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SCSL-11-02-A  
(034-042)

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**SPECIAL COURT FOR SIERRA LEONE**

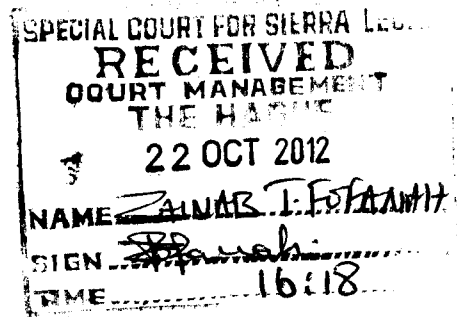
**APPEALS CHAMBER**

**Before:** Justice Shireen Avis Fisher, Presiding Judge  
Justice Emmanuel Ayoola  
Justice George Gelaga King  
Justice Renate Winter  
Justice Jon M. Kamanda  
Justice Philip Nyamu Waki, Alternate Judge

**Registrar:** Ms. Binta Mansaray

**Case No:** SCSL-11-02-A

**Date filed:** 22<sup>nd</sup> October 2012



**THE INDEPENDENT COUNSEL**

**V.**

**Hassan Papa Bangura  
Samuel Kargbo**

**Santigie Borbor Kanu**

**Brima Bazzy Kamara**

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**PUBLIC**

**Motion for Extension of Time to File Grounds of Appeals Pending the Determination of an Application to Justice Theresa Doherty, sitting as Single Judge for clarification of paragraph 101 of the Sentencing Judgment delivered on the 11<sup>th</sup> October 2012 and filed on the 16<sup>th</sup> October 2012, With Annex A – Notice of Appeal .**

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**Independent Prosecutor**

**Mr. Robert L. Herbst**

**Counsel for Hassan Papa Bangura:**

**Mr. Melron Nicol-Wilson**

## INTRODUCTION

1. The Defence for Hassan Papa Bangura ("The Defence") files this Motion for an extension of the deadline for filing its Notice of Appeal pursuant to Rule 108 (B) as provided in the Special Court for Sierra Leone's Rules of Evidence and Procedure ("The Rules").<sup>1</sup>
2. The justification of this application is contingent upon the Pending Ruling on the Defence's Application for Clarification of Paragraph 101 of the Sentencing Judgment of Justice Teresa Doherty, delivered on 11<sup>th</sup> October 2012 and filed on the 16<sup>th</sup> October 2012.
3. The Defence outlines below why an extension is required and how the request being sought is reasonable, supported by good cause and is in the interest of justice.

## BACKGROUND

4. Mr. Bangura was convicted on 25 September, 2012 on 2 counts of offering a bribe and interfering with witness TF1-334 in return for recanting his testimony given to Trial Chamber II in the proceedings of the Prosecutor v Alex Tamba Brima *et al.*<sup>2</sup>
5. On 11<sup>th</sup> October, 2012, Mr. Bangura was sentenced to Eighteen (18) months imprisonment for each count charged in the order in lieu of indictment, and for both sentences to run concurrently. The learned Judge in her wisdom made a deduction of Six (6) months from the Eighteen (18) months Prison Sentence, for the period spent by Mr. Bangura while incarcerated by the Special Court and for Mr. Bangura's unlawful detention at the Pademba Road Maximum Prison between 2000 and 2004.<sup>3</sup>
6. Mr. Bangura has been incarcerated at the Court's Detention Facilities since 16<sup>th</sup> June, 2012,<sup>4</sup> prior to the Court's sentencing judgment of

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<sup>1</sup> See Rules of Procedure and Evidence, The Special Court for Sierra Leone as Amended.

<sup>2</sup> See SCSL-11-02-T-66, Judgment in the Case of Hassan Papa Bangura *et al.*, 25 September 2012, filed on the 1 October 2012

<sup>3</sup> See SCSL-11-02-T-071, Sentencing Judgment in the case of Hassan Papa Bangura *et al.*, 11 October 2012, filed 16 October 2012

<sup>4</sup> See Paul Wright's letter to Honourable Justice Teresa Doherty, SCSL A/Chief of Detention, dated 2 October, 2012. SCSL SCSL-11-02-T - Annex A 653

11<sup>th</sup> October 2012 amounting to a total of almost Four (4) Calendar Months less Five (5) days.

