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SCSL-11-02-T
(358-360)

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SPECIAL COURT FOR SIERRA LEONE

TRIAL CHAMBER II

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

Registrar: Ms. Binta Mansaray

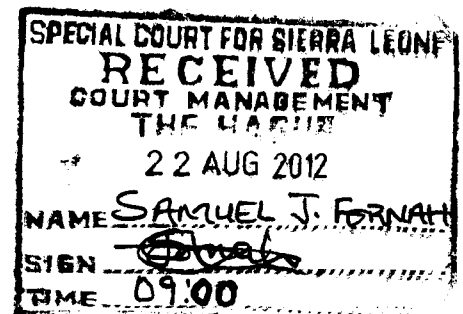
Case No. SCSL-11-02-T

Date filed: 22 August 2012

The Independent Counsel

-v-

Hassan Papa Bangura
Samuel Kargbo
Santigie Borbor Kanu
Brima Bazzy Kamara



PUBLIC
DEFENCE REQUEST FOR CORRECTION TO DECISION ON URGENT DEFENCE
APPLICATION FOR PERMISSION TO INSTRUCT HANDWRITING EXPERT
PURSUANT TO RULE 54

Independent Counsel:
Mr. Robert L. Herbst
Mr. Mohammed Bangura

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

Office of the Principal Defender:
Mrs. Claire Carlton-Hanciles

1. The Learned Judge issued a Decision on 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 on 21 August 2012, pursuant to application by the Defence on behalf of The Defendant, Kanu.
2. In denying the motion, the Learned Judge found that “*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.*”¹
3. The said Urgent Defence Request did not cite Rule 81(B) because it was not requesting a change to the final public transcript. The motion was rather aimed at inviting correction of the portion of the Judgement which stated that “*At no point in the course of cross-examination was it put to Sengabo that any of the signatures ascribed to Kanu by Sengabo in Exhibit P15 were not those of the Accused Kanu*”². It is respectfully, and humbly, submitted that the cited part of paragraph 8 of said judgement is inaccurate in that it fails to take into account that it was suggested to Mr. Sengabo in cross-examination on behalf of Mr. Kanu that the signature he referred to on 30 November 2010 was completely different to other signatures accepted to be Kanu’s³ and that the clear import of the questions asked by Counsel for Kanu amounted to disputing the signature on the phone record for 30 November 2011.
4. Accordingly it is submitted that the Defence motion was misinterpreted as there was no request to alter the transcript, rather it was an invitation to the Learned Judge to consider amending the section in paragraph 8 of the judgement as cited above and invoking the provision under Rule 54 of the rules as has already been done in this case⁴. It is regretted that though 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 did not cite Rule 81A of the Rules the Learned Judge read the request for correction as falling under same.

¹ SCSL-11-02-T-51, judgement, para. 1.

² SCSL-11-02-T-48, para. 8.

³ Transcript 4 July, p.1080, lines 14-15; p.1081, lines 23-24.

⁴ SCSL-11-02-T-47, Corrigendum Decision, 15 August 2012.

5. In all the circumstances and particularly in light of the fact that the Decision of 21 August does not address the accuracy of the portion of paragraph 8 cited with which the Defence takes issue, the Honourable Court is respectfully urged to consider amending paragraph 8 of the said Decision by the excision of the line quoted in paragraph 3 above.

Respectfully submitted,



Kevin A. Metzger

Counsel for Santigie Borbor Kanu

Dated 22 August 2012