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SCSL - 2003-09-PD
(10-12)

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SPECIAL COURT FOR SIERRA LEONE

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Before: Judge Benjamin Mutanga Itoe

Registry: Mr. Robin Vincent

Decision of: 18th March, 2003

THE PROSECUTOR

Against

AUGUSTINE GBAO

CASE NO. SCSL-2003-09-PD

**ORDER FOR TRANSFER AND PROVISIONAL DETENTION PURSUANT TO
RULE 40BIS**

The Office of the Prosecutor:

Mr. David Crane
Ms. Brenda Hollis

SPECIAL COURT FOR SIERRA LEONE	
COURT RECORDS	
RECEIVED	
NAME	<i>W. HART</i>
SIGNATURE	<i>[Handwritten Signature]</i>
DATE	<i>18.03.03</i>
TIME	<i>19:00</i>

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

WITH Judge Benjamin Mutanga Itoe, presiding pursuant to the provisions of Rule 28 and Rule 40 of the Rules of Procedure and Evidence (“the Rules”);

HAVING RECEIVED on the 17th March, 2003 from the Prosecutor pursuant to Rule 40 *bis*, a request for the transfer and provisional detention of the suspect, AUGUSTINE GBAO, former officer in the Sierra Leone Police Force;

CONSIDERING the affidavit dated 14th of March, 2003, attached to the said request from the Prosecutor and signed by Morrie Lenghor, Investigator at the Office of the Prosecutor;

CONSIDERING the formal request dated 14th of March, 2003, addressed by the Prosecutor to the authorities of the Republic of Sierra Leone pursuant to Rule 40 of the Rules to arrest and hold in custody the said suspect, AUGUSTINE GBAO;

WHEREAS the authorities of the Republic of Sierra Leone granted the said request of the Prosecutor and are holding AUGUSTINE GBAO in custody;

WHEREAS the Prosecutor reports that he is investigating crimes allegedly committed by AUGUSTINE GBAO in the territory of Sierra Leone since 30 November 1996, crimes which fall within the jurisdiction of the Special Court;

WHEREAS, according to the Prosecutor, AUGUSTINE GBAO participated in widespread attacks against UNAMSIL peacekeepers and personnel, including the unlawful killing and abduction of UNAMSIL peacekeepers;

WHEREAS the Special Court considers, on the basis of the request submitted by the Prosecutor, and on the evidence brought to its attention in the affidavit attached to the request, that there is a reason to believe that AUGUSTINE GBAO may, in the light of the above have committed **SERIOUS VIOLATIONS OF INTERNATIONAL HUMANITARIAN LAW, CRIMES AGAINST HUMANITY, VIOLATIONS OF ARTICLE 3 COMMON TO THE GENEVA CONVENTIONS AND OF ADDITIONAL PROTOCOL II**, punishable respectively under Article 4.b., Article 2.a., Article 3.a. and Article 3.c. of the Statute of the Special Court (“the Statute”);

WHEREAS, furthermore, the Prosecutor contends that the provisional detention of AUGUSTINE GBAO is a necessary measure to prevent his escape and also to prevent the suspect from seeking to intimidate or to cause bodily harm to victims or witnesses or to destroy evidence, or to be otherwise necessary for the conduct of the investigation in the matter concerning him;

WHEREAS, the Judge, in the light of the above, is convinced that the provisional detention of AUGUSTINE GBAO is necessary;

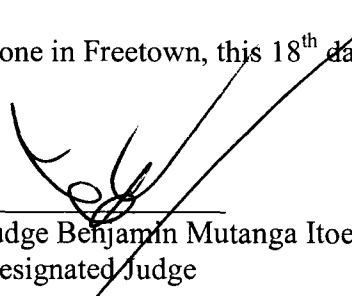
NOW THEREFORE: I, Judge Benjamin Mutanga Itoe, for all the aforementioned reasons advanced by the Prosecutor, rule that the request submitted by the Prosecutor for the transfer and provisional detention of AUGUSTINE GBAO satisfies the conditions laid down by Rule 40 *bis* (B) of the Rules;

ON THESE GROUNDS,

GRANT the request submitted by the Prosecutor and consequently, order that AUGUSTINE GBAO be transferred as soon as possible to the Detention Facility of the Special Court, and be kept in provisional detention for a maximum of thirty days, with effect from the day after his transfer, and that he, in accordance with Rule 40 *bis* (J) of the Rules, be brought before me or another Judge designated under Rule 28 of the Rules, to ensure that his rights are respected;

INSTRUCT the Registrar to serve the present Order on the Authorities of the Government of Sierra Leone, for its immediate execution pursuant to the provisions of Section 20 of the Special Court Agreement 2002 (Ratification) Act.

Done in Freetown, this 18th day of March 2003.



Judge Benjamin Mutanga Itoe
Designated Judge

Seal of the Special Court for Sierra Leone