7. The Sentencing Judgment which condemns Mr. Bangura to an effective 12 months imprisonment was delivered on the 11<sup>th</sup> October 2012 and filed on the 16<sup>th</sup> October 2012.<sup>5</sup>

## **SUBMISSION**

8. The Defence is requesting for an extension of time to file its Notice and Grounds of Appeal after the determination of its pending Application to Justice Teresa Doherty, sitting as a Single Judge, for Clarification of Paragraph 101 of the Sentencing Judgment, delivered on 11<sup>th</sup> October 2012 and filed on the 16<sup>th</sup> October 2012.
9. The Defence respectfully submits that this application is made in good faith and the Defence is committed to ensuring that the contempt proceedings are conducted in expeditiously without undue delay.
10. The Defence respectfully submits that, the “effective sentence of 12 months imprisonment” to be served by Mr. Bangura as pronounced on the 11<sup>th</sup> October 2012,<sup>6</sup> and as further compounded by the Written Judgment of 16<sup>th</sup> October 2012,<sup>7</sup> needed some clarification regarding credit for time served, pending the hearing of the contempt proceedings, and remission period accorded to prisoners.
11. The Defence respectfully request that the Appeals Chamber rule on this Motion as a matter of urgency to provide adequate time for the Bangura Defence to address matters arising and incidental thereto.
12. This Application is filed pursuant to Rule 116 of the Court’s Rules as amended, calling on the Appeals Chamber to use its discretion in granting an extension of time for filing Notice, upon showing of good cause and in the interest of justice.
13. Further /alternatively, in compliance with the Rule on filing of Notice of Appeal as provided in Rule 108 (B) of The Rules, annexed to this

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<sup>5</sup> See SCSL-11-02-T-071, Sentencing Judgment in the case of Hassan Papa Bangura et al, 11 October 2012, filed 16 October 2012, para

<sup>6</sup> SCSL-11-02-T-, transcript of 11 October 2012 Judgment in the case of Hassan Papa Bangura et al, pp2619 lines 15-16

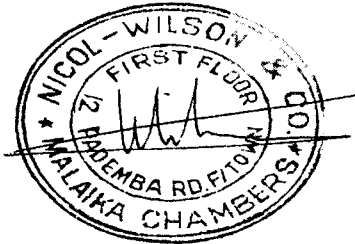
<sup>7</sup> SCSL-11-02-T-071, Sentencing Judgment in the case of Hassan Papa Bangura et al, 11 October 2012, filed 16 October 2012, para 101, pp SCSL 702

Application is our Notice of Appeal, to avoid future prejudice as envisaged in Rule 5, should the Motion be rejected.

## CONCLUSION

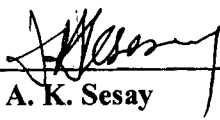
14. For the reason stated above, the The Defence for Hassan Papa Bangura respectfully asked that the Appeals Chamber grants an extension of time to file its Notice of Appeal, after the Clarification of Paragraph 101 of the Sentencing Judgment of Justice Teresa Doherty, delivered on 11<sup>th</sup> October 2012 and filed on the 16<sup>th</sup> October 2012.

Faithfully submitted by





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**Melron C. Nicol-Wilson**  
Counsel for Hassan Papa Bangura




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**Joseph A. K. Sesay**  
Legal Assistant for Hassan Papa Bangura




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**Alpha Bah**  
Legal Assistant for Hassan Papa Bangura

# ANNEX A

1. Pursuant to Article 20 of the Statute of the Special Court for Sierra Leone ("the Statute") and Rule 108 (B) of the Rules of Procedure and Evidence ("the Rules"), Mr. Hassan Papa Bangura hereby files this Notice of Appeal setting out his grounds of appeal against the Sentencing Judgment dated 11<sup>th</sup> October 2012, in the case of *The Independent Counsel v. Hassan Papa Bangura, Samuel Kargbo, Santigie Borbor Kanu, Brima Bazzy Kamara*, SCSL-2011-02-T.
2. In December, 2010, the Prosecutor of the Special Court for Sierra Leone (SCSL) filed a motion before the Office of the President of the Court, alleging intimidation, bribery and interference with witnesses who gave evidence in the case of the *Prosecutor v Alex Tamba Brima et al.* Following dismissal of the motion on jurisdictional grounds, the Prosecutor filed the motion before Trial Chamber II, who pursuant to Rule 77 (C) (iii) directed the Registrar to appoint an independent investigator to investigate the contempt allegations.
3. On 24 May, 2011, the Trial Chamber issued a decision on the report of the independent investigator, directing that an Independent Counsel prosecute Hassan Papa Bangura, Samuel Kargbo, Santigie Borbor Kanu and Brima Bazzy Kamara, assigning the hearing of the contempt proceedings to Justice Teresa Doherty sitting as Single Judge.
4. Following the Court's direction to issue an order in lieu of an indictment, The Independent Counsel charged Mr. Bangura with 1 count of knowingly and willfully interfering with the Special Court's administration of justice by offering a bribe to a witness who has given testimony before a Chamber, in violation of Rule 77(A) (iv), and an additional 1 count of knowingly and willfully interfering with the Special Court's administration of justice by otherwise interfering with a witness who has given testimony before a Chamber, in violation of Rule 77(A) (iv).
5. The Independent Counsel alleged that on or about 27 November, 2010 to 3 December, 2010, in Freetown, Mr. Bangura offered a bribe to protected witness TF1-334, who gave testimony before Trial Chamber II in the proceedings of the *Prosecutor v Alex Tamba Brima et al*, in return for recanting his testimony in that trial. Also, it was alleged that Mr.

