chea to instruct counsel. Again, it's not a general capacity to explain certain things to counsel, it is the ability to instruct counsel over the course of the trial, considering the charges and considering the evidence of the case.
Can you elaborate a little bit on how you assessed this interaction of charges and evidence on the case file and then the

ability of Nuon Chea to communicate with counsel effectively?
A.As I said, in my discussions with him I did not detect any concern that he had about his understanding.
MR. PRESIDENT:
Counsel for the civil party, you may proceed.
MR. PICH ANG:
Mr. President, Your Honours, the defence counsel is putting questions that make the expert speculate or dig into the matter at the discussion of the Judges of the Bench and it would be better if the counsel is advised on this.
(Judges deliberate)
[13:58:50]
MR. PRESIDENT:
Thank you, the co-lawyer for your observation, and the Chamber would like to remind the defence counsel to be careful with the questions, in particular, they should be advised to refrain from putting questions that lead to the speculation, assumption by the expert when responding to his - and time is running out, we advise the counsel to frame to the questions that are specific to the issue at hand, please.
MR. PAUW:
Thank you, Mr. President.
Q.I'll try to rephrase the question in a way that I think would more properly relate to your medical expertise.
Were you aware of the volume and nature of the evidence when you

assessed the ability of Nuon Chea to communicate effectively with his counsel?

MR. CAMPBELL:

A. I was aware of the complexity of the issues and had had the likely process discussed with me

Q. Could you elaborate on the complexity of the issues?

[14:00:16]

A. Complexity of the court itself with a number of different parties involved, the number of witnesses, the statements that had been made. As I said, I discussed with Nuon Chea my role and why I was there on both occasions and had no doubt about his understanding of that and the likely role that I was playing.

Q. I do see that time is running out so I will leave this point for now but I do reserve the right to, in rebuttal, ask one or two questions relating to this topic.

My final two questions are in your medical opinion how long would it take to properly assess Nuon Chea's attention span and the functioning of his memory by two independent medical experts?

A. If there were two additional experts appointed then I feel they would take a similar amount of time that I have.

Q. And what type of medical specialist would you recommend for a comprehensive assessment of Nuon Chea's memory function and attention span?

MR. ABDULHAK:

I would just object, Mr. President. I think the question has a

tendency to mislead. I think Professor Campbell has stated quite clearly that he doesn't feel any further assessment is required. For him to now opine as to what further assessments would be helpful, I think, may lead to a misrepresentation of his evidence. Perhaps if the question could be rephrased.

[14:02:06]

MR. PRESIDENT:

Thank you, the objection is sustained. Professor Campbell, you may not need to respond to these final questions.

The defence counsel is advised to put additional questions and that the questions should be related to the reports by the expert regarding Nuon Chea.

MR. PAUW:

Thank you, Mr. President.

Thank you, Office of the Co-Prosecutors, for your intervention. I understand your concern and I want to say, for the record, I have no intention of misrepresenting Professor Campbell's position. I understand that he doesn't think that any additional assessments are necessary.

I do however feel that Professor Campbell has relevant insight into the medical world and especially into the field of other professionals that might be very well suited to assess cognitive functions of Nuon Chea, that's why I asked the question. We could all look for this information on the internet but we actually have the benefit of having a geriatrician here who

actually interacts with these specialists on an at least near daily basis.

So on that note it might just be a practical approach to the issue if Dr. Campbell – Professor Campbell could inform us as to what type of cognitive specialists would be best suited to test Nuon Chea.

[14:0339]

MR. ABDULHAK:

Mr. President I would just remind all parties that the matter has been ruled upon. I'd invite – I would ask that counsel be invited to continue with his questions and abandon this question.

MR. PRESIDENT:

Do the lawyers of Nuon Chea have any further questions, otherwise we can move on to the next party?

MR. PAUW:

Thank you, Mr. President.

No further questions for now.

MR. PRESIDENT:

Next the Chamber would like to hand over to the prosecution to put questions to the expert, Professor Campbell.

MR. BUNKHEANG:

Thank you, Mr. President.

QUESTIONING

BY MR. BUNKHEANG:

Q.Good afternoon, Professor.

In your first report, paragraph 15, E62/3/4 you indicated that you did not find any evidence of detrimentation of his brain. You did not find any evidence that Nuon Chea may not be able to participate in the proceedings either. What sources did you use for your assessment that leads to this kind of conclusion?

[14:05:52]

MR. CAMPBELL:

A.What clinical assessment did I use; I reviewed all Nuon Chea's previous notes and history. I took a history from Nuon Chea himself, I reviewed his medications and I physically examined him and I discussed his physical and mental health with the doctors who are looking after him on a regular basis.

Q.So that means all medical reports and other expert reports are still relevant and just therefore used to assess the accused and the conclusion that you include in your report, is that true?

A.That is correct. And I reviewed all his radiology that was relevant.

