

SCSL-04-14-T
(15148-15151)

SPECIAL COURT FOR SIERRA LEONE
OFFICE OF THE PROSECUTOR
Freetown – Sierra Leone

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

Registrar: Mr. Lovemore G. Munlo SC

Date filed: 5 April 2006

THE PROSECUTOR

Against

Samuel Hinga Norman
Moinina Fofana
Allieu Kondewa

Case No. SCSL-04-14-T

PUBLIC

**PROSECUTION RESPONSE TO FIRST ACCUSED'S URGENT MOTION FOR LEAVE TO FILE
ADDITIONAL WITNESS AND EXHIBITS LISTS DATED 3 APRIL 2006**

Office of the Prosecutor:
Mr. James C. Johnson
Ms. Nina H. B. Jørgensen
Mr. Joseph F. Kamara

Court Appointed Defence Counsel for Norman
Dr. Bu-Buakei Jabbi
Mr. John Wesley Hall, Jr.
Ms. Clare DaSilva (*Legal Assistant*)

Court Appointed Defence Counsel for Fofana
Mr. Victor Koppe
Mr. Arrow J. Bockarie
Mr. Michiel Pestman
Mr. Andrew Ianuzzi (*Legal Assistant*)

Court Appointed Defence Counsel for Kondewa
Mr. Charles Margai
Mr. Yada Williams
Mr. Ansu Lansana
Mr. Martin Michael (*Legal Assistant*)

SPECIAL COURT FOR SIERRA LEONE	
RECEIVED	
COURT MANAGEMENT	
5 APR 2006	
NAME	Neil Gibson
SIGN	<i>Neil Gibson</i>
TIME	9:50

I. INTRODUCTION

1. The Prosecution files this Response to the “First Accused’s Urgent Motion for Leave to File Additional Witness and Exhibits Lists” filed on 3 April 2006 (“**Second Re-filed Defence Motion**”),¹ pursuant to the Trial Chamber’s “Consequential Order to the Status Conference of 22 March, 2006” dated 23 March 2006.²
2. The Defence for the First Accused (“**Defence**”) filed a similar motion on 1 February 2006 (“**Original Defence Motion**”)³ to which the Prosecution responded on 8 February 2006 (“**Original Prosecution Response**”).⁴ The Original Defence Motion was re-filed on 14 March 2006 (“**First Re-Filed Defence Motion**”).⁵ The Prosecution responded on 17 March 2006 (“**Prosecution Response to First Re-Filed Motion**”).⁶
3. The First and Second Re-filed Defence Motions do not differ substantially in terms of the arguments made as to good cause from the Original Defence Motion and the Prosecution therefore relies in response on its arguments in the Original Prosecution Response and the Prosecution Response to First Re-Filed Motion. However, a number of brief submissions are made below in light of the shortened Defence witness list and the separation of witnesses into categories of “core” and “back up”.

II. SUBMISSIONS

4. The Prosecution reiterates its submission that on the basis of the summaries provided, the evidence sought to be introduced by the proposed additional witnesses would appear to be repetitive of evidence already adduced before the Court⁷ and that of other listed witnesses for the Defence. In particular, the Prosecution notes that it is impossible to

¹ *Prosecutor v Norman, Fofana, Kondewa*, SCSL-04-14-T-581, “First Accused’s Urgent Motion for Leave to File Additional Witness and Exhibit Lists”, 3 April, 2006.

² *Prosecutor v Norman, Fofana, Kondewa*, SCSL-04-14-T-575, “Consequential Order to the Status Conference of 22 March 2006”, 23 March 2006.

³ *Prosecutor v Norman, Fofana, Kondewa*, SCSL-04-14-T-549, “First Accused’s Urgent Motion for Leave to File Additional Witness and Exhibit Lists”, 1 February 2006.

⁴ *Prosecutor v Norman, Fofana, Kondewa*, SCSL-04-14-T-553, “Prosecution Response to First Accused’s Urgent Motion for Leave to File Additional Witness and Exhibits Lists”, 8 February 2006.

⁵ *Prosecutor v Norman, Fofana, Kondewa*, SCSL-04-14-T-572, “First Accused’s Urgent Motion for Leave to File Additional Witness and Exhibit Lists”, 14 March 2006.

⁶ *Prosecutor v Norman, Fofana, Kondewa*, SCSL-04-14-T-574, “Public Prosecution Response to First Accused’s Urgent Motion for Leave to File Additional Witness and Exhibits Lists”, 17 March 2006.

