

THE SPECIAL COURT FOR SIERRA LEONE

CASE NO.: SCSL- 2004 – 14 -T
TRIAL CHAMBER I

THE PROSECUTOR
OF THE SPECIAL COURT
v.
SAM HINGA NORMAN
MOININA FOFANA
ALLIEU KONDEWA

14 JUNE 2004
1000H
CONTINUED TRIAL

Before the Judges:

Benjamin Mutanga Itoe, Presiding
Bankole Thompson
Pierre Boutet

For the Registry:

Mr. Robin Vincent
Mr. Geoff Walker

For the Prosecution:

Mr. Luc Cote
Mr. James C Johnson
Mr. Charles Caruso

For the Accused Sam Hinga Norman:

Mr. Ibrahim Yillah

For the Accused Moinina Fofana:

Mr. Arrow Bockarie
Mr. Michael Uiterwaal

For the Accused Allieu Kondewa:

Mr. Charles Margai
Mr. Thomas Briody
Mr. Yada Williams

Court Reporters:

Mr. Momodou Jallow
Ms. Susan G. Humphries
Ms. Gifty C. Harding

INDEX

EXHIBITS

Defence Exhibit No. 4 3
Defence Exhibit No. 5 4

1 MR. PRESIDENT:

2 The Court resumes its sitting. Mr. Walker, can you call the case please?

3 MR. WALKER:

4 This is Case No. SCSL - 2004-14-T, the Prosecutor against Sam Hinga Norman, Moinina Fofana and
5 Alieu Kondewa, which is listed for trial.

6 MR. PRESIDENT:

7 Appearances as before I suppose -- appearances as before?

8 MR. CARUSO:

9 Yes, My Lord.

10 MR. PRESIDENT:

11 Can you swear in -- or the interpreters are in place. Well they are still bound by their oath.

12

13 Well, the Court would like to observe that we adjourned to today, the 15th of June 2003, at the
14 instance of Mr. -- 2004, I am sorry, at the instance of Mr. Sulaiman Tejan-Sie, who said he was asking
15 for this adjournment in order to consult members of the former -- of the first Accused former legal
16 team as to whether they would agree to -- as to what their position is, coming in, you know, as being
17 appointed and designated as stand-by counsel. Is Mr. Tejan-Sie in court?

18 MR. YILLAH:

19 May it please Your Honours, Mr. Tejan-Sie is not presently within the walls of the Court.

20 MR. PRESIDENT:

21 That is okay, he is not in court -- he is not in court. Mr. Tejan-Sie is not in court?

22 MR. YILLAH:

23 Very well, My Lord.

24 MR. PRESIDENT:

25 The Court would like to take a very particular note of the fact that Mr. Tejan-Sie, at whose instance
26 this matter was adjourned, is not in court. And I do recollect that we were to adjourn this matter to the
27 following day, but he did insist and for good reasons, in order to make him -- to give him enough time
28 to consult with his colleagues and we thought that we should give him enough time up to date.

29

30 Mr. Walker, is there any letter from Mr. Tejan-Sie, you know, excusing his absence or justifying his
31 absence from court?

32 MR. WALKER:

33 There is, My Lord.

34 MR. PRESIDENT:

35 We would like to have a clarification on this letter. Can the Registrar, please, provide us some
36 clarification on this because this letter is dated the 8th of June, signed by Mr. Tejan-Sie.

37

1 MR.VINCENT:

2 Your Honour, the letter your have in front of you, which is the original signed by Mr. Sulaiman
3 Tejan-Sie, is dated the 8th of June. In fact, this is the letter which Mr. Tejan-Sie submitted to the
4 officials of the Special Court which confirmed that, in fact, he would be prepared to act in the capacity
5 of stand-by counsel when the Court appoint such a team.

6

7 There is no letter from him so far, as we are aware, which in any way explains as –

8 MR. PRESIDENT:

9 That is a question which the Court asked. Is there any letter justifying his absence? This is not the
10 letter justifying his absence.

11

12 Can you show that letter to the Prosecution, please? Does the Prosecution have any observations on
13 that letter?

14 MR. CÔTE:

15 Only one observation, Your Honour. It seems to contradict the letter of defence sent by
16 Mr. Jenkins-Johnston talking about -- lawyer Jenkins-Johnston talking for his whole team. So I don't
17 know where we –

18 MR. PRESIDENT:

19 We have taken note of your observation in this regard. Can you show that letter to the first Accused,
20 please?

21 THE ACCUSED NORMAN:

22 Sorry, Your Honours, this is my first time of seeing this letter.

23 MR. PRESIDENT:

24 Well, we would like to inform you that, you know, for records, the Court wants to admit this letter in
25 evidence for purposes of this proceeding.

