



SPECIAL COURT FOR SIERRA LEONE

OFFICE OF THE PROSECUTOR

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(SCSL - 2003 - 12 - PD)
(1-10)

THE SPECIAL COURT FOR SIERRA LEONE

THE PROSECUTOR

Against

ALLIEU KONDEWA

SPECIAL COURT FOR SIERRA LEONE	
COURT RECORDS RECEIVED	
NAME	<i>Eustace Thompson</i>
SIGNATURE	<i>[Signature]</i>
DATE	<i>26 - 05 - 03</i>
TIME	<i>12:13pm</i>

REQUEST FOR TRANSFER AND PROVISIONAL DETENTION UNDER RULE 40 BIS OF THE RULES OF PROCEDURE AND EVIDENCE OF THE SPECIAL COURT FOR SIERRA LEONE.

TO THE HONOURABLE JUDGE SITTING PURSUANT TO RULE 28 OF THE RULES OF PROCEDURE AND EVIDENCE OF THE SPECIAL COURT FOR SIERRA LEONE

I, DAVID M. CRANE, Prosecutor of the Special Court for Sierra Leone, pursuant to the authority given to me by Rule 40 *bis* of the Rules of Procedure and Evidence of the Special Court for Sierra Leone (hereafter "the Rules") request the issuance of an Order for the transfer and provisional detention of ALLIEU KONDEWA in the premises of the detention unit of the Special Court on the following grounds:

1. On Saturday, 24 May 2003, pursuant to the authority given to me by Rule 40, I requested the Government of Sierra Leone, through its designated representative the Sierra Leone

Police, to arrest ALLIEU KONDEWA and place him in custody in accordance with the laws of Sierra Leone. I expect the Sierra Leone Police to comply with my request without undue delay.

2. The office of the Prosecutor is currently investigating ALLIEU KONDEWA for crimes committed within the territory of Sierra Leone within the temporal jurisdiction of the Special Court, namely:

a. Crimes Against Humanity, punishable under Article 2 of the Statute of the Special Court for Sierra Leone (hereafter “the Statute”),

b. Violations of Article 3 Common to the Geneva Conventions and of Additional Protocol II, punishable under Article 3 of the Statute,

c. Other Serious Violations of International Humanitarian Law, punishable under Article 4 of the Statute.

3. It appears from these investigations, particularly from the information contained in the declaration of TAMBA GBKIE annexed hereto, that there is evidence that ALLIEU KONDEWA may have committed crimes over which the Special Court has jurisdiction, and which may give rise to the following provisional charges:

Between November 1997 and March 1998, Kamajors, including ALLIEU KONDEWA, engaged in widespread attacks against Revolutionary United Front and Armed Forces Revolutionary Council Forces within the Republic of Sierra Leone, including but not limited to the locations of Tongo Field, Kenema, Bo and Koribondo. These attacks included the unlawful killing of and infliction of serious bodily harm on an unknown number of civilians and captured enemy combatants. Additionally these attacks included the looting and destruction of an unknown number of civilian owned and occupied houses, buildings and businesses.

By his acts or omissions in relation, but not limited to these events, ALLIEU KONDEWA, pursuant to Article 6.1. and , or alternatively, Article 6.3. of the Statue of the Special Court for Sierra Leone, is individually criminally responsible for the crimes alleged below:

a. Murder, a **CRIME AGAINST HUMANITY**, punishable under Article 2.a. of the Statute of the Special Court;

In addition, or in the alternative,

Violence to life, health and physical or mental well-being of persons, in particular murder, a **VIOLATION OF ARTICLE 3 COMMON TO THE GENEVA CONVENTIONS AND OF ADDITIONAL PROTOCOL II**, punishable under Article 3.a. of the Statute of the Special Court.

b. Inhumane Acts, a **CRIME AGAINST HUMANITY**, punishable under Article 2.i. of the Statute of the Special Court;

In addition, or in the alternative,

Violence to life, health and physical or mental well-being of persons, in particular cruel treatment, a **VIOLATION OF ARTICLE 3 COMMON TO THE GENEVA CONVENTIONS AND OF ADDITIONAL PROTOCOL II**, punishable under Article 3.a. of Statute of the Special Court.

