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1702

SCSL-2003-05-PT
(1702-1704)



SPECIAL COURT FOR SIERRA LEONE

JOMO KENYATTA ROAD • FREETOWN • SIERRA LEONE

PHONE: +1 212 963 9915 Extension: 178 7000 or +39 0831 257000 or +232 22 295995

FAX: Extension: 178 7001 or +39 0831 257001 Extension: 174 6996 or +232 22 295996

THE TRIAL CHAMBER

Before: Judge Benjamin Mutanga Itoe (Designated Judge)

Registrar: Robin Vincent

Date: 12th day of November 2003

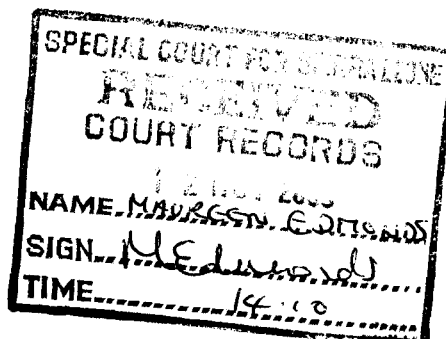
The Prosecutor against

Issa Hassan Sesay
(Case No.SCSL-2003-05-PT)

ORDER ON THE DEFENCE MOTION REQUESTING THAT THE TIME LIMIT TO RESPOND TO THE MOTION FILED BY THE PROSECUTION FOR A JOINDER TO COMMENCE UPON RECEIPT OF THE MODIFIED OR PARTICULARISED INDICTMENT(S) OR ON A DATE SET BY THE TRIAL CHAMBER

Office of the Prosecutor:
Mr. Luc Côté, Chief of Prosecutions
Robert Petit, Senior Trial Counsel
Sharan Parmar, Assistant Trial Counsel

Defence Counsel:
William Hartzog, Lead Counsel
Wayne Jordash, Co-Counsel
Abdul Serry Kamal, Co-Counsel



THE SPECIAL COURT FOR SIERRA LEONE (“the Special Court”),

WITH Judge Benjamin Mutanga Itoe sitting as a designated Judge under Rule 28 of the Rules of Procedure and Evidence of the Special Court for Sierra Leone (hereinafter “the Rules”);

SEIZED of the Defence Motion to Request that the Time Limit for Response to the Prosecution Motion for Joinder commence upon the Receipt of the Modified or Particularised Indictment(s) or on a date to be set by the Trial Chamber filed on the 21st day of October 2003 (hereinafter “the Motion”), the Prosecution Response thereto filed on the 24th day of October 2003 (hereinafter “the Response”), and the Defence Reply thereto filed on the 3rd day of November 2003 (hereinafter “the Reply”);

CONSIDERING that in its Motion for Joinder filed on the 9th day of October 2003 (hereinafter “the Joinder Motion”) the Prosecution requested that the Accused be jointly tried with the following Accused: Morris Kallon, Alex Tamba Brima, Augustine Gbao, Brima Bazzy Kamara and Santigie Borbor Kanu;

CONSIDERING the Decision rendered by the Trial Chamber on the Defence Motion on Defects in the Indictment, on the 13th day of October 2003 (hereinafter “the Decision”);

CONSIDERING the Defence Request that the deadline for a response to “the Joinder Motion” be set for 10 days after the Prosecution comply with “the Decision”, on the basis that the Defence is otherwise unable to consider properly whether or not a joinder is in the interests of justice;

CONSIDERING the Prosecution Response that it is not necessary for Defence Counsel to see the Bill of Particulars or the amended indictment in order to respond to “the Joinder Motion”, and thus that the Defence have not shown “good cause or exceptional circumstances” as is necessary to be granted an extension of time;

CONSIDERING the Defence Reply that if the motion is taken to be a request for extension of time then good cause has been shown, and that neither Defence Counsel nor the Trial Chamber can assess the validity of the Prosecution’s assertion that the indictment as it currently stands satisfies the requirements of Rule 48(B) of the Rules until the Prosecution comply with “the Decision”;

CONSIDERING that the Prosecutor filed a Bill of Particulars on the 3rd day of November 2003;

MINDFUL of the provisions of Rule 7 of “the Rules”;

CONSCIOUS of the importance of “the Joinder Motion” and the fact that it would have considerable impact and consequences on the conduct of the Prosecution and the Defence in these matters;

IN THE INTERESTS OF fairness, equity and an expeditious determination of “the Joinder Motion”;

CONSIDERING that the Defence has, in the light of the above, demonstrated and shown good cause to justify the granting of the application for extension of time;

GRANTS the application for extension of time to file a response.

THE COURT ORDERS THAT:

1. The Defence shall file any Response to “the Joinder Motion” by the 17th day of November 2003;
2. The Prosecution shall file any Reply within 4 days of receipt of the Defence Response, and not later than the 21st day of November 2003.

Done in Freetown, this day on the 12th day of November 2003



Judge Benjamin Itoe