Q.As you have seen on Monday, Mr. Nuon Chea read his statement before the Chamber and as for yesterday he gave his oral statement before the Chamber without reading any notes. So what do you think about this behaviour of the Accused, does it fall in line with the conclusion that you have in your report?

[14:07:53]

A.I think that's a very important point. I think when one is assessing someone such as Nuon Chea one uses a lot of

information, indirect information, the interaction the person has with one, with other people. The impression one gets of the awareness of what's going on and their understanding and I think the two statements of Nuon Chea indicated, I felt, a clear understanding of his situation, the processes, and the issues at stake, and also showed a degree of logical and coherent thought that one would judge as normal.

Q.Thank you, Professor.

And next I would like to hand over to my colleagues to continue questioning the expert. Thank you.

MR. PRESIDENT:

Please, Mr. International Co-Prosecutor.

MR. ABDULHAK:

Thank you, Mr. President.

QUESTIONING

BY MR. ABDULHAK:

Q.Professor Campbell, good afternoon again.

I'm very much mindful of the directions by the President and the Chamber to keep our questions brief and so we shall endeavour to do so.

You've been asked, obviously, quite an extensive number of questions on your report, so just as a way of perhaps recapping I might explore with you only the main areas which you've testified about.

[14:09:29]

The matter of cardiovascular disease was discussed in some detail and would it be accurate to describe the history of this as first identified1995 and then subsequently confirmed in 2007?

MR. CAMPBELL:

A.Yes, he was obviously hypertensive prior to that which would have been a risk factor for his ischemic or lack of blood supply to the heart problem.

Q.And I believe you've looked at Dr. Lafont's examination in 2007, I think that was a coronagraphy if I'm not mistaken or an angiography.

What were the conclusions – what were his conclusions as at that time?

A.His conclusions were that the coronary angiography showed a 50 to 60 per cent obstruction, which would not be at all uncommon in a man of his age, and Professor Lafont's conclusions over time have been that his cardiac state has been stable.

Q.And is it the case that an obstruction of 50 to 60 per cent can be adequately managed to enable one to perform their daily functions and participate in society?

A.Yes, absolutely. He is on medications to control his blood pressure, to decrease the risk from that and he is also on agents which affect the clotting of the blood to decrease the risk from that degree of obstruction.

[14.11.05]

Q.And is that a common way of treating this type of a condition?

A.Yes, it is. He was investigated to see if he needed stents or any more invasive procedure, but it was felt, obviously, that he did not need that.

Q.And just while we're on that topic, you also considered his blood pressure and I think you found that there would be an increase when he stood, or perhaps I might be wrong, or perhaps that might have been a reference to pulse. Were those ranges within -- were they reasonable considering his condition?

A.The readings have been satisfactory throughout, both the readings I took, the readings that the Calmette Hospital doctors have taken and it's reassuring to see that the reading taken in the holding cell at lunchtime is also well within the normal range.

Q. Thank you.

Moving right along, we might move on to cerebro-vascular concerns. Again, just to confirm, we're aware of the one stroke which I believe took place -- which Nuon Chea suffered in 1995 and you've testified extensively about this. There was discussion of the thalamic stroke, or a possibility of a thalamic stroke. Are you aware of any other evidence with the exception of the document that was shown this morning that would indicate such an occurrence?

[14.12.32]

A.No, that stroke is in the region of the thalamus, but so are the conducting pathways from the brain and that's what was

affected in that stroke. There's been no evidence of a thalamic dysfunction.

Q. Which would be a matter dealing with motor functions?

A. It's a motor function that has been affected in this particular stroke because it affects the connections form the motor area of the cortex to the limbs.

Q. I see. Thank you.

And just also dealing with cerebro-vascular issues, I think you noted in your report at paragraph 14 that Nuon Chea walked using a walking aid?

A. Yes, he uses a frame, his "six-legs" as he described yesterday.

Q. There was no other type of assistance such as, perhaps, guards assisting him in walking? He was able to do this, albeit with a walking aid, on his own?

[14.14.33]

A. Yes, the guards stood next to him as he came up and down the steps, but he can manage to walk with a frame himself.

Q. And I think you've also included in your report that the facilities available in the court and considering, of course, this courtroom is located on an upper level, that the facilities including a stair-lift were appropriate to manage his restricted mobility. Is that correct?

A. That is correct.

Q. Perhaps a related matter, you've also testified about the back

pain which he is experiencing. I think you said that his current condition doesn't impact his spinal cord. Would that be correct?
A. That is correct. There are no neurological signs to suggest that it does.
Q. And I think you testified that he's currently -- his back pain is currently treated with essentially a medication, pain relief medication?
A. Yes, and no other intervention would be appropriate.
Q. Thank you. That was going to be my next question, but we may move on. Just dealing with your conclusions very briefly, would it be fair to say that you felt the cardiovascular concerns were the main feature or the main area of concern in terms of his overall well-being?
A. I think in terms of overall well-being one has taken the whole picture rather than isolate it to one particular system. And so one is looking at the additive effect of the cardiovascular, cerebro-vascular effect, his age, his general level of fitness. Those are the issues that will affect his concentration, for example.
[14.15.18]
Q. So that perhaps might just be one significant area but clearly not the only one?
A. It's one of the additive factors.
Q. Thank you.
I might just ask the court officer to show on a screen document

B48/1. I do have a spare copy if the Chamber wishes to examine it. It's in fact a report provided by Professor Lafont on the 18th of July 2010. We have redacted this document extensively to only leave the conclusions visible. I can hand out the version which we propose to show.

