

(10639-10641)

SPECIAL COURT FOR SIERRA LEONE

SCSL - 2004 - 14- T

THE TRIAL CHAMBER

Before: Judge Benjamin Mutanga Itoe, Presiding Judge
 Judge Bankole Thompson
 Judge Boutet

Registrar: Robin Vincent

Date : 9th September 2004

PROSECUTOR

V

SAMUEL HINGA NORMAN
 MOININA FOFANA
 ALLIEU KONDEWA

MOTION REQUESTING REASONS FOR DECISION
 ORDERING WITNESS TF2-201 TO TESTIFY IN CLOSED SESSION

Office of the Prosecutor

Jim Johnson
 Kevin Tavener
 Joseph Kamara

Court Appointed Counsel for 1st accused

Dr Jabbi
 John Wesley Hall
 Quincy Whitaker

Court Appointed Counsel for 2nd accused

Arrow Bockerie

Counsel for 3rd accused

Charles Marghai
 Yada Williams

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| SPECIAL COURT FOR SIERRA LEONE | |
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| COURT MANAGEMENT | |
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| NAME | NEIL GIBSON |
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Background

1. In an oral decision delivered on the 4th of November 2004, the Trial Chamber granted the prosecution application that the testimony of witness TF2 -201 be heard in closed session after considering oral submissions made on behalf of the prosecution and the defence. The application had been opposed by all Counsel acting on behalf of the defendants.
2. The Trial Chamber delivered its judgment in public, holding that it was “satisfied, given the provisions of Article 17(2) of the Statute of the Special Court of Sierra Leone and Rule 79 of the Rules of Procedure and Evidence that the prosecution application should be granted and consequently witness TF2-201 shall testify in closed session”.
3. It is submitted on behalf of the 1st accused that no reasons have been delivered publicly (or otherwise) for the said decision contrary to the requirements of Rule 79 of the said Rules.

Submissions

4. Rule 79(B) provides that “The Trial Chamber shall make public the reasons for its order”. It is submitted that compliance with this rule requires the Trial Chamber to make public how or why they have reached their decision and is not satisfied by a mere announcement of the decision itself. The Trial Chamber have acknowledged in previous decisions that the effect of Rule 79 is that reasons for

ordering a closed session must be made public (see *e.g.* “Reasons for order for closed session of the status conference and modification of the said order”, SCSL -2004-15-PT, 1182-1184).

5. It is submitted that compliance with Rule 79 requires the public pronouncement by the Trial Chamber of sufficient reasons for reaching their decision so as to enable the public, the Defendants and the Appeals Chamber to ascertain *why* the Trial Chamber consider that it is necessary to depart from the principle of a public trial enshrined in the SCSL statute and to order that the testimony of witness TF2-201 be heard in a closed session pursuant to Rule 79.

6. It is submitted that no reasons for reaching their decision have been pronounced by the Trial Chamber and Counsel appointed by the Court on behalf of the 1st accused respectfully request that such reasons are provided in accordance with Rule 79(B).

COUNSEL APPOINTED BY THE COURT OF BEHALF OF THE 1ST

ACCUSED


John Wesley Hall


Quincy Whitaker