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**SPECIAL COURT FOR SIERRA LEONE**

OFFICE OF THE PROSECUTOR

FREETOWN - SIERRA LEONE

Before: Judge Benjamin Itoe  
Judge Bankole Thompson  
Judge Boutet  
Registrar: Mr. Robin Vincent  
Date filed: 12 November 2004

**THE PROSECUTOR**

**Against**

**SAM HINGA NORMAN**

**MOININA FOFANA**

**ALLIEU KONDEWA**

**CASE NO. SCSL - 2004 - 14 - T**

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

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Office of the Prosecutor:

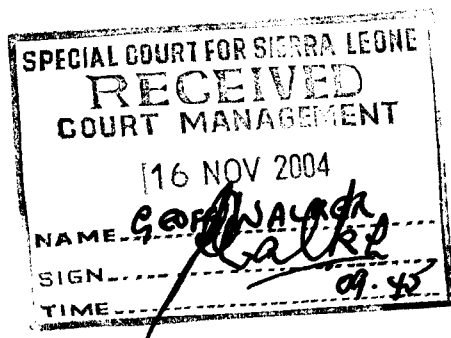
Luc Côté

James C. Johnson

Court Appointed Counsel for Norman:

John Wesley Hall

Dr. Bu-Buakei Jabbi



SPECIAL COURT FOR SIERRA LEONE  
OFFICE OF THE PROSECUTOR  
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**THE PROSECUTOR**  
**Against**  
**SAM HINGA NORMAN**  
**MOININA FOFANA**  
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**CASE NO. SCSL – 2004 – 14 – T**

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**PROSECUTION RESPONSE TO NORMAN MOTION FOR SERVICE AND  
ARRAIGNMENT ON SECOND INDICTMENT**

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**I. INTRODUCTION**

1. In an oral decision delivered on the 4<sup>th</sup> 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.
2. The Trial Chamber delivered its judgement in public, holding that it was “satisfied, given the provision of Article 17(2) of the Statute of the Special Court for Sierra Leone and Rule 79 of the Rules and Procedure and Evidence that the prosecution’s application should be granted and consequently witness TF2-201 shall testify in closed session.”

**II. SUBMISSIONS OF FIRST ACCUSED**

3. On the 9<sup>th</sup> November a document was filed on behalf of the first Accused entitled “Motion Requesting Reasons for Decision Ordering Witness TF2-201 to Testify in Closed Session”. (“the Motion”)
4. In the Motion, the Defence for the first Accused indicated Rule 79(B) provided that “The Trial Chamber shall make public the reasons for its order”, and argued 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.”

5. The Defence further submitted that no reasons have been given by the Court and requested that reasons for the decision be provided in accordance with Rule 79(B).
6. The Prosecution submits that the reasons for the closed session were contained within the Courts Decision and the Defence Motion should be dismissed.

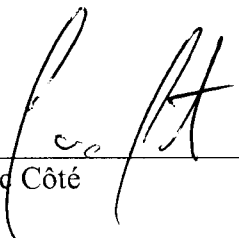
### III. ARGUMENT

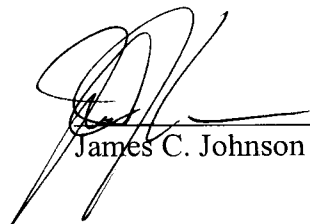
7. The principles upon which the Court makes its adjudication on the issue as to when a witness is entitled to a closed court procedure are clearly defined. The only effective issues to be canvassed in an application are the circumstances specific to the witness which, during its submissions, the Prosecution clearly set out and the Trial Chamber accepted when it held: “*giving due consideration to the arguments presented on both sides*, we are satisfied. ....and consequently, therefore, Witness TF2-201 shall testify in closed session”.<sup>1</sup> [Emphasis added]. This was an oral judgment based on oral submissions.
8. Applications for a closed session have been heard during the course of the trial and the Court has to adjudicate each instance on an individual basis. The general issues have been previously adjudicated, only the circumstances of this particular case had to be addressed by the Court.
9. The reasons of the Court lie therefore in the acceptance of the Prosecution’s submissions in support of the closed session. Consequently, the court’s reasons are implicit in the decision and are published to the standard required under the Rules of Evidence and Procedure.

### IV. CONCLUSION

10. Based on the foregoing, the Prosecution submits that the Motion by the third Accused should be dismissed.

Freetown, 12<sup>th</sup> November 2004

  
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 Luc Côté

  
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 James C. Johnson

<sup>1</sup> Draft Transcript: 4<sup>th</sup> Novemebr 2004, pages 68 lines 4-11.