JUDGE CARTWRIGHT:

Yes, Mr. Abdulhak, the redacted copy is acceptable because, as you have indicated, it refers only to the medical conclusions, but I presume the document on screen is not redacted. So shall we just put this before the expert and ask him the questions or disregard ---

MR. ABDULHAK:

Your Honour, the court officers have a redacted version.

JUDGE CARTWRIGHT:

Fine. I can see no reason why it shouldn't be put up on screen.

MR. ABDULHAK:

Thank you.

Q.Now, Professor Campbell, of course just by way of a recap, of course, Professor Lafont, I think, first saw Nuon Chea in late 2007, at the time of the coronarography that we discussed?

MR. CAMPBELL:

A.Yes, I think that's the earliest record I've seen.

[14.17.55]

Q.And I think you've seen a number of periodic reports from Professor Lafont?

A.I've read his regular reviews, yes.
Q.And what is before you, I believe, certainly as far as the prosecution is aware, is the most recent or perhaps the last report he provided. Are you familiar with this document?
A.Yes, I am.
Q.And if we may just focus in on a few very brief passages? If we may scroll down to the bottom of this first page? Thank you. I believe it says no chest pain, no dyspnea, no heart palpitations. His health condition has not changed since the previous medical examination. Am I correct to say that dyspnea refers to shortness of breath?
A.Yes, shortness of breath.
Q.And if we may scroll down to the next page? Thank you. Looking at neurological examination, again, it seems to indicate no change since the last examination, no evidence of mental impairment, temporospatial disorientation and/or dementia. Would that be generally consistent with your assessments of Nuon Chea and, obviously, your assessment took place one year after, following this report?
[14.19.23]
A.Yes, that is consistent with my findings.
Q.And if we may scroll down just a little bit further? Thank you. Professor Lafont states here:
"In practice, the patient's health condition remains very stable, and of course this opinion must be considered in light of his age

and medical history and must be reassessed in six months."
Would that be consistent with your opinion?
A.It has been consistent since I've seen him and my findings are consistent with Professor Lafont's earlier reports. So yes, I cannot detect any change over time.
Q.And if we may just scroll down to the very last page? Thank you. I was interested in the second line of this passage where Professor Lafont indicates:
"...the various medical examinations carried out in the past two and a half years..."
Or rather, I should backtrack just a little bit to give that phrase meaning:
"In light of the various medical examinations carried out in the past two and a half years, the patient's disorders have been quite stable."
Again, would that be consistent with your assessment of Nuon Chea?
A.I think when one looks at the major conditions cardiovascular, cerebro-vascular, cognitive function, they have been quite stable. I would suspect overall, in an 85-year old man, given his circumstances, there would have been a gradual deterioration in function in terms of his ability to do things, the effort required, but not in the major areas of cognition and cardiovascular health.
[14.21.14]

Q.Thank you.
I'll just deal with one more -- and thank you, we won't require this document anymore. I might just return very briefly to a matter that's been discussed also, and this is the report submitted by Dr. Brinded and Professor Ka. It's been noted that Nuon Chea -- that Dr. Brinded and Professor Ka weren't able to examine Nuon Chea in person. Do you know why this was?
A.My understanding from the report is that he refused to see them, even refused to see them to the extent that they wished to explain what they were doing and for them -- to then make up his mind. So it was, as far as I understand, his reluctance to see them.
Q.And is it also correct that their report indicates that he had informed the chief of the detention facility that he didn't want to meet with them, that he did not have any psychiatric difficulties and did not need a psychiatric evaluation?
A.Yes, that's from their report.
Q.Thank you.
I might just turn now to matters as they stand at present and perhaps looking to the future. You've stated that you felt Nuon Chea's indication that he can concentrate for one and a half hours at a time was reasonable. That was consistent with your assessment?
A.Yes, that is so.
Q.And did you also indicate that you felt that the assessment, I

think he gave a period of two to three hours, his ability to sit at a time to two to three hours, you also felt that that was consistent with your assessment of his overall condition?

[14.23.19]

A.Yes, that's a very subjective symptom, of course, which he is best able to comment on and I did check that with him because it was longer than I thought he might be able. But he was quite clear and my first assessment that he was able to sit for that length of time.

Q.And did you also opine, it may have been earlier today or maybe yesterday, that he would be able to participate provided sufficient rest or that the rests that the court takes approximately in those one and a half -- in between those one and a half hour intervals, that with those rests he would be able to participate or engage and understand in what's taking place?

A.Yes, that is what I felt.

