

971)

SCSL-04-15-T
(23982-23993)

23982

SPECIAL COURT FOR SIERRA LEONE
TRIAL CHAMBER I

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

Registrar: Mr. Herman Von Hebel

Date filed: 8th February 2008

SPECIAL COURT FOR SIERRA LEONE	
RECEIVED	
COURT MANAGEMENT	
NAME	Achua Neuma-k
SIGN	Neuma-k
TIME	12:40

THE PROSECUTOR

against

ISSA HASSAN SESAY
MORRIS KALLON
AUGUSTINE GBAO

Case No. SCSL -2004-15-T

Public with Confidential Annex

Defence Motion for Admission of Written Evidence Pursuant to Rule 92ter

Office of the Prosecutor

Peter Harrison
Reginald Fynn

Defence Counsel for Issa Sesay

Wayne Jordash
Sareta Ashraph

Defence Counsel for Morris Kallon

Charles Taku
Orgetto Kennedy
Lansana Dumbaya

Court-Appointed

Counsel for Augustine Gbao

John Cammegh
Scott Martin

INTRODUCTION

1. Pursuant to Rule 92*ter* of the Rules of Procedure and Evidence (“Rules”), the Defence moves for the admission of evidence from DIS-015 in a written statement.¹

LEGAL STANDARD

2. Rule 92*ter* provides:

With the agreement of the parties, a Trial Chamber may admit, in whole or in part, the evidence of a witness in the form of a written statement or transcript of evidence given by a witness in proceedings before the Tribunal, under the following conditions:

- (i) the witness is present in court;
- (ii) the witness is available for cross-examination and any questioning by the Judges; and
- (iii) the witness attests that the written statement or transcript accurately reflects that witness’ declaration and what the witness would say if examined.

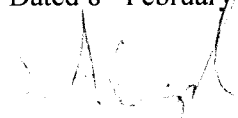
ARGUMENTS

3. The Defence urges the Prosecution to agree to the admission of this statement pursuant to Rule 92*ter*. The Prosecution will be able to fully confront and cross-examine the witness with the entirety of the proffered evidence. The rights of the Prosecution will not be infringed.
4. The admission of this written evidence pursuant to Rule 92*ter* will assist with ensuring an expeditious trial for the first Accused and will ensure that the time-table for completion of the defence case by the 13th March 2008 be achieved, without prejudicing the rights of the Accused to a fair trial. There is a strong public interest in favour of admitting the statement.
5. Additionally, the Defence would wish to call this witness to attest and testify as early as possible during the week commencing 11th February 2008. The Defence acknowledges that this time-table is extremely limited but is attempting to ensure an expeditious trial and accommodate the witness’ own schedule. The Defence respectfully requests that the

¹ See Confidential Annex. A.

Prosecution indicate its position forthwith and the Trial Chamber to rule as soon as practicable.

Dated 8th February 2008



Wayne Jordash
Sareta Ashraph



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Court Management Section – Court Records

CONFIDENTIAL DOCUMENT CERTIFICATE

This certificate replaces the following confidential document which has been filed in the *Confidential* Case File.

Case Name: The Prosecutor – v- Sesay, Kallon & Gbao

Case Number: SCSL-2004-15-T

Document Index Number: 971

Document Date 08th February, 2008

Filing Date: 08th February, 2008

Number of Pages: 9 **Page Numbers: 23985-23993**

Document Type: - *Confidential Annex A*

Affidavit

Indictment

Correspondence

Order

Motion

Document Title: *Confidential Annex A*

Name of Officer:

Advera Nsiima K.

Signed *Nsiima*