26 THE ACCUSED NORMAN:

27 Yes, Your Honour, I want to thank you but even in spite of this, there was a communication from the
28 three representative team in -- my previous counsel, that indicated to me that they were unwilling to
29 appear for me for any other reason whatsoever.

30

31 So, on the basis of that, I made an approach to the Principal Defender to make arrangements which
32 I'm sure could be – may be completed or very near completion now.

33 MR. PRESIDENT:

34 Thank you. Please, sit down.

35

36 Can I have the letter, please? This letter which is dated the 8th of June 2004 is admitted in evidence
37 and marked as Exhibit 3.

1 MR. WALKER:

2 Exhibit 4, My Lord.

3 MR. PRESIDENT:

4 Exhibit 4, okay -- Exhibit 4, okay.

5 *(Defence Exhibit 4 admitted)*

6 MR. PRESIDENT:

7 Now, Mr. Registrar, we would like to have some clarification because the first Accused has indicated
8 that there is a letter which was written by Mr. Johnston saying that they were all -- they were not going
9 to represent him. Are you aware of this letter?

10 MR. VINCENT:

11 Your Honour, yes, I am.

12 MR. PRESIDENT:

13 Can you produce the letter for the Court to have a look at it?

14 MR. VINCENT:

15 It is dated the 10th of June, it's signed by Mr. Jenkins-Johnston and is copied not extensively, but it is
16 copied to the Principal Defender, to Mr. Sulaiman Tejan-Sie, other members of the team and to the
17 first defendant.

18 MR. PRESIDENT:

19 Mr. Walker, can you please show this letter to the Prosecution.

20 MR. CÔTE:

21 We have seen it, Your Honour.

22 MR. PRESIDENT:

23 You better see it, I want you to see it now because it has not been read, so you do not know the
24 contents.

25

26 Is that the letter?

27 MR. WALKER:

28 Yes.

29 MR. PRESIDENT:

30 Right, can you show it to the first Accused, please?

31 THE ACCUSED NORMAN:

32 Yes, My Lord, that is the letter -- a copy of it.

33 MR. PRESIDENT:

34 The Court would like to have this letter on the record as an exhibit. Does the first Accused have any
35 objection to having this letter as an exhibit?

36 THE ACCUSED NORMAN:

37 No objection, My Lord.

1 MR. PRESIDENT:

2 Now, this letter is admitted in evidence and is marked as Exhibit 5.

3 (*Defence Exhibit 5 admitted*)

4 MR PRESIDENT:

5 Mr. Walker, can you, please, read Exhibit 4, start with Exhibit 4. Please, read Exhibit 4 to the hearing
6 of the Court.

7 MR. WALKER:

8 Your Honours, it is headed up, "From Mr. Sulaiman Tejan-Sie. Dear officials of the Special Court,
9 whereas after today's court proceedings –"

10 MR. PRESIDENT:

11 You go slowly, please, because you are being translated. Please, you go very slowly and audibly.

12 MR. WALKER:

13 "-- whereas, after today's proceedings, the honourable judges indicated, *inter alia* that Mr. Norman
14 may not represent himself as the right to self-representation is qualified; that Mr. Norman shall have
15 some type of counsel assigned to him be it stand-by or otherwise, and that such stand-by or other
16 counsel may include members of his former team; whereas I was approached by officials of the
17 Special Court who enquired whether I would be available to represent Mr. Norman as a stand-by or
18 *amicus* counsel in the interest of justice; whereas I indicated that I would indeed continue to represent
19 Mr. Norman, or be it in an *amicus* stand-by capacity; whereas I have been shown a letter of today
20 written, subsequent to the said hearing, indicating that Mr. Norman seeks not to attend court
21 proceedings in light of today's ruling; whereas I am uncomfortable with the notion of representing one
22 against one's will, particularly one who will not come to court; I hereby, nevertheless, confirm that I
23 will, if called upon by the Judges, Registrar or Principal Defender, continue to act in the best interest
24 of Chief Samuel Hinga Norman by providing a vigorous defence in his behalf. I will also seek, where
25 possible, to include other former team members designated by Chief Norman to said stand-by *amicus*
26 team and work jointly with them in his interest. Accordingly, I shall proceed to appear in trial on
27 Thursday, unless otherwise instructed by the Court. Respectfully, Sulaiman Banja Tejan-Sie."