Q.And you felt -- or did you consider that the facilities available downstairs were of some assistance in this regard?

A.Yes, they provide a bed which he can stretch out on if he finds that more comfortable.

Q.And you've of course reviewed those facilities?

A.Yes, I have. I visited those.

Q.Did you consider that any improvement was required?

[14.24.37]

A.No, I thought that all facilities had been made available for

anyone using those cells.

Q. Thank you very much.

Now, there was some discussion this morning about the matter of reading, and I think you just testified that Nuon Chea suffers from cataracts?

A.He does.

Q.So it would be fair to say that with a reduced eyesight, obviously his ability to read would be affected?

A.My understanding from the ophthalmologist's review is that his vision was six over nine on the last occasion which is normal vision. That was a year or two ago, but from what I can gather he has been reading material so that his eyesight enabled him to read.

Q.And if through fatigue, which you've commented on, he were to be unable to continue reading for an extensive period of time, given his cognitive condition, would he be able to comprehend contents that were, say, read out to him by another person?

A.Yes, I can't see there would be a difficulty with that.

Q.So perhaps that might be one way of overcoming any difficulties caused in terms of reading for an extensive period of time?

[14.26.01]

A.Yes, I think that's very reasonable.

Q.And just to conclude, Professor Campbell, I think you stated, and I think it is important for the record, to conclude; did you

feel Nuon Chea is able to understand the proceedings?
A.I felt that he would be. I felt, as I said, that he was able to understand all that I explained to him in relationship to my visit and the purpose of it.
Q.And during your assessments and your observations of the last two or three days, do you feel that he's able to respond appropriately and concentrate and engage with others such as his counsel?
A.I certainly see no evidence of the contrary, and I think it is so that he will be able to respond appropriately.
MR. ABDULHAK:
Thank you very much, and I have no further questions. Thank you, Your Honours.
MR. PRESIDENT:
Thank you, Mr. Prosecutor. Thank you, expert.
Next, the Chamber would like to hand it over to the lead co-lawyers for civil parties if they have additional new questions to put to the expert.
MR. PICH ANG:
Good afternoon, Judges of the Bench. The lead co-lawyers for the civil parties have a number of questions and I would like to seek your leave to allow lawyer Ven Pov to put some questions followed by me later on.
MR. PRESIDENT:
Please, lawyer Ven Pov, you may now proceed.

[14.28.09]

MR. VEN POV:

First of all, good afternoon, Mr. President, good afternoon Judges of the Bench and good afternoon members of the prosecution and everyone in the court. I have three questions to put to the expert.

QUESTIONING

BY MR. VEN POV:

Q. In your first report on the -- in the first report, paragraph 6, at point (c), you mention about the consultation with the accused and there are a number of examinations including x-ray, CT scan on the 26th of September 2007, and also the examination on the 22nd of February 2011. Can you indicate, based on your experiences, whether the reports were done professionally pursuant to the medical expertise?

MR. CAMPBELL:

A. Those reports were finished by a radiologist, who is a specialist in reading x-rays, CT scans.

Q. Thank you.

My second question is in paragraph 12 of your first report, you indicated that the accused Nuon Chea has hypertension, which has been observed very well. What do you mean by "have been treated very well"? Do you refer to the previous treatment, the treatment before he was detained at the detention facility or after he was detained at the detention facility by the Calmette

Hospital staff?

[14.30.35]

A.I mean during the time that we have records of his blood pressure which is since he's been detained. I think the other evidence for good control of his blood pressure is that he has had the stroke in 1995 but no evidence of a subsequent stroke since then, which would again indicate good control of his blood pressure.

Q.Thank you.

My last question is, this morning the defence lawyer asked you a question in relation to the fact that you failed to interview Nuon Chea's wife and he asked you whether you tried to meet with his wife or not, and you answered that you did not. Could you explain why you did not try to meet with his wife?

A.Because I felt that I had an adequate history from the reports that I had and also from my assessment of him.

MR. VEN POV:

Thank you, Professor.

[14.32.58]

MR. PRESIDENT:

Yes, please, Mr. co-lead lawyer.

QUESTIONING

BY MR. PICH ANG:

Q.Lead Co-Lawyer, good afternoon again, judges of the bench and good afternoon Professor. I have three questions to the expert,

for your explanations. The first question is as you're an expert or a doctor, do you need to examine also the issues that were not requested by the Chamber or other concerned parties?

MR. CAMPBELL:

A.Could you be a bit more specific as to which issues you're referring to?

Q.After these few days, you have been asked a number of questions, some of which do not fall within the framework that you were required to do. So my question, as a doctor, what are the issues that you are interested in examining concerning the accused?

A.I think one of the reasons that someone specializing in geriatric medicine was asked to assist is because in that specialty, one takes a comprehensive view of both physical, cognitive problems, psychosocial issues, and so I felt that my brief did require me to look at all relevant issues, physical, neurological, psychological and social. So I do not feel that there are any other areas in which I would have wanted to take time that I was not able to.

