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SCSL-2003-07-PT-062
(1035-1038)



SPECIAL COURT FOR SIERRA LEONE

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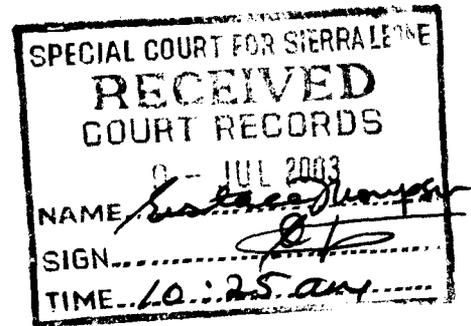
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THE TRIAL CHAMBER

Before: Judge Bankole Thompson, Presiding Judge
Judge Mutanga Itoe
Judge Pierre Boutet

Registrar: Robin Vincent

Date: 8 July 2003



The Prosecutor against

Morris Kallon
(Case No.SCSL-2002-07-PT)

**ORDER ON THE DEFENCE FURTHER APPLICATION FOR
EXTENSION OF TIME TO FILE PRELIMINARY MOTIONS**

Office of the Prosecutor:
Luc Côté, Chief of Prosecutions

Defence Counsel:
James Oury
Steven Powles

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

SITTING as Trial Chamber (“the Trial Chamber”), composed of Judge Bankole Thompson, Presiding Judge, Judge Pierre Boutet, and Judge Benjamin Mutanga Itoe;

BEING SEIZED of the Defence Further Application for Extension of Time to File Preliminary Motions of the 16th day of June 2003 (“the Application”) and the Prosecution Response thereto on the 23rd day of June 2003 (“the Response”);

CONSIDERING the Defence Preliminary Motion Based on Lack of Jurisdiction/Abuse of Process: Amnesty Provided by Lomé Accord of the 16th day of June 2003 and the Defence Preliminary Motion Based on Lack of Jurisdiction: Establishment of the Special Court Violates Constitution of Sierra Leone of the 16th day of June 2003;

CONSIDERING the Trial Chamber Decision on the Defence Motion for an Extension of Time to File Preliminary Motions on 14th day of June 2003 (“the Decision”);

CONSIDERING that Defence Counsel submit that Defence Counsels already showed good cause in their first Application, but nevertheless was rejected in the above mentioned Decision on the 14th day of June 2003;

NOTING THE SUBMISSION OF THE PARTIES

1. The Defence avers *inter alia*, that, due to the physical distance they did not have adequate time to meet with the accused, to review the disclosed material, and did not have the opportunity to collaborate amongst other Defence Counsel defending fellow accused. Due to these circumstances and due to the large amount of evidence Counsel submits that they were not able to discuss all the evidence with the accused, in order to file a preliminary motion on objections based on defects in the form of the indictment. Further it is submitted that the limited access to the Accused, due to the fact that the detention facility can only be accessed by helicopter twice a week, and the disadvantage that arises therewith is a violation of the Accused’s right to properly prepare his defence. The Defence further argue that the Trial Chamber did not consider their argumentation on a preliminary motion on objections based on defects in the form of the indictment

3. In addition Defence Counsel submit that they did not receive final confirmation from the Special Court as the nature and amount of remuneration that they are to receive for work carried out as Defence Counsel. The Defence seeks to be granted an extension of time until the 8th day of July 2003 to file further Preliminary Motions

2. The Prosecution submits that the Application raises objections to the earlier Decision dated 14th day of June 2003 denying an extension of time, and that therefore this issue should have been more properly raised within an appeal. Further it is submitted by

the Prosecution that the reasons provided for another extension do not constitute good cause.

AFTER HAVING DELIBERATED

3. The Trial Chamber notes that Defence Counsel in this Application is raising quite similar arguments to those in their Application for Extension of Time to Preliminary Motions dated 30th day of May 2003. In the current application the Defence is focusing more on an extension of time for filing a preliminary motion based on objections on defects in the form of the indictment rather than more specifically on lack of jurisdiction. However, the arguments are once more based fundamentally on the limited access to the accused.

4. Further it must be noted that Rule 45 (C) (iv) of the Rules requires Counsel to be willing and available on a full-time basis for the representation and conduct of the defence of the Accused;

5. In addition the Trial Chamber notes that the current Application is the fourth such application for an extension of time by the Defence Counsel in a relatively short period of time;

6. Rule 72 (F) provides that an extension of time may be granted upon showing good cause. The current application as the previous ones does not however show good cause or even exceptional circumstances.

7. The Arguments raised by the Defence are no different than those that were raised in their first Application on the 30th day of May 2003. The Trial Chamber has already ruled that in the existing circumstances no extension to file preliminary motions shall be granted. In addition Counsel has not provided new facts nor any additional justification that could be considered as exceptional or showing good cause.

8. With respect and contrary to the argumentation of the Defence the Trial Chamber has very well considered the submissions on the defects of the indictment in its Decision dated the 14th day of June 2003. In paragraph 13 of the said Decision the Trial Chamber stated:

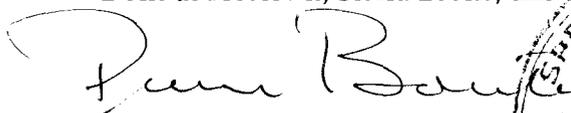
“The Chamber concludes that having regard to the totality of the circumstances of the instant Motion, no good cause has been shown by the Defence for an extension of time.”

9. Therefore the Trial Chamber considers that such an issue has already been decided. As the Chamber already ruled on this matter it is barred from ruling on this issue again.

FOR THESE REASONS THE SPECIAL COURT

HEREBY DISMISSES the Defence Application as frivolous.

Done at Freetown, Sierra Leone, this 8th day of July 2003



Judge Pierre Boutet



[Seal of the Special Court]