c. Pillage, a **VIOLATION OF ARTICLE 3 COMMON TO THE GENEVA CONVENTIONS AND OF ADDITIONAL PROTOCOL II**, punishable under Article 3.f. of the Statute of the Special Court.

d. Acts of Terrorism, a **VIOLATION OF ARTICLE 3 COMMON TO THE GENEVA CONVENTIONS AND OF ADDITIONAL PROTOCOL II**, punishable under Article 3.d. of the Statute of the Special Court.

e. Collective Punishments, a **VIOLATION OF ARTICLE 3 COMMON TO THE GENEVA CONVENTIONS AND OF ADDITIONAL PROTOCOL II**, punishable under Article 3.b. of the Statute of the Special Court.

f. Conscripting or enlisting children under the age of 15 years into armed forces or groups or using them to participate actively in hostilities, an **OTHER SERIOUS VIOLATION OF INTERNATIONAL HUMANITARIAN LAW**, punishable under Article 4.c. of the Statute of the Special Court.

4. I submit that provisional detention of ALLIEU KONDEWA is a necessary measure to prevent his escape, physical or mental injury to or intimidation of a victim or witness or the destruction of evidence, or is otherwise necessary for the continued conduct of the investigations.

ACCORDINGLY, I REQUEST THAT YOU GRANT ALL ASPECTS OF THE PRESENT REQUEST AND THEREBY:

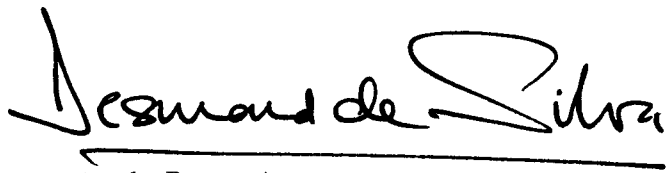
DECLARE that there is reason to believe that ALLIEU KONDEWA may have committed the crimes specified in the provisional charges above, over which charges the Special Court has Jurisdiction;

CONSIDER provisional detention to be a necessary measure to prevent the escape of ALLIEU KONDEWA, the physical or mental injury to or intimidation of a victim or witness or the destruction of evidence, or to be otherwise necessary for the conduct of the investigation;

ORDER that, upon the arrest of ALLIEU KONDEWA by the Sierra Leone Police, he be immediately transferred from the custody of the Sierra Leone Police to the detention premises of the Special Court; and

ORDER that ALLIEU KONDEWA be provisionally detained for an initial period not exceeding 30 days from the day of the transfer to the detention unit of the Special Court.

Dated this 26th day of May 2003
Freetown, Sierra Leone



For the Prosecutor,
Desmond de Silva, QC
The Deputy Prosecutor



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(SCSL-2003-12-PD)

Before: Judge Bankole Thompson

Registry: Mr. Robin Vincent

Decision of: ___ May 2003

THE PROSECUTOR

Against

ALLIEU KONDEWA

CASE NO. SCSL-2003-12-PD

**ORDER FOR TRANSFER AND PROVISIONAL DETENTION PURSUANT TO
RULE 40bis**

The Office of the Prosecutor:
Mr. James C. Johnson

THE SPECIAL COURT FOR SIERRA LEONE (“the Special Court”),

WITH Judge Bankole Thompson, presiding pursuant to the provisions of Rule 28 and Rule 40 of the Rules of Procedure and Evidence (“the Rules”);

HAVING RECEIVED on the 26 May 2003 from the Prosecutor pursuant to Rule 40 *bis*, a request for the transfer and provisional detention of the suspect, ALLIEU KONDEWA;

CONSIDERING the declaration dated 26 May 2003, attached to the said request from the Prosecutor and signed by Tamba P. Gbokie, Investigator at the Office of the Prosecutor;

CONSIDERING the formal request dated 24 May 2003, addressed by the Prosecutor to the authorities of the Republic of Sierra Leone pursuant to Rule 40 of the Rules to arrest and hold in custody the said suspect, ALLIEU KONDEWA;

WHEREAS the authorities of the Republic of Sierra Leone are expected to grant the said request of the Prosecutor and arrest ALLIEU KONDEWA without undue delay;

