

SPECIAL COURT FOR SIERRA LEONE

Trial Chamber 1

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

Registrar: Robin Vincent

Date: 13 June 2005

The Prosecutor Against Sam Hinga Norman
Moinina Fofana
Allieu Kondewa
Case No. SCSL -04-14-T

**DEFENCE REPLY TO PROSECUTION RESPONSE TO
NORMAN COUNSEL'S REQUEST FOR LEAVE TO APPEAL
UNDER RULE 46(H)**

Office of the Prosecutor

Luc Cote
James C. Johnson
Kevin Tavener

**Court Appointed Counsel for Sam
Hinga Norman**

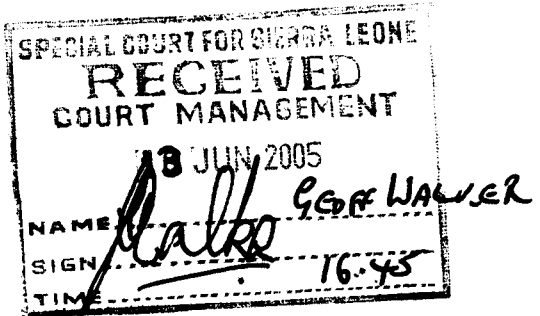
Dr. Bu-Buakei Jabbi
John Wesley Hall Jr.
Ibrahim Yilla

**Court Appointed counsel for Moinina
Fofana**

Michiel Pestman
Arrow J. Bockarie
Victor Koppe

**Court Appointed Counsel for Allieu
Kondewa**

Charles Margai
Yada Williams
Ansu Lansana



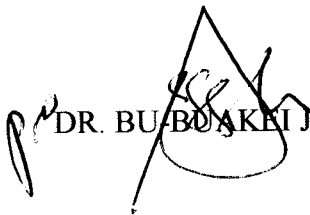
I. RESPONSE & REPLY

1. In the **Prosecution Response** to Norman Counsel's Request for Leave to Appeal (sic) Rule 46(H), #429 at RP. 13010-13012, the Prosecution's main submission is that the test for grant of leave under Rule 73(B) of the Rules of Procedure and Evidence of the Special Court for Sierra Leone (**RPE/SCSL**) ought to apply to any (and the said) **Leave Request** under Rule 46(H) because, according to the Prosecution, the latter Rule "does not provide a standard for reviewing applications made under it" (para. 4 thereof).
2. On the contrary, however, it is hereby submitted that Rule 46(H) and Rule 73(B) are concerned with regimes and matters of different nature and are accordingly independently formulated without any indication or suggestion of mutual relevance or necessary interplay between them or the subjection of one to the other, which would certainly have been so indicated by their common drafters if so intended. The Prosecution's wild and unsupported submissions in this regard are totally untenable and ought to be ignored here as at best a mischievous or diversionary red-herring, if not perhaps an outright obstruction.
3. And the Prosecution's bare alternative submission that the Norman Counsel's **Leave Request**, to wit, #415 at RP. 12927-12945, to which it is responding, has given "no coherent reasons ... for leave to be granted"(para. 6 of the **Prosecution Response** at RP. 13012) clearly betrays it either as having not fully or properly read the said application or as simply embarrassed for lack of fodder to counter it, or perhaps both factors at once.
4. The **Prosecution Response** also seems to miss the deliberately narrowed focus of the subject **Leave Request** for a wider application in respect of the whole of "the Trial Chamber's decision of 23 (sic) May 2005" (para. 2 thereof). On the contrary, however, it is definitively and pellucidly clarified in paragraphs 1, 2 and 6 in particular of the **Leave Request** that it is targeted only at a secondary and relatively fresh aspect of the **Abuse of Process Leave Decision** of 24 May 2005 in #406 at RP. 12815-12818), as specified.

II. CONCLUSION

5. The submissions and arguments in the subject **Leave Request**, #415, are thus adopted, repeated and endorsed herein, and its prayers in paragraphs 1 and 18 thereof are hereby urged upon the learned Honourable Justices of Trial Chamber 1 for a favourable, lawful and expeditious determination thereof.

Done in Freetown this 13th day of June 2005.


DR. BUBA KARI JABBI

COURT APPOINTED COUNSEL.