

(12243 - 12246)

**SPECIAL COURT FOR SIERRA LEONE**

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THE TRIAL CHAMBER

Before: Hon. Justice Benjamin Mutanga Itoe, Presiding Judge
Hon. Justice Bankole Thompson
Hon. Justice Pierre Boutet

Registrar: Robin Vincent

Date: 1st of March, 2005

PROSECUTOR	Against	SAM HINGA NORMAN MOININA FOFANA ALLIEU KONDEWA (Case No.SCSL-04-14-PT)
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**RULING ON REQUEST FOR WITHDRAWAL OF MR. TIM OWEN, AS COURT
APPOINTED COUNSEL FOR THE FIRST ACCUSED****Office of the Prosecutor:**

Luc Côté
James Johnson

Court Appointed Counsel for Sam Hinga

Norman:
Dr. Bu-Buakei Jabbi
John Wesley Hall, Jr.
Tim Owen, Q.C.

Court Appointed Counsel for Moinina Fofana:

Michiel Pestman
Arrow Bockarie
Victor Koppe

Court Appointed Counsel for Allieu Kondewa:

Charles Margai
Yadda Williams
Ansu Lansana

NEIL GIBSON
13.45

IN TRIAL CHAMBER I (“The Chamber”) of the Special Court for Sierra Leone (“Special Court”) composed of Hon. Justice Benjamin Mutanga Itoe, Presiding Judge, Hon. Justice Bankole Thompson, and Hon. Justice Pierre Boutet;

SEIZED of a Letter to the Registrar from Mr. Tim Owen, Q.C., Court Appointed Counsel for the First Accused, Sam Hinga Norman, dated the 29th of November 2004 (“Request”), where Mr. Owen informs The Chamber that he is “not able or willing to perform the role of Court Appointed Counsel for Chief Hinga Norman”, and outlined his reasons for this decision in the said Letter;

MINDFUL OF the “Decision on the Application of Samuel Hinga Norman for Self Representation Under Article 17(4)(d) of the Statute of the Special Court”, delivered by The Chamber on the 8th of June 2004;


MINDFUL OF the “Consequential Order on Assignment and Role of Standby Counsel”, delivered by The Chamber on the 14th of June, 2004, where the Registrar was ordered to assign Standby Counsel for the First Accused;

CONSIDERING the “Order for Assignment of Standby Counsel for Samuel Hinga Norman” of the Registrar of the 15th of June, 2004, where the Registrar assigned:

- (1) Dr. Bu-Buakei Jabbi of Sierra Leone, Mr. John Wesley Hall of the United States, Ms. Quincy Whitaker of England and Mr. Tim Owen, Q.C. of England as Standby Counsel for the assistance of the Accused;
- (2) the temporary assignment of Mr. Ibrahim Yillah, Counsel in the Defence Office as Standby Counsel pending the effective presence at the proceedings of the Standby Defence Team;

CONSIDERING that The Chamber appointed Mr. Tim Owen, Q.C. as Court Appointed Counsel for the First Accused, pursuant to Rule 60(A)(i) of the Rules in its Oral Decision of the 21st of September, 2004, and in its written reasons on the “Ruling on the Issue of Non-Appearance of the First Accused Samuel Hinga Norman, the Second Accused Moinina Fofana, and the Third Accused, Allieu Kondewa at the Trial Proceedings”, delivered on the 1st of October, 2004;

CONSIDERING the “Consequential Order on the Role of Court Appointed Counsel”, rendered by The Chamber on the 1st of October, 2004;

 2.




