

**SPECIAL COURT FOR SIERRA LEONE
Trial Chamber 1**

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

Registrar: Mr. Lovemore G. Munlo, SC

Date: 20th June 2006

PROSECUTOR

Against

**Samuel Hinga Norman
Moinina Fofana
Allieu Kondewa**

Case No. SCSL-04-14-T

Public

First Accused Reply to "Prosecution Response to First Accused Urgent Motion for Extension of Time Dated 15 June 2006"

Office of the Prosecutor:

Mr Christopher Staker
James Johnson
Joseph Kamara

For Samuel Hinga Norman

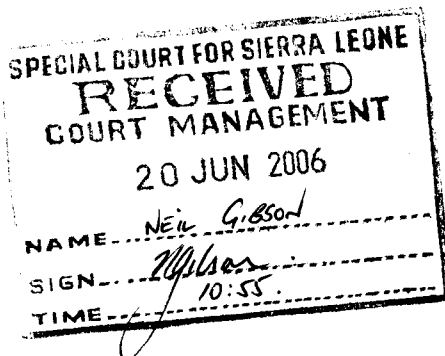
Dr. Bu-Buakei Jabbi
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For Moinina Fofana:

Michiel Pestman
Arrow J. Bockarie
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For Allieu Kondewa:

Charles Margai
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Introduction

1. Court Appointed Counsel for the First Accused (the “Defence”) files this Reply to the ‘Prosecution Response to First Accused Urgent Motion for Extension of Time Dated 15 June 2006’¹ (“Prosecution Response”) filed by the Prosecution on 19 June 2006, noting the Trial Chamber’s “Order for Expedited Filing”.²
2. In its response to the Defence Submission that there is no stipulated date in Rule 92 bis for making application there under, the Prosecution submits that the Chamber is empowered to issue orders, summonses, subpoenas, warrants and transfer orders as may be required under Rule 54 and that under Rule 89 the Chamber is to apply rules of evidence which best favour a fair determination of the matter before it and are consonant with the Statute and general principles of law.³
3. The Prosecution further submits that the Norman Defence has had ample time to conduct its investigations, collect evidence, prepare witnesses and obtain their attendance.⁴ In addition, the Prosecution Response states that there is no other basis for the Defence Motion other than to unreasonably delay the trial process.⁵

Submissions

4. The Defence submits that there would be no delay in the trial process if the Trial Chamber grants the requested extension of time for the filing of Rule 92bis evidence. The trial is currently adjourned until 12 September 2006 and the Trial Chamber has already stated that the Norman defence case shall close following the end of the testimony of Major-General Abdu-One Mohamed.⁶ Extending the

¹ *Prosecutor v. Norman, Fofana, Kondewa*, SCSL-2004-T-625.

² *Prosecutor v. Norman, Fofana, Kondewa*, SCSL-2004-T-623.

³ *Ibid.* para. 9.

⁴ *Ibid.* para. 10.

⁵ *Prosecutor v. Norman, Fofana, Kondewa*, SCSL-2004-T-622.

⁶ *Prosecutor v. Norman, Fofana, Kondewa*, SCSL-2004-T-619, para 17 (d).

deadline for submissions of evidence pursuant to Rule 92bis as requested by the Defence does not unreasonably delay the trial process or at all.

5. The Defence would further submit that Rule 92bis requires that the evidence that is submitted pursuant to the Rule must be capable of being corroborated by other evidence. It is therefore logical that the Defence must wait until nearing the close of its case to ensure that any evidence it wishes to submit under Rule 92bis can be corroborated by other evidence that has been presented in the Defence case.

6. The Defence would note that this was the approach taken by the Prosecution. The Prosecution gave notice to the Defence of the documents it sought to be tendered by way of Rules 92bis and 89(c) on 14 June 2005. On 24 June 2005 the Prosecution submitted its “Consequential Request to Admit into Evidence Certain Documents Pursuant to Rule 92 Bis and 89 (C)”.⁷ The last witness for the Prosecution appeared on 20 June 2005. The Prosecution closed its case 14 July 2005, the date that the “Decision on Prosecution’s Request to Admit into Evidence Certain Documents Pursuant to Rule 92 Bis and 89 (c)” was issued.⁸

7. According to Rule 92bis, a 10 day notice period is required and 5 days is allowed for objections to be filed.⁹ Therefore the latest possible time that evidence could be submitted pursuant to the Rule is at least 15 days before the close of the presentation of evidence. In this case, that would be 15 days prior to the ending of the testimony of Major-General Abdu-One Mohamed in September 2006. The Defence is only requesting an extension of time until 14 July 2006, which is at least 60 days before the Defence case is due to close and a period during which a further 92bis application could be duly made.

⁷ *Prosecutor v. Norman, Fofana, Kondewa*, SCSL-2004-T-439.

⁸ *Prosecutor v. Norman, Fofana, Kondewa*, SCSL-2004-T-447.

⁹ Rule 92bis (c) states: A party wishing to submit information as evidence shall give 10 days notice to the opposing party. Objections, if any, must be submitted within 5 days.

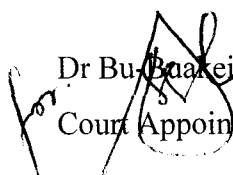
8. Finally, the Defence submits that the Prosecution has failed to show that it would be prejudiced in any way should the requested extension be granted.

Conclusion

9. For these reasons, the Defence submits that its Request should be granted.

Filed in Freetown,

20 June 2006


Dr Bu-Buakei Jabbi
Court Appointed Counsel

INDEX OF AUTHORITIES

1. *Prosecutor v. Norman, Fofana, Kondewa*, SCSL-2004-T-619, “Decision on Norman Motion to Defer Further Evidence and Closing of His Case to September – December Trial Session”, 14 June 2006.
2. *Prosecutor v. Norman, Fofana, Kondewa*, SCSL-2004-T-622, “First Accused Urgent Motion for Extension of Time to Comply with Order Contained in ‘Decision on Norman Motion to Defer Further Evidence and Closing of His Case to September – December Trial Session’”, 15 June 2006.
3. *Prosecutor v. Norman, Fofana, Kondewa*, SCSL-2004-T-623, “Order for Expedited Filing”, 16 June 2006.
4. *Prosecutor v. Norman, Fofana, Kondewa*, SCSL-2004-T-625, “Prosecution Response to First Accused Urgent Motion for Extension of Time Dated 15 June 2006”, 19 June 2006.
5. *Prosecutor v. Norman, Fofana, Kondewa*, SCSL-2004-T-447, “Decision on Prosecution’s Request to Request to Admit into Evidence Certain Documents Pursuant to Rule 92 Bis and 89 (c)”, 14 July 2005.
6. *Prosecutor v. Norman, Fofana, Kondewa*, SCSL-2004-T-439. “Consequential Request to Admit into Evidence Certain Documents Pursuant to Rule 92 Bis and 89 (C)”, 24 June 2005.