28 MR. PRESIDENT:

29 Mr. Walker, please don't take your seat. Can you read Exhibit 5, please?

30 MR. WALKER:

31 Certainly, Your Honour.

32

33 This is a letter from J.B. Jenkins-Johnston, dated the 10th of June 2004, to the Registrar of the
34 Special Court for Sierra Leone. It reads: "I write for and on behalf of myself, Mr. Sulaiman Banja
35 Tejan-Sie and Ms. Adejatu Tejan, erstwhile members of the Chief Sam Hinga Norman Defence team.
36 We have just had a lengthy meeting at which all aspects of the representation of Chief Norman,
37 particularly the contents of Exhibits 1 and 2 tendered before the Special Court, were fully and frankly

1 discussed.

2

3 We have unanimously decided, that having considered all the prevailing circumstances, we will not be
4 able to represent the first Accused in any of the capacities mentioned in Exhibit 2, that is to say, as
5 counsel in the interest of justice, *amicus* counsel, or stand-by counsel. We have also decided that we
6 will not return to defend the first Accused in any other capacity in order to allow the first Accused to
7 exercise his right to defend himself, as he has insisted since Exhibit 1 was tendered. Signed by J.B.
8 Jenkins-Johnston, Esq."

9 MR. PRESIDENT:

10 Does the signature of Mr. Sulaiman Tejan-Sie appear on that letter?

11 MR. WALKER:

12 No, My Lord.

13 MR. PRESIDENT:

14 The Court would like to learn from any of the members of the Bar. Mr. Margai.

15 MR. MARGAI:

16 Yes, My Lord.

17 MR. PRESIDENT:

18 Could you clarify us on this, is -- does Mr. Tejan-Sie practise in the same chamber as Mr. Johnston?

19 MR. MARGAI:

20 No, My Lord, he doesn't. They have separate chambers.

21 MR. PRESIDENT:

22 They have separate chambers?

23 MR. MARGAI:

24 Yes, My Lord.

25 MR. PRESIDENT:

26 Thank you.

27

28 Mr. Norman, please.

29 THE ACCUSED NORMAN:

30 Yes, My Lord.

31 MR. PRESIDENT:

32 This matter is going to -- we are going to adjourn this matter to 3:00 o' clock, this afternoon -- 1500
33 hours this afternoon, and it is -- there is a possibility that we will proceed with the trial and we would
34 like to inform you in advance, you know, that if you would like to exercise your discretion to make an
35 opening statement, you should come very prepared, you know, with the statement or to make the
36 statement sometime this afternoon. We thought we should inform you well in advance so that you are
37 not taken unaware.

1 Will you be ready with making your statement today Mr. Norman?

2 THE ACCUSED NORMAN:

3 Well, Your Lords -- Your Lordships, I would like to request that you treat the situation facing me with
4 maybe cautious sympathy, in the sense that much as I would like to -- this matter to proceed very
5 expeditiously, I would however want to say yes, with a caution that between now and 2:00 today, if I
6 have the chance of meeting anyone from the Defence Office, or those who have been contacted
7 already and then I have a few minutes of, maybe a conference with any one of them, I will make
8 myself being in readiness to start today, Your Lords.

9 MR. PRESIDENT:

10 So what are you asking for precisely, Mr. Norman?

11 THE ACCUSED NORMAN:

12 I'm asking precisely that I be given an opportunity between now and 2 o' clock. It will be very well
13 within your own time which you have said to me about 3 o' clock, so that I can have time of meeting
14 with someone that has been approached, or the Defence office could be approached.

15 MR. PRESIDENT:

16 So what you are telling us to do -- what you are asking us to do is to adjourn the matter to 3 o'clock
17 and to see what happens thereafter?

18 THE ACCUSED NORMAN:

19 Yes, My Lord.

20 MR PRESIDENT:

21 But we would like to mention to you that we would want to go very expeditiously with this trial.

22 THE ACCUSED NORMAN:

23 I am in sympathy with that and in readiness, Your Lordship.

24 JUDGE BOUTET:

25 Mr. Norman, I just would like to remind you that we were at a stage in the process where the
26 Prosecution had concluded their opening statement and we asked counsel for each and every
27 accused if they had an opening statement. I would like to again indicate to you that you do not have
28 to make such a statement. You may, if you wish to, and your statement, if you make one, is
29 essentially to rebut in part -- to rebut what the Prosecution may have said in their opening statement,
30 and if you do make an opening statement, you would be precluded to make such an opening
31 statement at the time of opening your defence later in the process.

