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SCSL-04-15-T
(25900-25903)

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IN THE SPECIAL COURT FOR SIERRA LEONE

THE TRIAL CHAMBER

Before: The Trial Chamber

Justice Bankole Thompson, presiding
Justice Pierre Boutet.
Justice Benjamin Itoe.

Registrar: Mr Lovemore G Munlo SC

Date filed: Monday 29th January 2007.

Case No. SCSL 2004 – 15 – T

In the matter of:

THE PROSECUTOR

Against

**ISSA SESAY
MORRIS KALLON
AUGUSTINE GBAO**

PUBLIC

**GBAO SUBMISSIONS ON SESAY REQUEST FOR MODIFICATION OF TIME
LIMITS FOR FILING**

Office of the Prosecutor

James Johnson
Peter Harrison

Court Appointed Counsel for Augustine Gbao

Andreas O'Shea
John Cammegh

Counsel for co-accused

Wayne Jordash and Sareta Ashraph for Issa Sesay
Shekou Touray, Charles Taku and Melron Nicol-Wilson for Morris Kallon

SPECIAL COURT FOR SIERRA LEONE	
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COURT MANAGEMENT	
29 JAN 2007	
NAME	<i>Advera Msiima K</i>
SIGN	<i>Msiima</i>
TIME	<i>10:17</i>

1. The Chamber rendered its Scheduling Order Concerning the Preparation and the Commencement of the Defence Case on 30 October 2006.¹ On 24 January 2007, the Defence for Sesay filed an application to defer compliance with the Court's Order to a later date; that is 5 March 2007.² On the 25 January 2007, the Chamber made its Order for expedited filing.³ In that Order the Chamber has invited a response from the second and third accused. Rather than putting in a separate application which we had intended to do, the Defence for Gbao will attempt to address the issue from its point of view by acceding to the Chamber's invitation, which would seem the most expeditious way of dealing with the matter in the circumstances.

2. We would wish to make it clear from the outset that we support no change in the date of recommencement of trial. The Defence for Gbao is in support of the Sesay Defence application. First, it is in the interests of a fair and expeditious trial for all three accused that the final witness list for the first defence case be as complete and accurate as possible to avoid time and energy being spent in motions to amend such list. Such time is required for the efficient preparation of the case prior to the recommencement of the trial on 2 May 2006. No actual prejudice will be caused to the prosecution in the circumstances.

3. Second, while the defence for Gbao is endeavouring to comply with the Court's Order as it stands, the Defence for Gbao has its own independent difficulties, which render it difficult to comply with the current order in a manner which will minimise subsequent litigation. Some of the difficulties were self-induced to the extent that investigations could only properly begin once instructions were forthcoming from the accused which came towards the end of the prosecution case. However, it is submitted that this notwithstanding the ability of the accused to place a proper defence before the Court should nonetheless be facilitated to the extent possible in the interests of justice. More

¹ SCSL-04-15-T-659

² Defence Application for an Adjournment of 16th February 2007 Filing, 24 January 2007, SCSL-04-15-T-692

³ Order for Expedited Filings on Defence Application For Adjournment of 16th February 2007 Filings, 25 January 2007, SCSL-04-15-T-693

importantly we have also now experienced some reluctance on the part of witnesses to come forward and have not yet sufficiently canvassed the terrain of witnesses in relation to all the allegations against Gbao. We have also had problems tracing certain important witnesses, which has constituted a strain on our time and resources. In other words, we do not anticipate that a list provided as early as 16th February will be near complete or accurate.

4. As the third accused we appreciate that there is still time for our investigations. However, it is in the interests of a fair trial for the defence and the prosecution that we be in a position to ensure that our witness list is as accurate as possible. We require further time to be in an adequate position to provide a witness list which closely represents finality.
5. In the case of Gbao we would request that we be accorded until the 30th April 2006 to comply with the Chamber's Scheduling Order in so far as factual witnesses are concerned. Given that the Gbao case is due to be heard last, and therefore in all likelihood towards the end of the year, the prosecution is not in our submission prejudiced.
6. On reflection the Defence for Gbao does not consider it wise to expend its valuable resources on expert evidence until we have some idea of the expert evidence to be tendered by the other accused, at the very least the first accused. We therefore further request that information regarding expert evidence be provided at a later stage when we have had the opportunity to assess the expert evidence to be called by the first two accused. We have not been appraised of the expert evidence available to the first accused and have not been permitted to inspect the expert reports of the first accused. Further, we have not reached an adequate state of preparation with regard to expert evidence otherwise. We request that in the case of Gbao this obligation to indicate expert evidence be postponed until two months after the third accused has been appraised of the expert reports of witnesses for the first accused. This will enable us to manage our resources more efficiently and avoid duplication to the extent possible where it is not in the interests of justice. It is suggested

that this delay would in no way prejudice the prosecution but may help in refining the defence expert evidence as a whole.

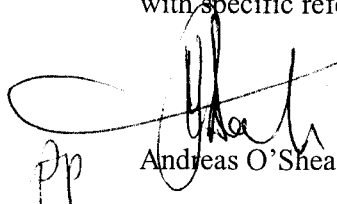
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7. Finally, we also require further time with regard to defence exhibits. Some exhibits are in a state of preparation. These include video footage and photographs. Other exhibits have not yet been located or obtained. It is now becoming clear that we will not be in a position to provide a meaningful exhibit list in the prescribed time. Here again we request until 30th April and submit that the prosecution will not be prejudiced in the circumstances given the likely time of testimony of Gbao witnesses.

In summary, we support the Sesay application for an extension of time limits for filings and request in the case of Gbao:

- (1) An extension of time to 30th April 2007 for the filing of information regarding witnesses of fact;
- (2) An extension of time to 30th April 2007 for the filing of an exhibit list;
- (3) An extension of time for the filing of material relating to experts to a date to be determined as two months following disclosure of expert reports from the first accused.

We accordingly support the Sesay application for an adjournment of compliance with the Court's scheduling Order with the suggested modifications as specified above with specific reference to the third accused.


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Andreas O'Shea

For Augustine Gbao