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SCSL-2004-14-T
(9807-9810)

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SPECIAL COURT FOR SIERRA LEONE

Before: Judge Benjamin Mutanga Itoe, Presiding Judge
Judge Bankole Thompson
Judge Pierre Boutet
Registrar: Robin Vincent
Date: 21 October 2004

THE PROSECUTOR

Against

SAMUEL HINGA NORMAN, MOININA FOFANA and ALLIEU KONDEWA

CASE NO. SCSL-2004-14-T

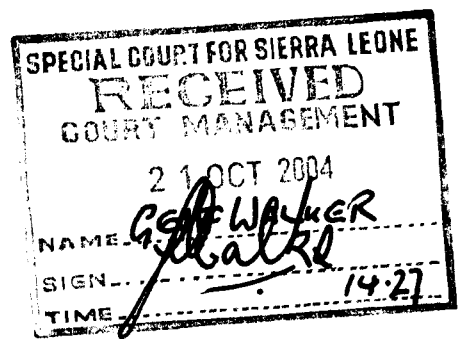
MOININA FOFANA
MOTION FOR SERVICE OF CONSOLIDATED INDICTMENT AND A
FURTHER APPEARANCE

Office of the Prosecutor:
James C. Johnson
Charles Caruso

for Moinina Fofana:
Michiel Pestman
Arrow J. Bockarie
Victor Koppe
Phoebe Knowles

for Allieu Kondewa:
Charles Margai

for Hinga Norman
Quincy Whitaker



1. By this motion Mr. Moinina Fofana (the “Accused”) seeks service of the Consolidated Indictment, pursuant to Rules 50(A) and 52 of the Rules of Procedure and Evidence (the “Rules”), and a further appearance, pursuant to Rule 50(B)(i) of the Rules.

Facts

2. Judge Bankole Thompson approved the original indictment on 26 June 2003 (the “First Indictment”). The Accused made his Initial Appearance pursuant to Rule 61 on 1 July 2003, before Judge Pierre Boutet. At that occasion he pleaded not guilty to all counts.
3. On 9 October 2003, the Prosecution applied for joinder of the First Indictment with those faced by the other accused in the present trial: Mr. Sam Hinga Norman and Mr. Allieu Kondewa. In its “Decision and Order on Prosecution Motions for Joinder, issued on 27 January 2004 (the “Decision”), the Trial Chamber allowed the application, in spite of the fact that it acknowledged the Consolidated Indictment contained new allegations in respect of the Accused.¹
4. The new allegations in the Consolidated Indictment are outlined in the table below:

INDICTMENT (June 24 th , 2003)	CONSOLIDATED INDICTMENT² (February 5 th , 2004)
20.a. “between about 1 November 1997 and about 30 April 1998, at or near	25.a. “between about 1 November 1997 and about 30 April 1998, at or near

¹ Decision, para. 24.

² All emphasis added.

Tongo Field, (...)”	Tongo Field, and at or near the towns of <u>Lalehun, Kamboma, Konia, Talama, Panguma and Sembehun, (...)”</u>
20.b. ““(…) at or near Kenema and at the nearby locations of SS Camp, Kamajors unlawfully (...)”	25.b. ““(…) at or near Kenema and at the nearby locations of SS Camp, <u>and Blama, Kamajors unlawfully (...)”</u>
20.d. “in or about January and February 1998, at or near Bo and Koribondo, Kamajors unlawfully (...)”	25.d. “in or about January and February 1998, <u>in locations in Bo District including the District Headquarters town of Bo, Kebi Town, Koribondo, Kpeyama, Fengehun and Mongere, Kamajors unlawfully (...)”</u>
21.a. ““(…) including Tongo Field, Kenema and the surrounding areas, (...)”	26.a. ““(…) including Tongo Field, Kenema Town, <u>Blama, Kamboma and the surrounding areas, (...)”</u>
22.a. ““(…) at various locations to include the towns of Bo, Koribondo, and the surrounding areas (...)”	27.a. ““(…) at various locations including <u>in Kenema District, the towns of Kenema, Tongo Field and surrounding areas</u> , in Bo district, the towns of Bo, Koribondo, and the surrounding areas (...)”

5. In the Decision, the Trial Chamber also ordered that the Consolidated Indictment be served on all accused, pursuant to Rule 50(A) and Rule 52 of the Rules. To the knowledge of the Accused, this has not happened yet.
6. Judge Benjamin Mutanga Itoe appended a separate opinion in which he stated that the Consolidated Indictment “was to all intents and purposes new”, which in his view lent support to the proposition that “the indictment has to be subjected to the

new procedures of Rules 47 and 61 in the form which it will take and will be presented” following the Trial Chamber’s decision.³

Submissions

7. The Accused submits that he should be served with the Consolidated Indictment, as ordered by the Trial Chamber, and properly arraigned on the new charges in a further appearance, as required by Rule 50(B)(i) of the Rules.

COUNSEL FOR THE ACCUSED

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Michiel Pestman

³ Decision, Separate Opinion, para. 10.