WHEREAS the Prosecutor reports that he is investigating crimes allegedly committed by ALLIEU KONDEWA in the territory of Sierra Leone since 30 November 1996, crimes which fall within the jurisdiction of the Special Court;

WHEREAS, according to the Prosecutor, ALLIEU KONDEWA participated in widespread attacks which included the unlawful killing of and infliction of serious bodily harm on civilians and captured enemy combatants and the looting and destruction of civilian property;

WHEREAS the Special Court considers, on the basis of the request submitted by the Prosecutor, and on the evidence brought to its attention in the affidavit attached to the request, that there is reason to believe that ALLIEU KONDEWA may, in the light of the above have committed SERIOUS VIOLATIONS OF INTERNATIONAL HUMANITARIAN LAW, CRIMES AGAINST HUMANITY, VIOLATIONS OF ARTICLE 3 COMMON TO THE GENEVA CONVENTIONS AND OF ADDITIONAL PROTOCOL II, punishable respectively under Article 4.b., Article 2.a., Article 3.a. and Article 3.c. of the Statute of the Special Court (“the Statute”);

WHEREAS, furthermore, the Prosecutor contends that the provisional detention of ALLIEU KONDEWA is a necessary measure to prevent his escape and also to prevent the suspect from seeking to intimidate or to cause bodily harm to victims or witnesses or to destroy evidence, or to be otherwise necessary for the conduct of the investigation in the matter concerning him;

WHEREAS, the Judge, in light of the above, is convinced that the provisional detention of ALLIEU KONDEWA is necessary;

NOW THEREFORE: I, Judge Bankole Thompson, for all the aforementioned reasons advanced by the Prosecutor, rule that the request submitted by the Prosecutor for the transfer and provisional detention of ALLIEU KONDEWA satisfies the conditions laid down by Rule 40 *bis* (B) of the Rules;

ON THESE GROUNDS,

GRANT the request submitted by the Prosecutor and consequently, order that ALLIEU KONDEWA be transferred as soon as possible to the Detention Facility of the Special Court, and be kept in provisional detention for a maximum of thirty days, with effect from the day after his transfer, and that he, in accordance with Rule 40 *bis* (J) of the Rules, be brought before me or another Judge designated under Rule 28 of the Rules, to ensure that his rights are respected;

INSTRUCT the Registrar to serve the present Order on the Authorities of the Government of Sierra Leone, for its immediate execution, upon the arrest of ALLIEU KONDEWA by the Sierra Leone Police, pursuant to the provisions of Section 20 of the Special Court Agreement 2002 (Ratification) Act.

Done in Freetown, this ____ day of May 2003.

Judge Bankole Thompson
Designated Judge

Seal of the Special Court for Sierra Leone

DECLARATION

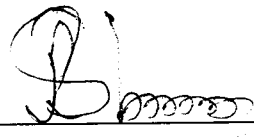
26 May 2003

I TAMBA PUJEH GBEKIE, Investigator in the Office of the Prosecutor, Special Court for Sierra Leone make the following declaration this 26th day of May 2003:

1. I work as an Investigator in the Office of the Prosecutor of the Special Court for Sierra Leone.
2. I am also a professionally trained Policeman of the rank of Assistant Commissioner in the Sierra Leone Police Force where I have been working as a Policeman since 1980.
3. Since October 2002, I have been working in the Office of the Prosecutor, Special Court for Sierra Leone where my duties include investigating crimes against International Humanitarian Law and Sierra Leone Law committed within the territory of Sierra Leone from the 30 November 1996, during the period of armed conflict in Sierra Leone.
4. I have in particular been investigating the role played by ALLIEU KONDEWA as a member of the Civil Defences Forces (CDF). My investigations reveal that ALLIEU KONDEWA was an active member of the CDF and held the position of High Priest and Chief Initiator. In this position, ALLIEU KONDEWA answered directly to Samuel Hinga Norman, the National Coordinator and leader of the CDF. ALLIEU KONDEWA also served as a chief advisor and confidant of Samuel Hinga Norman. Although not apparently holding a formal position as a military Commander within the CDF and Kamajor structures, ALLEU KONDEWA exercised *de facto* command authority over all persons within the CDF and Kamajor leadership structure with the exceptions of Samuel Hinga Norman and Moinina Fofana, the Director of War.
5. As Chief Initiator, ALLEU KONDEWA, was primarily responsible for the recruitment and initiation of fighters, including children under age of 15, into the Kamajors. He personally directed initiations and directed subordinate initiators in their activities. Witnesses

describing the initiation process stated that it often included the killing or sacrificing of innocent people and the eating of human flesh.