Q.Thank you.

My second question, in paragraph 12 of your report you indicated that Mr. Nuon Chea has good memory; he can read and understand and he can consider things. My question is if you compare him to other elderly people of the same age, what can you say about his level of understanding in memorizing and in reading a text?

A.I did not feel there was any significant abnormality. I felt that he managed those tasks as one would expect in a man of his age.

[14.35.43]

Q.My last question is short. In paragraph 13 of your report, you talked about stroke in 1995, which is now recovered but there has been slight consequences that the accused had in writing. And you further indicated that Nuon Chea can still write if he tries hard. So does that mean he still can write?

A.I think often after a stroke there is a stiffness on that side, an increase in tone, and that can make it more difficult with fine movements.

MR. PICH ANG:

Thank you.

MR. PRESIDENT:

Please, Ms. Elisabeth, you can now proceed.

MS. SIMONNEAU-FORT:

Mr. President, I simply want to tell this Chamber that I do not have any questions. I believe that the expert's report, his statements and clarifications over the last three days about the state of health of Mr. Nuon Chea and the problems connected thereto are entirely clear to me. I, therefore, do not have any questions to put to him. Thank you.

[14.37.26]

MR. PRESIDENT:

Thank you.

Finally, we wish to know whether defence counsel for Nuon Chea to have the final questions or words after the questions put by the counsel for civil parties.

MR. SON ARUN:

Thank you, Mr. President. I have only one question. I think I already put the question this morning but it was interrupted by the prosecutor, and it got lost somewhere. Now I have to really bring it back, and I had the question this morning after some examples I gave to the Court, but the question was not heard or addressed. I would like to ask only this final question, whether I'm allowed.

MR. PRESIDENT:

Indeed, you can proceed with the question and the Chamber will see whether it is repetitious or whether it is really straying outside of the topic being discussed now. And also, please be advised that the question should be clear, short and straight to the question.

MR. SON ARUN:

Thank you, Mr. President.

QUESTIONING

BY MR. SON ARUN:

Q.This morning I already asked a question concerning the four occasions where Nuon Chea experienced hypertension or extreme high blood pressure. I asked, Professor, whether he was aware of

that. He indicated -- could you please say whether you're familiar with this document, in particular, whether you also see it in the document presented by doctor from Calmette Hospital?

[14.39.31]

MR. CAMPBELL:

A.Yes, I'm aware of that.

Q.So it is fair to say that you have been familiar that Nuon Chea had extreme blood pressure on four occasions, to the maximum limit during the period when he had been detained form 2007 and even recently, on the 8th of August? He also had very extreme high blood pressure although it was not included in the regular medical report by the medical staff of Calmette Hospital. So my question is that whether you have also been informed of these latest incidents that Nuon Chea's by the medical staff of Calmette Hospital, so my question is whether you also have been informed of these latest incidents that Nuon Chea's blood pressure was very high. If not, I can also offer this record to the Court as a document.

A.I am aware that his blood pressure does fluctuate, and I could put that in context.

[14.40.51]

As I said, blood pressure normally goes up and down in normal people -- in people without hypertension, should I say. It is more likely to do so in people with hypertension, and many situations lead to a rise in blood pressure like that.

The important thing is that the usual basal blood pressure is controlled, and that has been so with Nuon Chea. The other issue is that, as I indicated earlier, there is good evidence of -- there is evidence of good control of his blood pressure through both the failure of the cardiovascular and the cerebro-vascular disease to progress so that in relationship to Nuon Chea's blood pressure I considered the appropriate measures are in place to control that. And I think we see evidence of that with the blood pressure that was taken today.

Q.So it can be concluded that you have paid great attention in the situation of this hypertension because defence counsel for Nuon Chea has been very concerned with regard to these incidents, although we have not really seen such incidents being recorded in the regular medical report of the regular doctor.

[14.42.23]

Do you think that such situation is worsened in the future, for example, to the extent that Nuon Chea may not be able to attend in the proceeding because of his blood pressure?

A.No, I've been aware of those blood pressure changes and I did not feel they, in themselves, would preclude him participating in his defence.

Q.That's all for me. Thank you very much, Mr. President.

MR. PRESIDENT:

This is an appropriate time to take an adjournment. The Chamber will take a 20-minutes adjournment.

[14.43.10]
And we would like to inform parties to the proceedings that the following session after the break will be the oral submissions session, starting from Nuon Chea defence team, followed by the prosecution and lead co-lawyers for the civil parties and, ultimately, the defence team of Nuon Chea has the final say.
(Court recesses from 1443H to 1503H)
(Judges enter courtroom)
MR. PRESIDENT:
Please be seated. The Court is now in session.
The session at the moment is on the oral submissions by parties with regard to the report by Professor Campbell. We have already noted that the hearing on Professor John Campbell is coming to an end and there is no need to proceed further with the hearing on that particular issue. And since Professor Campbell is to go back to his home town this afternoon, he will be, of course, released from the Court.
[15.05.05]
But before his leaving us from this courtroom, we would like to express our profound thanks to him for his effort to assist the Chamber to assess the accused person, both during his course of work while assessing the accused persons concerned fitness to stand trial and his testimony during this cross-examination hearing.
We thank you very much. You are now free to go, and we would

like to advise the WSS unit to help coordinate his trip back home and wish him a safe trip back home. Thank you.

