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SCSL-11-02-PT
(57-59)

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SPECIAL COURT FOR SIERRA LEONE

TRIAL CHAMBER II

Before: Justice Teresa Doherty,
Single Judge of Trial Chamber II

Registrar: Binta Mansaray

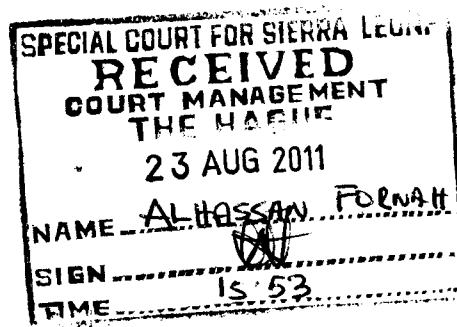
Case No.: SCSL-2011-02-PT

Date: 23 August 2011

PROSECUTOR

v.

Hassan Papa BANGURA
Samuel KARGBO
Santigie Borbor KANU
Brima Bazy KAMARA



DECISION ON DEFENCE MOTION FOR EXTENSION OF TIME

Independent Counsel:

Robert L. Herbst
Mohamed Sahid Bangura

Counsel for Bangura:

Melron Nicol Wilson

Counsel for Kargbo:

Charles Taku

Counsel for Kanu:

Kevin Metzger

Counsel for Kamara

Abdul F. Serry Kamal

I, Justice Teresa Doherty, acting as Single Judge of Trial Chamber II of the Special Court (“Special Court”);

SEISED of the “Defence Motion for Extension of Time in which to Serve Preliminary Motion”, filed on 17 August 2011 (“Motion”),¹ in which counsel for the Accused Santigie Borbor Kanu (“Kanu”) requests an extension of 21 days for the filing of preliminary motions pursuant to Rule 7bis of the Rules of Procedure and Evidence (“Rules”) on the grounds that “logistically it has proved impossible to file within the 25 days currently permitted as one of our number is currently in Rwanda carrying out investigations from a Defence perspective which may impact proposed [sic] the proposed motion”;²

NOTING that the Independent Counsel has not yet filed a Response to this motion;

RECALLING that Rule 7bis of the Rules provides that “a motion for an extension of time may be disposed of without giving the other party the opportunity to respond if a Judge or Chamber is of the opinion that no prejudice will be caused to the other party”;

FINDING that in the circumstances, as the issues are clear, no prejudice would be caused to the Independent Counsel if this motion were decided without giving him an opportunity to respond;

NOTING that Rule 72(A) of the Rules provides that “[p]reliminary motions by either party shall be brought within 21 days following disclosure by the Prosecutor to the Defence of all the material envisaged by Rule 66(A)(i)”;

RECALLING that during the initial appearance of the Accused on 15 July 2011, I ruled that the Defence would be allowed 25 days from the date on which the Independent Counsel provided disclosure to file any preliminary motions pursuant to Rule 72 of the Rules;³

NOTING that the Independent Counsel has indicated that disclosure, pursuant to Rule 66(A)(i), was served upon the Defence on 19 July 2011;⁴

NOTING therefore that any preliminary motions by the parties were due to be filed by 15 August 2011;

¹ SCSL-11-02-PT-011.

² Motion, para. 3.

³ Transcript 15 July 2011, pp. 27, 55.

⁴ Email from Independent Counsel, Robert L. Herbst, to Elaine Bola-Clarkson, Chief of Court Management, copied to Legal Officer, Trial Chamber II, 21 August 2011.

CONSIDERING that Counsel for Kanu has filed a motion for extension of time after the period allowed for filing any preliminary motions, but has failed to disclose this fact in the Motion;

CONSIDERING FURTHER that Counsel for Kanu has incorrectly stated that “the Defence were also given liberty to apply in respect of timing on any preliminary matters”, as no such leave was given during the initial appearance on 15 July 2011, and therefore such a statement is misleading;

FINDING that Counsel for Kanu has provided no valid grounds for a further 21 day extension of time in which to file any preliminary motions pursuant to Rule 72 of the Rules;

PURSUANT to Rules 7bis and 54 of the Rules;

DISMISS the Motion.

Done at The Hague, The Netherlands, this 23rd day of August 2011.

T. Doherty J.

Justice Teresa Doherty
Single Judge

[Seal of the Special Court for Sierra Leone]