⁷ Defence Witness-M.T. Collier (See Transcript Feb. 16, 06, at p. 68-69; 77; 84), Norman Evidence (See Transcript Jan, 12, at p. 12-13), Defence Witness-Dr. Joe Demby, (Transcript 9, 10, 13, 15, 16 February 2006), Defence Witness-Ismail Senessie Koroma (Transcript 22, 23 February 2006).

determine the relevance of the proposed testimony of J. A. Carpenter from the brief summary provided. The Prosecution submits on the basis of the summary that documentary evidence, in the form of the Statute legitimizing the CDF (which does not appear to be included on the Defence exhibit lists), could be adduced instead of witness testimony. Therefore, the Prosecution submits that good cause has not been demonstrated with respect to this witness.

5. Further, the Prosecution is concerned that although, by its nature, the proposed testimony of back up witnesses may be repetitive of that of core witnesses, irrelevant back up witnesses might at a later date be moved to the core list. Notably, the Defence has stated that the back up list consists of a “pool to which resort **may or may not** be made as may become strictly necessary in the interest of the defence of Norman”.⁸ The Prosecution therefore urges the Trial Chamber to consider carefully whether good cause has been shown to add the back up witnesses to the list.

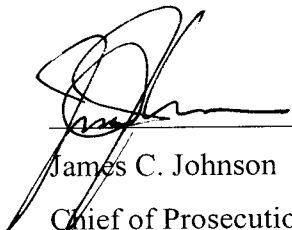
III. CONCLUSION

6. The Prosecution recognizes the efforts made by the Defence to reduce its witness lists but nevertheless remains opposed to the addition of witnesses that will provide duplicative evidence. The Prosecution will be prepared to address these issues further, as appropriate, at the Status Conference on 5 April 2006.

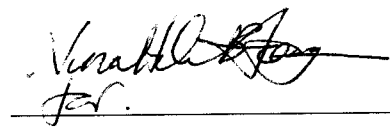
Filed in Freetown,

5 April 2006

For the Prosecution,



 James C. Johnson
 Chief of Prosecutions



 Joseph F. Kamara
 Trial Attorney

⁸ *Prosecutor v Norman, Fofana, Kondewa*, SCSL-04-14-T-582, “Norman Filing and Application Following Consequential Order to the Status Conference of 22 March 2006”, 3 April 2006, para. 6, emphasis in the original. See also para. 4 of the Filing.

Index of Authorities

1. *Prosecutor v Norman, Fofana, Kondewa*, SCSL-04-14-T-581 “First Accused’s Urgent Motion for Leave to File Additional Witness and Exhibit Lists”, 3 April 2006.
2. *Prosecutor v Norman, Fofana, Kondewa*, SCSL-04-14-T-575, “Consequential Order to the Status Conference of 22 March 2006”, 23 March 2006.
3. *Prosecutor v Norman, Fofana, Kondewa*, SCSL-04-14-T-549, “First Accused’s Urgent Motion for Leave to File Additional Witness and Exhibit Lists”, 1 February 2006.
4. *Prosecutor v Norman, Fofana, Kondewa*, SCSL-04-14-T-553, “Prosecution Response to First Accused’s Urgent Motion for Leave to File Additional Witness and Exhibits Lists”, 8 February 2006.
5. *Prosecutor v Norman, Fofana, Kondewa*, SCSL-04-14-T-572 “First Accused’s Urgent Motion for Leave to File Additional Witness and Exhibit Lists”, 14 March 2006.
6. *Prosecutor v Norman, Fofana, Kondewa*, SCSL-04-14-T-574 “Prosecution Response to First Accused Urgent Motion For Leave To File Additional Witness And Exhibit List”, 17 March 2006.
7. *Prosecutor v Norman, Fofana, Kondewa*, SCSL-04-14-T-Defence Witness-M.T. Collier - Transcript Feb. 16, 06, at p. 68-69; 77; 84).
8. *Prosecutor v Norman, Fofana, Kondewa*, SCSL-04-14-T-Norman Evidence - Transcript 12 January, at p. 12-13).
9. *Prosecutor v Norman, Fofana, Kondewa*, SCSL-04-14-T- Witness-Dr. Joe Demby, Transcript 9, 10, 13, 15, 16 February 2006.
10. *Prosecutor v Norman, Fofana, Kondewa*, SCSL-04-14-T Defence Witness-Ismail Senessie Koroma-Transcript 22, 23 February 2006.
11. *Prosecutor v Norman, Fofana, Kondewa*, SCSL-04-14-T-582, “Norman Filing and Application Following Consequential Order to the Status Conference of 22 March 2006”, 3 April 2006.