MR. CAMPBELL:

Thank you very much, Mr. President, Your Honours. Thank you for the opportunity to participate, and I'd like to thank all staff with whom I've been involved for the help that they provided. It has made the process very much easier.

[15.06.16]

Thank you very much.

(Professor Campbell leaves courtroom)

MR. PRESIDENT:

We would like now to hand over to Nuon Chea's defence team to make a final submission to conclude the hearing. And during this session, the defence counsel will be allocated 20 minutes for such submission. And the prosecutors will have 15 minutes to make the submission while the lead co-lawyers will be allocated 10 minutes for this purpose.

[15.07.18]

Ultimately, Nuon Chea defence team will have five minutes to reply if they would wish to do so. They may now proceed.

MR. PESTMAN:

Your Honours, I don't think I will need my 20 minutes. I'll be very short.

[15.07.49]

I just would like to state again for the record Nuon Chea does

not accept the conclusions of Professor Campbell as presented in both his reports and here in Court. I think our objections to his report and his conclusions are quite obvious out of the questions which we raised on Monday and again today.

Just to summarize them briefly for the benefit of the public and the Court, we feel that Professor Campbell lacks the necessary experience, the necessary relevant experience to assess fitness of our client to stand trial. We have also criticized the methodology employed by Professor Campbell.

[15.08.30]

We also criticized the reports relied on, the medical history he described and mentioned more than once during his examination. We also deplore that he has made no serious effort to test Nuon Chea's mental abilities, cognitive functions, and we also note that he lacked necessary knowledge of existing psycho-medical tests which are regularly used to test fitness to stand trial.

[15.09.32]

As announced earlier, we will file a request for an appointment of an additional expert to carry out additional medical examinations. I would stress additional medical examinations, not a re-examination, because we feel that a proper examination of his cognitive functions has not taken place yet. And we will focus our requests on the attention span of our client, his ability to concentrate for longer periods of time, and also on his long-term memory.

We will do this in written form, first of all because the rules require us to do so, and also because we have to consult with our client, of course, the results of the cross-examination. And we would also like to evaluate the answers given by Professor Campbell with our own medical experts, and that is necessary so that we can formulate a very specific request and ask exactly the right questions.

[15.10.55]

As said, we intend to focus purely on his attention span and his long-term memory, or maybe mid-term memory. In order to formulate our questions correctly and also to save precious time -- we realize that time is precious -- we need time to consult with our own medical expert.

And I believe that if we formulate our request, it will not take a lot of time to carry out this additional examination. I think it will be -- it should be possible to do it in relatively short time, and it should certainly not take as much time as I envisaged the examination -- the re-examination of Ieng Thirith will take.

[15.11.51]

That is all what I wanted to state or to remark now. Thank you very much.

MR. PRESIDENT:

Thank you, counsel. We next proceed to the Co-Prosecutors.

MR. ABDULHAK:

Thank you very much, Mr. President. And we equally will be brief.

[15.12.24]

We seem to have a disturbance.

I should say at the outset, Your Honours, the Co-Prosecutors reject this request for an additional -- appointment of an additional expert or, rather, we oppose it, and I will explain the reasons.

And I'll just reflect very briefly on the legal test that is applicable before Your Honours. And of course, Your Honours have endorsed the international jurisprudence, of course, in particular, the Strugar case, in your orders to date. And I don't think it's necessary for me to rehearse those criteria. I think we're all familiar with them.

[15.13.19]

But I would just indicate that in order to trigger an assessment of fitness to stand trial, there has to be a -- there has to be some doubt as to whether or not an accused, in fact, suffers an impairment which may interfere with their ability to participate in the trial.

Now -- and of course, in international jurisprudence, that has been phrased in slightly different terms, but essentially, there has to be some degree of doubt or, to quote the Trial Chamber in Strugar, there has to be an adequate reason to question whether the accused is fit to stand trial.

Now, in this case, Your Honours saw fit to appoint an expert geriatrician who, we submit, is fully qualified to undertake a baseline assessment -- a comprehensive baseline assessment, I should say. That assessment has taken place, he was properly instructed. He obviously reviewed all of the systems that are relevant for the purposes of one's capacity to participate in a proceeding such as this, and he came to his conclusions.

[15.14.30]

I would note that the defence didn't object to his appointment. There was no objection from the defence to Professor Campbell's qualifications at the time of his appointment. The order provided a brief biography of his qualifications. There was no objection to, for example, the fact that he may not have testified in criminal trials.

Equally, when Professor Campbell filed his report, there was no objection to his qualifications. There were concerns, it's fair to say, in relation to the methodology employed by Professor Campbell, and it's in relation to those concerns that Your Honours decided it was appropriate to hold the hearing and enable the defence to examine the expert further.

