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SCSL-11-02-T  
(355-357)

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SPECIAL COURT FOR SIERRA LEONE

TRIAL CHAMBER II

Before: Justice Teresa Doherty, Single Judge

Registrar: Binta Mansaray

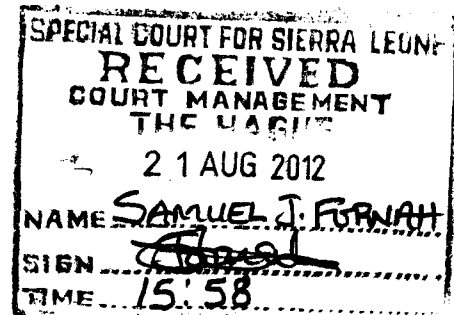
Case No.: SCSL-2011-02-T

Date: 21 August 2012

PROSECUTOR

v.

Hassan Papa BANGURA  
Samuel KARGBO  
Santigie Borbor KANU  
Brima Bazy KAMARA



PUBLIC

DECISION ON URGENT DEFENCE REQUEST FOR JUDICIAL NOTICE TO BE TAKEN OF A FACT AND FOR  
CORRECTION TO DECISION ON URGENT DEFENCE APPLICATION FOR PERMISSION TO INSTRUCT  
HANDWRITING EXPERT

Independent Counsel:

Robert L. Herbst

Counsel for Bangura:

Melron Nicol Wilson

Counsel for Kargbo:

Charles Taku

Counsel for Kanu:

Kevin Metzger

Counsel for Kamara:

Abdul Serry Kamal

Office of the Principal Defender:

Claire Carlton-Hanciles

I, Justice Teresa Doherty, Single Judge of the Special Court for Sierra Leone ("Special Court");

SEISED of the "Urgent Defence Request for Judicial Notice to be Taken of a Fact and for Correction to Decision on Urgent Defence Application for Permission to Instruct Handwriting Expert" ("Motion") dated 17 August 2012,<sup>1</sup> in which Counsel for Santigie Borbor Kanu asks the Court to take judicial notice of the fact that he "did dispute that the signature depicted in Prosecution Exhibit P15(A) on the 30 November 2010 was Mr. Kanu's in the cross-examination of Mr. Sengabo"<sup>2</sup> on the grounds that "part of the transcript cited in paragraph 8 of the decision [viz 'Decision on the Urgent Defence Application for Permission to Instruct a Handwriting Expert'] is inaccurate because the question related to an entry on 26 November 2010...";<sup>3</sup>

RECALLING the "Decision on Urgent Defence Application for Permission to Instruct Handwriting Expert" ("Decision") dated 15 August 2012;<sup>4</sup>

COGNISANT of the provisions of Rules 7, 73, 81 and 94 of the Rules of Procedure and Evidence of the Special Court for Sierra Leone ("the Rules");

NOTING that Independent Counsel may respond to the motion but considering in the circumstances of this application a Response is not required;

HEREBY decides as follows solely on the written submission pursuant to Rule 73(A) of the Rules:

#### DELIBERATIONS

1. Counsel does not specify which part of the transcripts is inaccurate. Rule 81(B) of the Rules provides that after the publication of the daily final public transcript the record of proceedings shall not be amended except by order of the Chamber. No application to amend an inaccurate "part of the" transcript of the 4 July 2012 has been filed and consequently since no order for amending any inaccuracy in the transcript of the 4 July has been made, Counsel cannot submit that the transcript cited is inaccurate or rely on inaccuracy as a grounds for seeking judicial notice.

<sup>1</sup> SCSL-11-02-T-50.

<sup>2</sup> Motion, para. 5.

<sup>3</sup> Motion, para. 4.

<sup>4</sup> SCSL-11-02-T-48.

2. Further if, in fact, Counsel is submitting that there is an inaccuracy in quoting "26 November 2010" and/or "30 November 2010" in paragraph 8 of the Decision then such a submission is misplaced as neither date is quoted or referred to in paragraph 8 of the Decision.
3. The provisions of Rule 94(A) of the Rules permit a Chamber to take judicial notice of facts of common knowledge and Rule 94(B) provides that after hearing the parties a Chamber may take judicial notice of adjudicated facts or documentary evidence from other proceedings.
4. I rule that import of questions put in the course of the hearing of a trial and of the answers thereto are matters of evidence which are to be considered and ruled upon when all of the evidence in a case has been completed, not by way of interlocutory motion.
5. I further hold that questions put in cross examination are not matters of common knowledge nor are they adjudicated facts nor documentary evidence and cannot and do not come within the provisions of Rule 94 of the Rules.
6. I consider that this application seeking either to amend a transcript without observing the provisions of Rule 81(B) of the Rules and/or seeking to have a court take judicial notice that a matter is in dispute when the Decision already shows this<sup>5</sup> is an inappropriate subject for a motion.

For the foregoing reasons

DENIES the Motion.

Done at Kigali, Rwanda this 21<sup>st</sup> day of August 2012.

*T. Doherty*  
Justice Teresa Doherty  
Single Judge



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<sup>5</sup> Decision, para. 15.