32

33 So, I just want you to be aware of that, and the fact that you had indicated last week that you did wish
34 to make such an opening statement, you should not be -- you should not found yourself bound to
35 necessarily make such a statement today if you don't wish to make one. So this is part of the usual,
36 normal process. Thank you, Mr. Norman.

37

1 THE ACCUSED NORMAN:

2 My Lord, if you permit me the opportunity of just making a small comment on that. I would like to
3 state, My Lord, that I'm sure Your Lordships are aware of Article 14 and Article 17 under which I am
4 now appealing to Your Lordships that I be treated -- and this we have to be taken into consideration
5 also, and so coming around 3:00 o' clock this afternoon, I would like Your Lordship's mind also to
6 dilate on that -- on those Articles in my respect.

7 MR. PRESIDENT:

8 The Court will rise and resume this session at 3 o'clock today.

9 *(Court adjourned at 1031H)*

10 *(Pages 1 to 7 by Momodou Jallow)*

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1 1510H

2 MR. PRESIDENT:

3 The session resumes, and we would like to hear from the Registrar of the Court. If -- Mr. Registrar,
4 we want to know whether there has been any communication between you and Mr. Tejan-Sie since
5 we rose this morning.

6 MR. VINCENT:

7 Your Honour, there has been no such communication.

8 MR. PRESIDENT:

9 No communication?

10 MR. VINCENT:

11 No communication at all, Your Honour.

12 MR. PRESIDENT:

13 Now, do we -- let me ask this question again: do we have any letter on record excusing his absence
14 from court today?

15 MR. VINCENT:

16 Your Honour, no, we don't.

17 MR. PRESIDENT:

18 Pardon me?

19 MR. VINCENT:

20 No, we don't, Your Honour.

21 MR. PRESIDENT:

22 No letter?

23 MR. VINCENT:

24 No letter.

25 MR. PRESIDENT:

26 The Chamber, you know, would want to request you, Mr. Registrar, in the interest of upholding our
27 cardinal principles of natural justice of always listening to the other side; the *audi alteram partem*, and
28 we would ask you to please take all necessary steps to get in touch with Mr. Tejan-Sie and secure his
29 attendance, you know, in court, and inform him that the Chamber would like to see him in court
30 tomorrow at 9:30, tomorrow the 15th of June at 9:30 a.m..

31 MR. VINCENT:

32 Your Honour, that will be done.

33 MR. PRESIDENT:

34 Thank you.

35

36 Mr. Registrar, we would -- the Court -- the Chamber would want to know from you what you have
37 done so far to put in place a stand-by team -- stand-by team of defence lawyers as far as the first

1 Accused is concerned in this case, and following our decision of 8th June 2004. Could you please
2 inform us on the progress you have made, you know, so far. Let us put the question directly: is the
3 team in place, please?

4 MR. VINCENT:

5 Your Honour, the team is in place.

6 MR. PRESIDENT:

7 May we have the composition of the team, please?

8 MR. VINCENT:

9 Certainly, Your Honour, and in delivering the composition of that team I have to say that I am indebted
10 to the commitment and work of the Principal Defender in managing to achieve this in the face of very
11 difficult circumstances. The following stand-by counsel have been approached and have agreed to
12 act in that capacity: Dr. Bu-Buakei Jabbi of Sierra Leone; Mr. John Wesley Hall, Jnr. of the United
13 States; Miss Quincy Whitaker of England; and Mr. Tim Owen, QC, of England. In the interim,
14 Mr. Ibrahim Yillah, counsel in the Office of the Principal Defender of the Special Court, will also serve
15 in Mr. Norman's stand-by counsel team.

16 MR. PRESIDENT:

17 Right. Okay. Thank you very much. You can now take your seat.

18

19 Are there any other counsel whose names have been read in court? I recognise Mr. Yillah there.

20 MR. YILLAH:

21 I am, Your Honour, yes.

22 MR. PRESIDENT:

23 Who else? There is no other member of the team --

24 MR. YILLAH:

25 Not present --

26 MR. PRESIDENT:

27 -- which has just been read out? Not presently?

28 MR. YILLAH:

29 Not present.

30 MR. PRESIDENT:

31 Not present. Okay. The Court will please rise for ten minutes. The Court rises.

32 *(Court recessed from 1515H to 1527H)*

33 MR. PRESIDENT:

34 The session resumes and I will ask for appearances in this matter at this stage. Appearances, please.

35 MR. CARUSO:

36 Yes, Charles Caruso, I am the Prosecutor. To my left is Luc Côte *(microphone not activated)*.

37

1 MR. PRESIDENT:

2 For the first Accused?

3 MR. YILLAH:

4 My Lord, Ibrahim Yillah, from the Defence Office appears as stand-by counsel for the first Accused.

5 MR. PRESIDENT:

6 And, of course, the first Accused is appearing for himself --

7 THE ACCUSED NORMAN:

8 Yes, My Lord.

9 MR. PRESIDENT:

10 -- on the principle of the qualified self-representation.