[15.15.24]

That has now happened. It is our submission that the views expressed, opinions expressed by Professor Campbell simply stand as being extensive. There's been an attempt to challenge a number of conclusions. We submit that his conclusions are not

only sound and supported by the evidence on the case file, including extensive medical reports, but also they're consistent with the general demeanour of Nuon Chea, which we have all been able to observe over the past months and, of course, this week.

[15.16.10]

Nuon Chea spoke twice in this Court, once reading a statement and once addressing Your Honours, obviously, in the Court.

In that regard, I would also note that we are more than three years into a judicial proceeding here. And of course, the defence team, Nuon Chea's defence team, have represented his interests vigorously, as they should. And that includes, for example, I think, 25 investigative requests during the judicial investigation. It includes extensive submissions on matters of law before Your Honours. An extensive witness list was put forward of some more than 500 names that were proposed by the Nuon Chea team.

Your Honours, at no stage was a concern raised that the defence were unable to obtain instructions from their client, and I think that is a matter that should be recorded and simply a matter that reflects, in our opinion, that Nuon Chea, again, has been able to effectively participate and has not been impaired in doing so.

Finally, I would note just very briefly relevant matters in the history of this -- on this particular issue.

[15.17.42]

A psychiatric assessment was, in fact, offered in 2009. The Nuon

Chea team raised a number of concerns, including the use that would be made of the psychiatric assessment. Assurances were provided by the investigating Judges. Those assurances were found to be insufficient by the Nuon Chea team. They advised their client to refuse cooperation and, of course, a full psychiatric assessment didn't take place.

And lastly -- and of course, I should just conclude on that particular point that Nuon Chea himself expressed the view that he did not require a psychiatric assessment, and we simply would agree with him. Again, evidence shows that he -- whilst clearly a man of age, 85, and suffering from ailments, with proper care, as is currently being provided, and conditions as the expert has advised, there is simply no reason to doubt now that there is an ability on his part to participate.

And lastly, on an evidential matter, concerns were raised in relation to some of the reports, including those prepared by cardiologists. I would simply note that this matter has been adjudicated by the Pre-Trial Chamber, albeit back in October 2008. And in its decision -- again, this was -- had been an application before the co-investigating Judges to appoint an expert to assess fitness to stand trial. That was refused and the matter went on appeal to the Pre-Trial Chamber.

[15.19.37]

In their decision on the 22nd of October, 2008, the Pre-Trial Chamber found that the requisite threshold to inquire into

fitness to stand trial wasn't met and, therefore, the matter rested there.

Additionally, they did look at reports by a number -- I think it was four cardiologists which had assessed -- expressed views as to Nuon Chea's cognitive impairment. And relevantly, I think, the Pre-Trial Chamber found that while they were cardiologists, that is, not specialists, necessarily, in psychiatric ailments, that that did not undermine the overall position because their opinions were consistent with other evidence including the Pre-Trial Chamber's own observations of Nuon Chea.

We would submit, Your Honours, it is fully -- this matter has been fully dealt with and should rest here. Nuon Chea is able to participate in his own defence. There is no doubt arising as at the present time and, therefore, the requisite threshold hasn't been met to appoint further experts.

[15.20.41]

Thank you, Your Honours.

MR. PRESIDENT:

Thank you, Co-Prosecutor, for your submission. We now proceed to the counsel for the civil parties.

MR. PICH ANG:

Mr. President, the lead co-lawyer will be presenting our submission. I will begin with significant portion of the submission to be followed by Elisabeth and Counsel Ven Pov also wishes to join us.

With regard to the conclusion concerning the report by Professor Campbell, the geriatrician, and his finding was rebutted by defence team for Nuon Chea. We, the counsel for the civil parties, have noted that such objection is not appropriate because Professor Campbell has been a person who practiced this skill or career for many years and he has been qualified for the position as proved. And he has been very knowledgeable of the order assigning expert and he followed every item as described in the order and fulfilled them very well as in paragraphs 3, 4 et cetera.

During the course of his mandate, as assigned by the order, he met with Nuon Chea and consulted with several medical practitioners and review result of clinical tests. So his finding has been proved or supported by concrete medical tests and on the 26th of August 2011, he also conducted further assessment of Nuon Chea's status of health.

[15.23.34]

As the result, we can see that both the cardiovascular disease has already been in good control and Nuon Chea has not got any problem with that. He neither has any cerebro-vascular disease and when it comes to other systems, Nuon Chea does not have any problem with gastro-intestinal haemorrhage although he has a history of this disease. He may have problems with the single kidney, but the situation has already been stable and he has also stable renal function.

We can conclude that Nuon Chea is of advanced age. He is 85 years old and -- however, he has no experience -- or the problems with his -- as I indicated, this issue does not really prohibit him from participating in the proceeding.

