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SCSL-11-02-T  
(297-299)

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**SPECIAL COURT FOR SIERRA LEONE**

**TRIAL CHAMBER II**

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

Registrar: Ms. Binta Mansaray

Case No.: SCSL-11-02-T

Date filed: 6 August 2012

SPECIAL COURT FOR SIERRA LEONE	
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NAME	SAMUEL J. FORNAH
SIGN	<i>S. Fornah</i>
TIME	13:45

**PROSECUTOR**                      **Against**                      Hassan Papa Bangura  
   Samuel Kargbo  
   Santigie Borbor Kanu  
   Brima Bazy Kamara

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**PUBLIC**  
**PROSECUTOR'S BRIEF IN OPPOSITION**  
**TO KANU'S URGENT DEFENCE APPLICATION**  
**FOR PERMISSION TO INSTRUCT HANDWRITING EXPERT**

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Office of the Independent Counsel:  
Mr Robert L. Herbst

Counsel for the Accused:  
Mr Melron Nicol Wilson  
Chief Charles A. Taku  
Mr Kevin Metzger  
Mr A.F. Serry Kamal

Office of the Principal Defender:  
Ms Claire Carlton-Hanciles

1. This Brief is respectfully submitted in opposition to Kanu's urgent defence application for permission to instruct handwriting expert. The application is unsupported and untimely and should be denied.
2. The application comes one entire month after the trial was adjourned, and two weeks before the anticipated date for resuming the trial. The application states that the expert's report will not be received until 14-18 days after all required documentation will be received by the expert, but the application does not state when it is anticipated that the required documentation can be compiled, sent to and received by the expert. It is clear, however, that the report will not be received by the prospective 20 August 2012 trial resumption date. Moreover, whenever the report is received, it would have to be reviewed by the prosecution, and probably by an expert retained by the prosecution. Accordingly, it is clear that granting the requested permission will require a delay in the resumption of the trial. No excuse or justification is provided for the one month delay in requesting such permission. The application for permission therefore does not comply with RPE 94*bis*, which requires that "the full statement of any expert witness called by a party shall be disclosed to the opposing party as early as possible and shall be filed with the Trial Chamber not less than 21 days prior to the date on which the expert is expected to testify." The application is thus untimely and should be denied for that reason alone.
3. Moreover, the application is not supported by any sworn statement from Kanu or anyone else explaining the factual basis for the requested handwriting analysis. The application references the Sengabo testimony that Mr. Kanu's handwriting is on the prison manual telephone log, but the application does not provide any factual basis to believe that such testimony was inaccurate, or that there is reason to believe that a handwriting expert is likely to provide evidence inconsistent with the Sengabo testimony. Accordingly, the application is not substantively sufficiently supported, and should be denied for that reason as well.
4. Finally, there is no justifiable reason for the confidential filing of the Annexes purporting to support the application. Accordingly, we respectfully request that they should be filed publicly rather than confidentially.

Respectfully submitted.



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Robert I. Herbst

Independent Counsel

Dated: 6 August 2012