11 THE ACCUSED NORMAN:

12 *(microphone not activated)*

13 MR. PRESIDENT:

14 Right. May we have representations? Let's have everything on record again for the other two
15 Accused persons, please.

16 MR. BOCKARIE:

17 Your Honour, for the second Accused, Arrow Bockarie, with him, Michael Uiterwaal.

18 MR. PRESIDENT:

19 For the third Accused.

20 MR. MARGAI:

21 May it please Your Lordships, Charles Margai, Yada Williams, Thomas Briody and Ansu Lansana.

22 MR. PRESIDENT:

23 Right, thank you.

24
25 The Chamber would like to read out to the parties particularly -- I say particularly for the attention of
26 the first Accused -- a consequential order on the assignment and the Rule of stand-by counsel.

27

28 This order is dated today, the 14th of June 2004.

29

30 The Trial Chamber of the Special Court for Sierra Leone, composed of Judge Benjamin Mutanga Itoe,
31 Presiding Judge, Judge Bankole Thompson and Judge Pierre Boutet, noting a letter filed by Samuel
32 Hinga Norman addressed to the Principal Defender of the Special Court for Sierra Leone, dated the
33 3rd June 2004 indicating his intention to defend himself from that date;

34

35 Noting that the Trial Chamber, having received a copy of the aforesaid letter, called upon the
36 Accused during the trial session on the 3rd of June 2004 to confirm that this was his letter and that he
37 had prepared this voluntarily. And upon receiving an affirmative answer from the first Accused the

1 Court admitted the letter into the trial records as Exhibit 1;

2
3 Noting that during the trial session on the 3rd of June 2004, counsel for the Accused responded to the
4 Court that they accepted the Accused's request for self-representation;

5
6 Noting the decision on the application of Samuel Hinga Norman for self-representation under Article
7 17(4)(d) of the Statute of the Special Court, delivered by the Trial Chamber on the 8th of June 2004
8 where the Trial Chamber held that the Accused has a right to self-representation, but that such a right
9 is qualified and not absolute and can be derogated from should the interests of justice dictate. And
10 ordered in conclusion as follows: that the right to self-representation solicited in this case by the first
11 Accused, Samuel Hinga Norman, can only be exercised with the assistance of counsel to be assigned
12 to the trial and in whatever capacity they are assigned or designated, stand-by or otherwise, without
13 prejudice to the Registrar's discretion to designate, if the first Accused so expresses this desire,
14 members of his former defence team, and this in accordance with the provisions of Article 17
15 subsection 4(d) of the Statute of the Special Court, the Rules of Procedure and Evidence of the
16 Special Court, and of the provisions of the Directive for the Assignment of Counsel promulgated by
17 the Registrar of the Special Court on the 3rd of October 2003;

18
19 Noting a letter filed by the Accused addressed to the Principal Defender of the Special Court for Sierra
20 Leone on the 9th of June 2004, admitted in evidence as Exhibit 2, whereby the Accused informed the
21 Trial Chamber that he had discussed the decision of the Trial Chamber with the Principal Defender
22 and noted that if the decision meant that his right of self-representation could be exercised with the
23 assistance of counsel of his choosing, preferably counsel in the interest of justice, amicus counsel,
24 stand-by counsel, he requested the Principal Defender to contact all members of the Defence -- of his
25 Defence team, national and international, to arrive at the Special Court as soon as possible and to
26 continue assisting him as counsel, namely, counsel in the interests of justice, amicus counsel, stand-
27 by counsel, and that should such counsel not agree to this, that the Principal Defender notify him so
28 that he could provide further instruction as to the composition of his team of legal assistance;

29
30 Noting that the letter was verified by the Accused at the trial session on the 10th of June 2004, and
31 that the Accused was advised by the Trial Chamber that stand-by counsel would be assigned to him,
32 whereupon the Accused advised that it was his right to choose his own counsel;

33
34 Noting that the Registrar advised the Trial Chamber at the trial session on the 10th of June 2004 that
35 he had made enquiries about suitable stand-by counsel and had identified one lawyer who would
36 arrive Freetown on the 14th of June 2004 and be briefed by the Principal Defender and supplied to
37 the Trial Chamber and the parties with a curriculum vitae of this lawyer;

