

SCSL-2004-15-PT  
(1009-1012)

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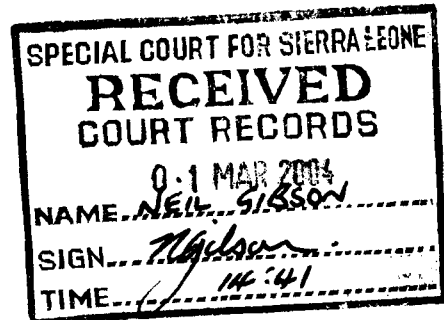
**SPECIAL COURT FOR SIERRA LEONE**  
OFFICE OF THE PROSECUTOR  
FREETOWN - SIERRA LEONE

**IN THE APPEALS CHAMBER**

Before: Judge Robertson, President  
Judge King, Vice President  
Judge Ayoola  
Judge Winter  
Judge [Unknown at time of filing]

Registrar: Mr Robin Vincent

Date filed: 1 March 2004



**THE PROSECUTOR**

**Against**

**ISSA HASSAN SESAY**

CASE NO. SCSL - 2004 - 15 - PT

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**PROSECUTION RESPONSE TO THE DEFENCE**  
**“MOTION SEEKING DISQUALIFICATION OF JUDGE ROBERTSON**  
**FROM THE APPEALS CHAMBER”**

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Office of the Prosecutor:

David M. Crane, The Prosecutor  
Desmond de Silva, QC, Deputy Prosecutor  
Luc Côté, Chief of Prosecutions

Defence Counsel:

Tim Clayson  
Wayne Jordash  
Serry Kamal  
Sareta Ashraph

**SPECIAL COURT FOR SIERRA LEONE**  
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ROBERTSON FROM THE APPEALS CHAMBER”**

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**I. INTRODUCTION**

1. The Prosecution files this response to the Defence motion entitled “DEFENSE MOTION SEEKING THE DISQUALIFICATION OF JUDGE ROBERTSON FROM THE APPEALS CHAMBER” (the “**Motion**”), filed on behalf of Issa Hassan Sesay (the “**Accused**”) on 27 February 2004.<sup>1</sup> In its Application, the Defence:
  - a) Argues that Judge Robertson, the President of the Appeals Chamber, is biased and has prejudged many of the critical issues central to the dispute in the cases before this Court as evidenced by numerous quotations from his book entitled “Crimes Against Humanity”;
  - b) Argues that there can be no doubt that the quoted material from Judge Robertson’s book gives the appearance of bias;

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<sup>1</sup> Registry Case Number following the joinder: SCSL-2004-15-PT. Pages 416 to 673.

c) Argues that Judge Robertson being the sole author of the book entitled “Crimes Against Humanity” has a financial and/or proprietary interest related to issues raised in cases pending before this Court;

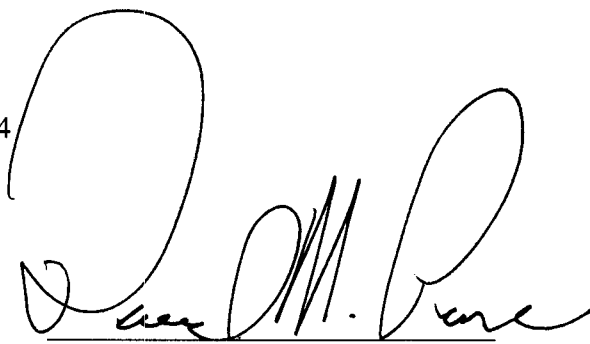
d) Requests that Judge Robertson immediately withdraw permanently and forthwith from the Appeal Chamber pursuant to Rule 15(A);

e) Requests that, alternatively, in the event that the President does not so withdraw, the remaining members of the chamber disqualify the President pursuant to Rule 15(B).

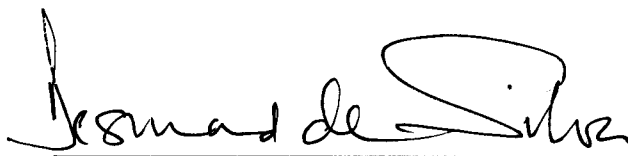
## **II. ARGUMENT**

2. Noting the Defence Motion delineated above and having carefully reviewed the facts as alleged by the Defence and elsewhere, to include a careful reading of the book in question, the Prosecution concedes that there could be a valid argument that there is an appearance of bias on the part of Judge Robertson. The material could lead a reasonable observer, properly informed, to apprehend bias.
3. The Prosecution makes no comment as to the remedy as that is entirely up to the Appellate Chamber to consider.
4. It must be clearly pointed out that this motion and whatever resulting decision by the President and/or the Appellate Chamber will ultimately reflect upon the credibility of the Special Court for Sierra Leone and the integrity of its proceedings.
5. The Prosecution strongly urges the President and/or the Appellate Chamber to act on this motion immediately and expeditiously. It is the opinion of the Prosecution that prior to the delivery of any appellate rulings pending before the Appellate Chamber that this matter be dealt with first and foremost.

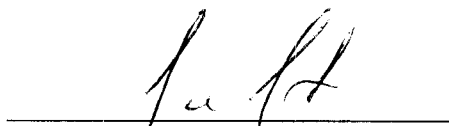
Freetown, 1 March 2004  
For the Prosecution,

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David M. Crane  
The Prosecutor

A handwritten signature in black ink, appearing to read 'Desmond de Silva', written over a horizontal line.

Desmond de Silva, QC  
Deputy Prosecutor

A handwritten signature in black ink, appearing to read 'Luc Côté', written over a horizontal line.

Luc Côté  
Chief of Prosecutions