Bangura attempted to influence TF1-334 to recant his testimony before Trial Chamber II in the trials of the Prosecutor v Alex Tamba Brima *et al.*

6. The Single Judge convicted Mr. Bangura on all 2 counts of offering a bribe and interfering with witness TF1-334 in return for recanting his testimony given to Trial Chamber II and sentenced him to Eighteen (18) months imprisonment for each count charged in the order in lieu of indictment, and for both sentences to run concurrently. A total period of Six (6) months was deducted from the Eighteen (18) months Prison Sentence, for the period spent by Mr. Bangura while incarcerated by the Special Court and for Mr. Bangura's unlawful detention at the Pademba Road Maximum Prison between 2000 and 2004.
7. On the 18<sup>th</sup> October, 2012, the Defence filed an Urgent Application seeking clarification of Paragraph 101 of the Sentencing Judgment delivered by Justice Teresa Doherty on the 11<sup>th</sup> October 2012, and filed on the 16<sup>th</sup> October, 2012, on the total number of prison term to be served by Mr. Bangura.
8. Mr. Bangura appeals against the Sentencing Judgment on the grounds set out below, and respectfully requests that the Appeals Chamber revise Justice Doherty's consideration of "time served pending the outcome of a trial" and "remission period".
9. The error of law alleged in this Notice of Appeal invalidates the decision of the Single Judge. Likewise, each error of fact alleged herein, individually and cumulatively, gives rise to miscarriage of justice.
10. Unless otherwise specified, the relief sought in relation to the error of law, is the reversal of the relevant finding(s) of the Single Judge, and, where appropriate, vacatur of that aspect of the Sentencing Judgment.
11. The Defence respectfully submits that this Notice of Appeal is intended to convey the totality of the grounds being lodged on appeal by Mr. Hassan Papa Bangura, but should any additional grounds emerge between the filing of this Notice and any hearing convened within the meaning of Rule 114 of the Rules, the right to vary and/or amend this Notice is respectfully reserved.

12. Further, and in the event of an appeal by the Independent Counsel against either the convictions and/or sentences, the Defence respectfully reserves the right to amend this Notice of Appeal to raise other errors of fact, law and procedure in relation to the Independent Counsel's grounds of appeal.

13. The Defence respectfully preserves its right to appeal on any matter relating to conviction /or sentence in this matter, should the ground of appeal herein, is ruled upon after the filing of this Notice of Appeal.

I. GROUND 1- EVALUATION OF RULE 101 (D) AND SECTION 49 OF PRISONS ORDINANCE ACT NO. 22 OF 1960 AMOUNTING TO ERROR OF LAW

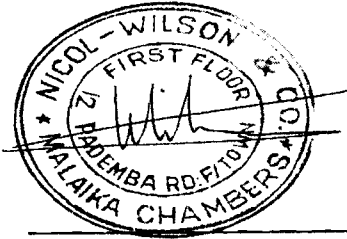
14. The Single Judge erred in law by not considering the remission period provided in the Prisons Ordinance 1960, by which section 49 (1) provides that: *"Convicted criminal prisoners sentenced to imprisonment whether by one sentence or consecutive sentences for a period exceeding one month, may by industry and good conduct earn a remission of one-third of the remaining period of their sentence or sentences."*

II. RELIEF SOUGHT

15. The Defence for Hassan Papa Bangura respectfully urges the Appeals Chamber to revise the Single Judge's Sentencing Judgment of 16<sup>th</sup> October, 2012 and to consider both "credit for time served" and remission period accorded to prisoners.



Faithfully submitted by



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**Melron C. Nicol-Wilson**  
**Counsel for Hassan Papa Bangura**

A handwritten signature in black ink, appearing to read "J. Sesay".

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**Joseph A. K. Sesay**  
**Legal Assistant for Hassan Papa Bangura**

A handwritten signature in black ink, appearing to read "Alpha Ban".

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**Alpha Ban**  
**Legal Assistant for Hassan Papa Bangura**