1 Noting that former counsel for the first Accused, Mr. Tejan-Sie, advised the Trial Chamber at the trial
2 session on the 10th June 2004 that he had had no opportunity to consult with his former client to
3 discuss whether or not his team could be appointed as stand-by counsel for the Accused;

4
5 Noting Article 17(4)(d) of the Statute of the Special Court for Sierra Leone which provides: (4) in the
6 determination of any charge against the Accused pursuant to the present Statute, he or she shall be
7 entitled to the following minimum guarantees in full equality: (d) to be tried in his or her presence and
8 to defend himself or herself in person or through legal assistance of his or her own choosing. To be
9 informed, if he or she does not have legal assistance, of this right, and to have legal assistance
10 assigned to him or her in any case where the interests of justice so require and without payment by
11 him or her in such case if he or she does not have sufficient means to pay for it.

12 *(Pages 8 to 12 by Susan G. Humphries)*

1 1535H

2 MR. PRESIDENT: *(Continuing)*

3 Considering that the right to self-representation is not absolute and that the interest of justice may
4 require the assignment of legal assistance;

5
6 Considering that the rights to counsel and self-representation does not exclude each other;

7
8 Considering that the CDF trial involves multiple defendants and that the rights of each accused
9 person must be fully respected at all times throughout the trial process;

10
11 Considering that the right of the Accused to self-representation must be balanced against the rights to
12 a fair and expeditious trial;

13
14 Considering that it is in the overall interest of justice to assign a stand-by counsel to assist the
15 Accused in the exercise of his rights to self-representation;

16
17 Considering that stand-by counsel will provide legal assistance to the Accused and ensure the
18 safeguard of his rights to a fair and expeditious trial;

19
20 Considering that his -- that counsel/client privilege applies to any communications and
21 correspondence between the Accused and stand-by counsel;

22
23 Considering that stand-by counsel in providing assistance to the Accused, shall be subject to the
24 relevant provisions of the Agreement, the Statute, the Rules, the Rules of Detention, and any other
25 rules or regulations adopted by the Special Court, the Headquarters Agreement, the Code of
26 Professional Conduct and the Codes of Practice and Ethics governing their profession and, if
27 applicable, the Directive on the Assignment of Counsel, as provided for in Rule 44(B) of the Rules;

28
29 Considering that the Accused's right to self-representation and the appointment of stand-by counsel,
30 includes the right of the Accused to obtain legal advice from counsel of his own choosing.

31
32 For the foregoing reasons, and pursuant to Rule 54 of the Rules of Procedure and Evidence of the
33 Special Court, hereby orders that stand-by counsel are to be assigned to the Accused to assist him in
34 the exercise of his right to self-representation and, for that purpose -- and that for purposes of these
35 proceedings, further orders that the role of stand-by counsel be strictly defined as follows:

36
37 1. To assist the Accused in the exercise to self-representation.

1 2. To assist the Accused in the preparation and presentation of his case during the trial -- the
2 trial phase whenever requested to do so by the Accused.

3
4 3. To actively guide the Accused through the procedures of the trial in accordance with the
5 Statute and the Rules.

6
7 4. To investigate relevant facts and law, identify possible defences and suggest steps to be
8 taken by the Accused.

9
10 5. To receive all court documents, filings and disclosed material that are received by or sent to
11 the Accused.

12
13 6. To be present in the courtroom during the proceedings.

14
15 7. To offer legal advice to the Accused.

16
17 8. To address the Court whenever requested to do so by the Accused or by the Trial Chamber.

18
19 9. To put questions to witnesses on behalf of the Accused if called upon to do so by the Trial
20 Chamber, in particular, to sensitive or protected witnesses or in the event of abusive conduct by the
21 Accused without depriving the Accused of his right to control the content of the examination.

22
23 10. To be actively engaged in the substantive preparation of the case and to participate in the
24 proceedings and to be prepared to take over representation of the Accused, should the Accused
25 engage in disruptive conduct or conduct -- or conduct requiring his removal from the courtroom as
26 outlined in Rule 80(B) of the Rules of Procedure and Evidence.

27
28 11. To assemble and present information relevant to all the stages of the proceedings.

29
30 12. To refrain from conduct that may directly or indirectly impact adversely on the exercise of the
31 Accused right to self-representation.

32
33 Decides, one, that these functions of the stand-by counsel shall be performed under the supervision
34 of the Trial Chamber;

35
36 Two, that stand-by counsel will immediately assist the Accused.
37

1 Three, that the Accused shall conduct his Defence without delay and will conform to the date set for
2 the trial decided by the Special court so as not to delay the proceedings.

