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SCSL-04-15-T
(26144-26146)

26144

SPECIAL COURT FOR SIERRA LEONE
OFFICE OF THE PROSECUTOR
Freetown – Sierra Leone

Before: Hon. Justice Benjamin Mutanga Itoe, Presiding
Hon. Justice Bankole Thompson
Hon. Justice Pierre Boutet

Registrar: Mr. Herman von Hebel

Date filed: 23 May 2008

THE PROSECUTOR

Against

Issa Hassan Sesay

Morris Kallon

Augustine Gbao

Case No. SCSL-04-15-T

PUBLIC

PROSECUTION REQUEST FOR CLARIFICATION OF STATUS OF DMK-400 AND DMK-422

Office of the Prosecutor:

Pete Harrison
Vincent Wagona

Defence Counsel for Sesay

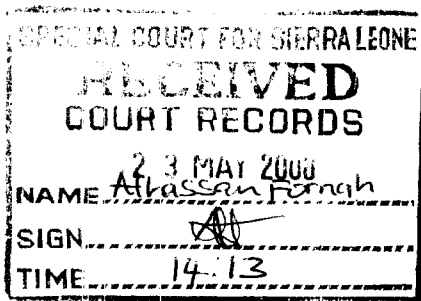
Wayne Jordash
Sareta Ashraph

Defence Counsel for Kallon

Charles Taku
Kennedy Ogetto
Lansana Dumbuya
Tanoo Mylvaganam

Court Appointed Defence Counsel for Gbao

John Carmegh
Scott Martin



I. SUBMISSIONS

1. On 23 May 2008, the Accused Kallon filed an application for the admission of statements of DMK-400 and DMK-422 pursuant to Rule 92*bis* or 92*ter* ("Application").¹ Pseudonyms were used in the Application and the witness' statements were attached as confidential annexes. The use of pseudonyms and filing of the statements confidentially appears to be contrary to an earlier Decision. On 21 April 2008, the Trial Chamber granted the Kallon request to vary its witness list, which included adding DMK-400 and DMK-422 to the Kallon witness list ("Decision on Adding Witnesses").² The Decision further stated that the Trial Chamber:

DENIES the Defence's Request for Trial-Related Protective Measures for the Proposed Witnesses, as the Defence has not provided information on the country of residency of the Proposed Witnesses, nor has shown a prima facie need for protection.³

2. In the circumstances it appears improper to use pseudonyms and that the statements should be filed publicly. The Prosecution will file its Response to the Application early next week, and at present, intends to make a public filing and to use the names of DMK-400 and DMK-422 instead of their pseudonyms. The Prosecution is not privy to discussions between the Kallon Defence and these two witnesses. The Prosecution is also concerned that it may be misinterpreting the Decision on Adding Witnesses.
3. To avoid causing harm, and out of an abundance of caution, the Prosecution requests the Trial Chamber to clarify whether the witnesses listed in the Application should be referred to by pseudonyms and whether the statements should be filed confidentially.

Filed in Freetown, on 23 May 2008

For the Prosecution,



Pete Harrison

¹ *Prosecutor v. Sesay et al*, SCSL-04-15-T-1141, "Urgent and Public with Confidential Annex Kallon Defence Application for the Admission of the Witness Statements of DMK-422 and DMK-400 Under Rule 92*bis* or, In the Alternative, Under Rule 92*ter*," 23 May 2008.

² *Prosecutor v. Sesay et al*, SCSL-04-15-T-1099, "Decision on Kallon Request for Leave to Vary Witness List and for Respective Protective Measures and Confidential Annex A," 21 April 2008.

³ *Ibid.*, p. 3.

List of Authorities

Decisions and Judgements

Prosecutor v. Sesay et al, SCSL-04-15-T-1141, “Urgent and Public with Confidential Annex Kallon Defence Application for the Admission of the Witness Statements of DMK-422 and DMK-400 Under Rule 92bis or, In the Alternative, Under Rule 92ter,” 23 May 2008.

Prosecutor v. Sesay et al, SCSL-04-15-T-1099, “Decision on Kallon Request for Leave to Vary Witness List and for Respective Protective Measures and Confidential Annex A,” 21 April 2008.