

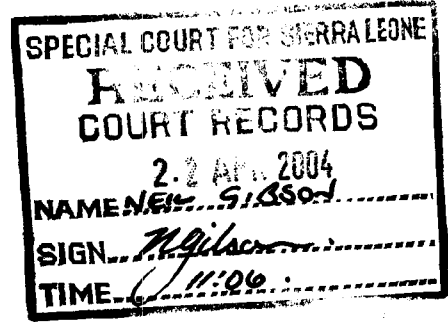
SPECIAL COURT FOR SIERRA LEONE
OFFICE OF THE PROSECUTOR
FREETOWN – SIERRA LEONE

IN THE APPEALS CHAMBER

Before: Judge Renate Winter, Presiding
Judge Emmanuel Ayoola
Judge George Gelaga King
Judge Raja Fernando

Registrar: Mr Robin Vincent

Date filed: 22 April 2004



THE PROSECUTOR

Against

ISSA HASSAN SESAY

CASE NO. SCSL – 2004 – 15 – PT

**PROSECUTION RESPONSE TO DEFENCE MOTION SEEKING
CLARIFICATION OF THE DECISION ON DEFENCE MOTION SEEKING THE
DISQUALIFICATION OF JUSTICE ROBERTSON FROM THE APPEALS
CHAMBER**

Office of the Prosecutor:
David M Crane
Desmond de Silva, QC
Luc Côté

Defence Counsel:
Tim Clayson
Wayne Jordash
Serry Kamal
Sureta Ashraph

SPECIAL COURT FOR SIERRA LEONE
OFFICE OF THE PROSECUTOR
FREETOWN – SIERRA LEONE

THE PROSECUTOR

Against

ISSA HASSAN SESAY

CASE NO. SCSL – 2004 – 05 – PT

**PROSECUTION RESPONSE TO DEFENCE MOTION SEEKING
CLARIFICATION OF THE DECISION ON DEFENCE MOTION SEEKING THE
DISQUALIFICATION OF JUSTICE ROBERTSON FROM THE APPEALS
CHAMBER**

INTRODUCTION

1 The Prosecution files this Response to the Defence Motion filed on 20th April 2004 seeking Clarification of the Decision of the Appeals Chamber dated 13th March 2004 on Defence Motion seeking the Disqualification of Justice Robertson from the Appeals Chamber.

ARGUMENTS

2 The Prosecution submits that this Motion should be dismissed in its entirety as there is no lack of clarity in the unanimous decision of the Appeals Chamber as delivered by Justice Gelaga King and set out in paragraph 18 of the said Decision, namely, that Justice Robertson is disqualified from adjudicating on the following matters:

- (i) those Motions involving alleged members of the RUF for which decisions are pending, in the Chamber; and
- (ii) Cases involving the RUF if and when they come before the Appeals Chamber¹.

¹ Registry Page 1208

3 The Prosecution respectfully submits that the Decision of the Appeals Chamber set out above is clear and unambiguous and that the instant Motion is an attempt to modify the Judgment of the Appeal Chamber and to expand the limitations placed upon Justice Robertson by the Appeals Chamber and is evidenced by paragraph 9 of the said Motion which reads as follows:-

Thus the Defence submit that it is a natural and inescapable consequence of the ruling of the Appeal Chamber hereinbefore referred to that:

- (i) Justice Robertson must take no part in any decision (including decisions taken in the course of plenary sessions of the judges concerning the rules of the Special Court of Sierra Leone), insofar as any such decision related to or concerns in any way the trials of defendants formerly members of the RUF,

And by this Motion requests the Appeal Chamber to clarify the ruling referred to above in these terms².

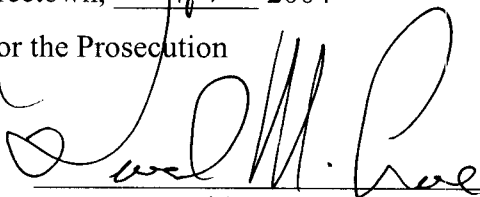
4 The Prosecution submits that by reason of paragraph 17 of the Decision of the Appeals Chamber, Justice Robertson remains a Judge for all purposes save for the limitations place upon him in paragraph 18 of the said Decision and referred to in paragraph 2 of this Response.

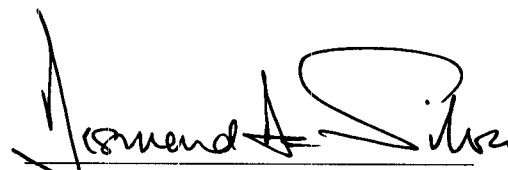
CONCLUSION

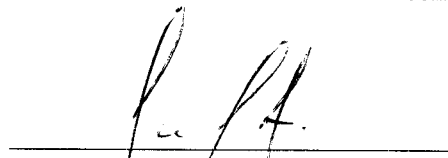
5 The Prosecution therefore urges the Court to dismiss this Motion expeditiously and to bring a finality to this matter.

Freetown, 22 Apr 2004

For the Prosecution


David M. Crane


Desmond de Silva, QC


Luc Côté

² Registry Page 1582