3
4 Orders the Registrar to assign stand-by counsel for the assistance of the Accused.

5
6 Further orders the Registrar, in consultation with the Principal Defender, to immediately assign on a
7 temporary basis, a member of the Defence Office pending the assignment and effective presence at
8 the proceedings of the stand-by Defence team to assist the Accused as stand-by counsel.

9
10 States that this order may be modified at any time should necessity arise.

11
12 Done at Freetown, this 14th day of June 2004, by Judge Benjamin Mutanga Itoe, the Presiding Judge,
13 Judge Bankole Thompson and Judge Pierre Boutet.

14
15 I would like to -- I know that this morning we did touch on the issue of making opening statements.
16 We did touch on that issue and I know that the first Accused reserved any comment at that time and
17 thought that, you know, by now he would be able to let the Court know towards what direction he is
18 moving. I would -- I'm not limiting this, you know, to him alone, I'm also directing this question to the
19 members of the -- to the other Accused persons and to the members of their Defence teams to know
20 towards what direction, you know, they want to move.

21
22 So, Mr. Norman, we are there now. Can you please let us know what -- where you stand?

23 THE ACCUSED NORMAN:

24 Thank you, My Lord. I keenly listened to My Lord when you were talking about someone being heard
25 from -- by 9:30 tomorrow, and I'm sure you will not deprive me the privilege of hearing what you said.

26 I would like to hang on your gown respectfully to appeal for the same time tomorrow.

27 MR. PRESIDENT:

28 You want tomorrow?

29 THE ACCUSED NORMAN:

30 Yes, My Lord.

31 MR. PRESIDENT:

32 The second Accused.

33
34 Please sit down, Mr. Norman.

35 MR. BOCKARIE:

36 Your Honour, as indicated earlier on, we are not -- we do not intend making any opening statement as
37 for now.

1 JUDGE BOUTET:

2 Your microphone is not on.

3 MR. BOCKARIE:

4 I am sorry, Your Honour. As indicated earlier on by the lead counsel, we do not intend making any
5 opening statement for now, sir.

6 MR. PRESIDENT:

7 All right, thank you. Third Accused, please.

8 MR. MARGAI:

9 My Lords, we shall make our opening statement at the close of the Prosecution's case.

10 MR. PRESIDENT:

11 Thank you.

12

13 So, Mr. Norman, we are resuming our proceedings tomorrow at 9:30, at 9:30, at least -- a.m.. You
14 know, this gives you at least some time to put yourself together for purposes of your opening
15 statement because we would take it tomorrow at about that time.

16 THE ACCUSED NORMAN:

17 Thank you, My Lord.

18 MR. PRESIDENT:

19 Right.

20

21 As we all know, we -- a number of landmark events have characterised this trial since we resumed on
22 the 3rd of June 2004, and the Chamber has received from the Registrar a comprehensive report as to
23 the source of the 11-day -- days of delay and interruptions since the opening of this trial on the 3rd of
24 June 2003 -- 2004, I'm sorry.

25

26 From that report, it is the Chamber's view that the fact underlying the delays encountered at the
27 beginning of this trial should be clearly stated for the records, considering the right of all accused
28 persons to be tried without delay. The following facts on this matter are borne out from that report and
29 from the records:

30

31 The first Accused was arrested on the 10th of March 2003. His Defence team, which comprised
32 Mr. James Blyden Jenkins-Johnston, Mr. Sulaiman Banja Tejan-Sie, Ms. Quincy Whitaker and Mr.
33 Tim Owen, was initially formed in March 2003 and finalised in July 2003. On the 24th of November
34 2003, Mr. Jenkins-Johnston, entered into a legal services contract with the Special Court and
35 executed a statement of availability wherein he undertook to ensure that himself and members of his
36 team will, we quote, "represent Mr. Norman to the finality of the case at trial."

37

1 On the 28th of April 2004 and on the 3rd of June 2004 (*sic*), pre-trial conferences were held on this
2 case. On both occasions Mr. Tejan-sie and Mr. Jenkins-Johnston indicated their readiness to
3 proceed with the trial. On the 3rd of June 2004, which was the first day of trial, the first Accused
4 suddenly, and to the surprise of the entire Chamber, informed the Court that he was opting for self-
5 representation and that he no longer wanted to be represented by his designated counsel. This
6 necessitated an adjournment of the trial to Tuesday, the 8th June 2004 for a reasoned decision to be
7 delivered by the Trial Chamber on the first Accused's application to represent himself.