- 6. From about November 1997 and March 1998, Kamajors, including ALLIEU KONDEWA, engaged in widespread attacks against Revolutionary United Front and Armed Forces Revolutionary Council Forces within the Republic of Sierra Leone, including but not limited to the locations of Tongo Field, Kenema, Bo and Koribondo. These attacks included the unlawful killing of and infliction of serious bodily harm on an unknown number of civilians and captured enemy combatants. Additionally these attacks included the looting and destruction of an unknown number of civilian owned and occupied houses, buildings and businesses.
- 7. Witnesses to these attacks describe systematic and brutal killing by Kamajors of any captured enemy combatants and anyone suspected of collaborating with the RUF or AFRC. These suspected collaborators would be segregated, often on the basis of tribal affiliation, and then shot, hacked to death, or burned to death. In addition, witnesses describe the systematic burning and looting of civilian homes, businesses and other properties by Kamajors. Witnesses report that ALLIEU KONDEWA, in his position as High Priest and Chief Initiator, participated in or directed these attacks, killings and activities of the Kamajors.
- 8. I firmly believe that the detention of the Suspect, ALLIEU KONDEWA, is necessary to prevent escape or the intimidation and harassment of victims and potential witnesses, or both.
- 9. I TAMBA PUJEH GBEKIE affirm that the information in this declaration is true and correct to the best of my knowledge and belief. I understand that wilfully and knowingly making false statements in this statement could result in proceedings before the Special Court for giving false testimony. I have not wilfully or knowingly made any false statements in this declaration.



26/5/2003
 TAMBA PUJEH GBEKIE

OFFICE OF THE PROSECUTOR



SPECIAL COURT FOR SIERRA LEONE

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REQUEST FOR ARREST, DETENTION, AND RELATED ASSISTANCE

SUBMITTED TO
THE GOVERNMENT OF SIERRA LEONE

1. I have concluded that a case of urgency exists in relation to the arrest, detention, and transfer of **ALLIEU KONDEWA**.
2. I consider **ALLIEU KONDEWA** a suspect and possess reliable information that tends to show that he may have committed crimes within the jurisdiction of the Special Court for Sierra Leone.
3. Therefore, pursuant to my authority as Prosecutor, Special Court for Sierra Leone, acting under Rule 40 of the Rules of Procedure and Evidence, I hereby request that the Government of Sierra Leone, through a designated representative, arrest, and detain **ALLIEU KONDEWA** pending transfer into the custody of the Special Court for Sierra Leone.
4. I request that a representative from the Office of the Prosecutor be present from the time of arrest. I further request that the Government of Sierra Leone, through its designated representative, assist the representative from the Office of the Prosecutor, at any location designated by the Prosecutor, in the search for and seizure of all evidence related to crimes within the jurisdiction of the Special Court.
5. I further request that the Government of Sierra Leone, through its designated representative, identify and locate assets owned by the suspect within the territory of Sierra Leone and adopt provisional measures to freeze such assets without prejudice to the rights of third parties. The disposition of such assets at a date certain shall be arranged between the Registrar and the Government of Sierra Leone.
6. In accordance with the Statute of the Special Court for Sierra Leone and the Agreement between the United Nations and the Government of Sierra Leone on the Establishment of a Special Court for Sierra Leone, please comply with this request without undue delay. If for any reason this request for arrest, detention, and related assistance cannot be acted upon immediately, please contact the Office of the Prosecutor without delay.

Hereby requested,

A handwritten signature in black ink, which appears to read 'Desmond de Silva', is written over a horizontal line.

For the Prosecutor,
Desmond de Silva, QC
Deputy Prosecutor

On the 24th day of May of the year 2003