The facilities in the courtroom including the chairlift are specifically designed to make sure that the accused person feels comfortable enough to attend the proceeding so that's all from me. I would like to hand over to my colleague Elisabeth Simonneau-Fort to continue.

MR. PRESIDENT:

You may proceed.

MS. SIMONNEAU-RORT:

Yes, Mr. President, I will be very quick now at the end of this hearing.

And I would say that I fully support what was said by the prosecutors as a conclusion regarding Nuon Chea and I believe that we really have to draw a distinction between two people, Ieng Thirith and Mr. Nuon Chea. And when we require expertise or extra expertise we have to have a reason for this and it would be, therefore, necessary for the issues to not have already been treated. And I believe that Professor Campbell expressed himself very clearly regarding Mr. Nuon Chea's attention span -- that was just brought up -- as well as on his ability to concentrate and as well on the fact that there was no impairment to his cognitive abilities. And I wish to remind this because I believe that

things nonetheless have been quite clearly said.

[15.26.45]

And since it's up to me now to make the last observations before a possible rebuttal from the defence, I would like to provide my personal conclusion which might be the same conclusion that many people who have attended this hearing might have as well which in simple terms is the following.

I believe that what was said and I believe also that the expert reports and their content (recording malfunction).

I would say as a conclusion, personally speaking -- but this might be a conclusion that other people might share or people who attended this hearing at least -- I would say that the content of the reports and the explanations that were provided during these hearings and the debate here and Mr. Nuon Chea's presence and his statements and his reactiveness, all of this allows us to believe -- and I'm delighted about this -- to believe that for a man of 85 years of age that Mr. Nuon Chea is doing quite well today.

MR. PRESIDENT:

Thank you.

The defence counsel to conclude to the proceeding. Would you wish to make your final submission?

[15.28.41]

MR. SON ARUN:

I thank you very much, Mr. President.

I have already noted the observations by the prosecutor and the

lead co-lawyers for the civil parties and I wish to respond as follows. I think that Mr. Campbell has several shortcomings in his assessments as follows, of course.

First, the time he met with my client was very brief and short. He met him on three occasions only and on one occasion, he met him for five minutes. I don't know what the purpose of such meeting. He did not really come with tools ready to -- for the test, for example. And I can see that he is not having adequate tools for that.

Number 2, Nuon Chea never denies his participation in any trial proceedings. He will -- he indicates that he will do his best to participate in the proceeding to the best of his capacity. He indicated already that he could only remain sitting for an hour and a half if his health allows. It is from his own statement, not from the lawyer. It is clear enough that he knows or he feels for himself that this is the only period that allows him to remain sitting.

Number 3, the defence counsel for Nuon Chea is very concerned because his brain becomes very poor. The brain condition or cognition has changed. It's never been the same as a few years ago. His physical condition is deteriorating. He now walks with walking aids. So every time he has to walk there would be walking stick aid and two people holding him. So he walks, literally, with six legs at every time he wishes to do so.

[15.31.36]

And point number 4, his health condition is poor. This condition makes it possible for his defence team to feel concern that he will not be able to meaningfully attend in any future proceedings. That's all from me.

Thank you, Your Honours.

MR. PRESIDENT:

Thank you, Counsel for Nuon Chea, for your final reply.

Since the hearings on the fitness to stand trial and on the cross-examination with regard to the reports by Dr. -- rather Professor Campbell comes to an end, before we declare this hearing closed, the Chamber, since it has already noted the -- or heard the comments made by Nuon Chea defence team made precisely during the cross-examination sessions and also in the final statement that they would wish to assign experts, further experts to assess Nuon Chea's health condition, the Chamber would like to seek assistance from the defence counsel to clarify on this position in particular and that we would like the counsel to put -- or to submit such a submission or application no later than the 7th of September. And please limit your application to 10 pages in English language.

And we also wish to inform to the prosecutors and that you are entitled to respond to such application by no later than the 12th of September for the purpose of expediting the proceedings before the Court.

So I would like to reiterate that such application shall be made

no later than the 7th of September from the defence team and the 12th of September from the prosecutor.

[15.35.11]

The civil party -- the counsel for the civil party lawyers and Co-Prosecutors, at the same time, can respond no later than the 12th of September, just to be clear.

Ladies and gentleman, in my capacity as the President of the Trial Chamber and on behalf of my fellow Judges, I would like to thank you for your input during this hearing. And on behalf of the Trial Chamber, I would like to thank the Co-Prosecutors, the co-lawyers for the accused, the lead co-lawyers for the civil parties and officers of the units, sections of the office of administration, security personnel, detention facility security guards, staff of the Trial Chamber and interpreters for your participation and efforts to make this hearing fruitful.

As indicated previously, additional supplementary expert assessment has been ordered by the Chamber in relation to the accused Ieng Thirith. Further information regarding the next steps in relation to this supplemental expertise will be provided to the parties and the public in due course.

I now declare this hearing closed. The security personnel are now instructed to take the accused person back to the detention facility.

THE GREFFIER:

All rise.

(Court adjourns at 1538H)