8
9 On the 8th of June 2004, the Trial Chamber ruled that the first Accused's right to self-representation
10 under Article 17(4)(D) of the Statute is qualified and not absolute and that it could only be exercised
11 with the assistance of stand-by counsel.

12
13 The first Accused immediately objected to the idea of stand-by counsel and threatened to boycott
14 court attendance since his application was not granted. This ruling, once again, necessitated an
15 adjournment of the proceedings until Thursday, the 10th of June 2004, in order to designate stand-by
16 counsel for the first Accused. On this issue, Mr. Tejan-Sie responded by writing a letter dated the 8th
17 of June 2004, now marked as Exhibit 4, to the officials of the Special Court confirming that he would
18 indeed continue to represent Mr. Norman, albeit, in a stand-by capacity.

19
20 The first Accused has now reconsidered his position and accepted the Trial Chamber's decision on
21 representation by stand-by counsel composed of counsel in his previous legal team and comprising
22 both national and international counsel. On the 10th June 2004, Mr. Jenkins-Johnston sent a letter to
23 the Registrar dated the 10th of June 2004, and now marked as Exhibit 5, indicated that he and
24 Mr. Tejan-sie unanimously decided that they will not represent the first Accused in any capacity.

25
26 We would like to observe here in the light of the above, that even though the events of the 3rd of June
27 2004 have delayed the proceedings in this case, the Chamber very confidently affirms that no time
28 spent in ensuring that the rights of the Defence are fully protected and the integrity of the proceedings
29 preserve, should by any stretch of any reasonable imagination or judgment, be considered as wasted
30 or lost or that it indeed constitutes a delay of the judicial process.

31
32 Having now sorted out this important preliminary issue of legal representation to enable the first
33 Accused to properly and credibly conduct his defence, the Chamber is as set, as it indeed was on the
34 3rd of June 2004, to proceed with this trial without any further delays.

35
36 In order, therefore, to ensure the right of the three Accused persons to a fair and expeditious trial
37 without further delay, and following the decision of the Trial Chamber of the 8th of June 2004 and the

1 consequential order of the 14th of June 2004 on this issue which I have just read, the Trial Chamber
2 has been informed by the Registrar that the first Accused stand-by counsel team will comprise the
3 following stand-by counsel: Dr. Bu-Buakie Jabbi of Sierra Leone, Mr. John Wesley Hall of the United
4 States, Ms. Quincy Whitaker of England, Mr. Tim Owen, QC, Queens Counsel, of England, and, in the
5 interim, Mr. Yillah, Ibrahim Yillah, Counsel in the Office of the Principal Defender of the Special Court,
6 shall serve in Mr. Norman's stand-by counsel team.

7
8 In the light of the foregoing, it is very clear that neither the Court nor the Prosecution nor the Registrar
9 or the Registry bears any responsibility whatsoever for the delay that has occurred in commencing the
10 proceedings in this case.

11
12 The Chamber now counts on all these counsel to assist it and to work towards contracting the fairness
13 and expeditiousness of this trial and protecting the integrity of the proceedings.

14 JUDGE BOUTET:

15 Mr. Presiding Judge, if I may, I would like to ask the Prosecution at this time that -- whether they
16 would be prepared to call their first witness tomorrow, obviously after the Court has heard the opening
17 statement by Mr. Norman which --

18 MR. CARUSO:

19 Yes.

20 JUDGE BOUTET:

21 -- for the time being we assume will be in the morning, and should that happen tomorrow morning we
22 would like to be informed if the Prosecution is ready to proceed to call their first witness tomorrow.

23 MR. CARUSO:

24 We are, Your Honour. We will be calling our first witness tomorrow, as you wish.

25 JUDGE BOUTET:

26 Thank you.

27 MR. PRESIDENT:

28 This matter is adjourned to tomorrow at 9:30 a.m. and the Court stands adjourned.

29 *(Court adjourned at 1557H)*

30 *(Pages 13 to 18 by Gifty C. Harding)*

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CERTIFICATE

We, Momodou Jallow, Susan G. Humphries and Gifty C. Harding, Official Court Reporters for the Special Court for Sierra Leone, do hereby certify that the foregoing proceedings in the above-entitled cause were taken at the time and place as stated; that it was taken in shorthand (*machine writer*) and thereafter transcribed by computer; that the foregoing pages contain a true and correct transcription of said proceedings to the best of our ability and understanding.

We further certify that we are not of counsel nor related to any of the parties to this cause and that we are in nowise interested in the result of said cause.

Momodou Jallow

Susan G. Humphries

Gifty C. Harding