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SCSL-04-15-T
(32037 - 32038)

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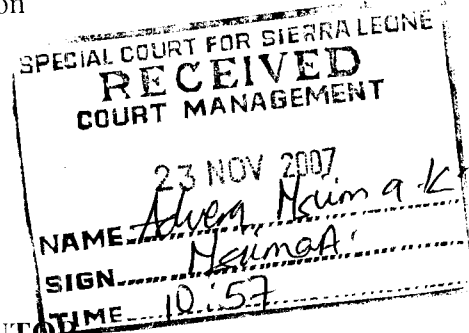
SPECIAL COURT FOR SIERRA LEONE
FREETOWN – SIERRA LEONE

TRIAL CHAMBER I

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

Registrar: Mr. Herman von Hebel

Date filed: 23rd November 2007



THE PROSECUTOR

v.

**Issa Hassan Sesay
Morris Kallon
Augustine Gbao**

Case No. SCSL-04-15-T

**PUBLIC
ADDENDUM**

**SESAY AND GBAO JOINT REPLY TO PROSECUTION RESPONSE TO THE
JOINT MOTION FOR VOLUNTARY WITHDRAWAL OR DISQUALIFICATION
OF JUSTICE BANKOLE THOMPSON FROM THE RUF CASE**

Office of the Prosecutor
Mr. Stephen Rapp
Ms. Anne Althaus

Defence Counsel for Issa Hassan Sesay
Mr. Wayne Jordash
Ms. Sareta Ashraph

Defence Counsel for Morris Kallon
Mr. Shekou Touray
Mr. Charles Taku
Mr. Kennedy Ogetto
Mr. Lansana Dumbuya

Defence Counsel for Augustine Gbao
Mr. John Cammegh
Ms. Prudence Acirokop

Introduction

Paragraph 14 should read:

1. This complaint is not about whether “a Judge cannot be disqualified on the sole basis of a position taken by that Judge in a preceding case”¹ nor whether “[a] Judge is... disqualified from hearing two or more criminal trials arising out of the same series of events”.² Similarly the notion that the instant case is comparable to *Talic*, where the complaint raised by the defence was that the issue of the categorisation of the conflict as “an international armed conflict in Bosnia and Herzegovina”³ **had previously been adjudicated upon by one of the trial judges**, is wide of the mark and largely irrelevant. The complaint made is only tangentially concerned with these basic precepts and is primarily concerned with findings expressed by the Learned Judge in the CDF case – which evinces a level of prejudgement - which a reasonable person would discern as bias. In short findings of fact which deal with a discrete part of a case against an accused would be unproblematic whereas judicial findings in one case which criminalise one party (and therefore the accused)-whilst providing a novel defence to exculpate the other-creates profound difficulty.

Dated: 21 November 2007



Wayne Jordash (Lead Counsel for Sesay)
Sareta Ashraph (Co-counsel for Sesay)



John Cammegh (Lead Counsel for Gbao)

¹ Prosecution Response, para 13.

² Prosecution Response, para 11.

³ Response Para 13 (other quotations omitted).