MINDFUL OF the Oral Ruling on the withdrawal of Ms. Quincy Whitaker as Court Appointed Counsel for the First Accused delivered by the Trial Chamber on the 11th of November, 2004, and the “Consequential Order on the Withdrawal of Ms. Quincy Whitaker as Court Appointed Counsel for the First Accused”, delivered by The Chamber on the 19th of November, 2004;

MINDFUL OF Article 17 of the Statute of the Special Court for Sierra Leone (“Statute”) and Rules 54 and 26bis of the Rules;

NOTING Rule 44(B) of the Rules which provides that:

In the performance of their duties counsel shall be subject to the relevant provisions of the Agreement, the Statute, the Rules, the Rules of Detention and any other rules or regulations adopted by the Special Court, the Headquarters Agreement, the Code of Professional Conduct and the codes of practice and ethics governing their profession and, if applicable, the Directive on the Assignment of Defence Counsel;

NOTING Rule 45(E) of the Rules which provides that:

Counsel will represent the accused and conduct the case to finality. Failure to do so, absent just cause approved by the Chamber, may result in forfeiture of fees in whole or in part. In such circumstances the Chamber may make an order accordingly. Counsel shall only be permitted to withdraw from the case to which he has been assigned in the most exceptional circumstances. In the event of such withdrawal the Principal Defender shall assign another Counsel who may be a member of the Defence Office, to the indigent accused;

NOTING Articles 23, 24 and 25 of the Directive on the Assignment of Counsel;

CONSIDERING that the decision of the Trial Chamber to appoint Counsel for the First Accused was made to ensure the fairness of the trial and that it follows that an application that fundamentally challenges that decision is subject to the jurisdiction of the Trial Chamber;¹

CONSIDERING the professional and practical difficulties that Mr. Tim Owen, Q.C., has advanced as grounds for his unwillingness to represent the First Accused as Court Appointed Counsel;

¹ *Prosecutor v. Milosevic*, Decision on Interlocutory Appeal of the Trial Chamber’s Decision on the Assignment of Defence Counsel, 1 November 2004, para. 15; *Prosecutor v. Milosevic*, Reasons for Decision on Assignment of Defence Counsel, 22 September 2004, para. 34.

CONSIDERING that the reasons advanced by Mr. Tim Owen, Q.C. for his requested withdrawal as Court Appointed Counsel demonstrate good cause and that this request for withdrawal is in the interests of justice;

THE TRIAL CHAMBER THEREFORE:

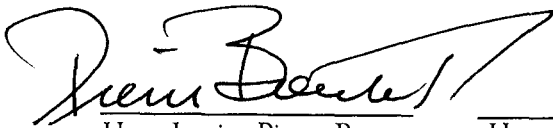
DETERMINES that the Request of Mr. Tim Owen, Q.C. to withdraw as Court Appointed Counsel for the First Accused should be granted; and

INSTRUCTS the Registrar, in consultation with the Principal Defender, pursuant to Article 24 of the Practice Directive, to grant the request for withdrawal of Mr. Tim Owen, Q.C. as Court Appointed Counsel for the First Accused and to take the necessary measures to give effect to this Decision.

Hon. Justice Pierre Boutet appends a Separate and Concurring Opinion to this Decision.

FOR ALL THE ABOVE STATED REASONS,

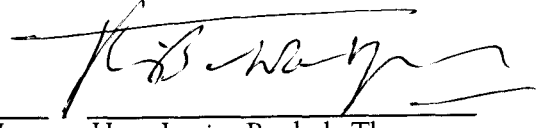
Done in Freetown, Sierra Leone, this 1st day of March, 2005



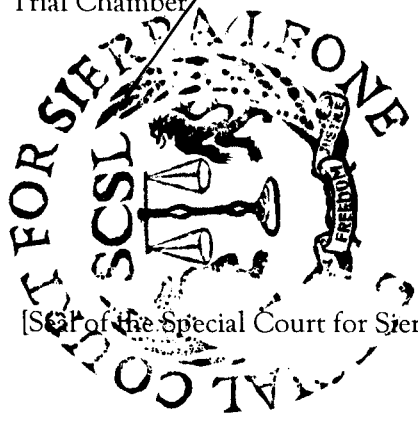
Hon. Justice Pierre Boutet



Hon. Justice Benjamin Mutanga Itoe
Presiding Judge,
Trial Chamber



Hon. Justice Bankole Thompson



[Seal of the Special Court for Sierra Leone]