

Case No. SCSL-2004-15-T
THE PROSECUTOR OF
THE SPECIAL COURT
V.
ISSA SESAY
MORRIS KALLON
AUGUSTINE GBAO

FRIDAY, 24 MARCH 2006
9.45 A.M.
TRIAL

TRIAL CHAMBER I

Before the Judges:	Pierre Boutet, Presiding Bankole Thompson Benjamin Mutanga Itoe
For Chambers:	Ms Candice Welsch Mr Matteo Crippa
For the Registry:	Mr Geoff Walker Ms Maureen Edmonds
For the Prosecution:	Mr Peter Harrison Ms Shyamala Alagendra Mr Mark Wallbridge (Case Manager)
For the Principal Defender:	NO APPEARANCE
For the accused Issa Sesay:	Mr Wayne Jordash Ms Sareta Ashraph
For the accused Morris Kallon:	Mr Shekou Touray Mr Melron Nicol-Wilson Ms Ayesa Touré
For the accused Augustine Gbao:	Mr Andreas O'Shea Mr John Cammegh

1 [RUF24MAR06A-RK]
2 Friday, 24 March 2006
3 [The accused present]
4 [Open session]
09:41:16 5 [Upon commencing at 9.45 a.m.]
6 PRESIDING JUDGE: Good morning. Good morning, Mr Cammegh.
7 MR CAMMEGH: Good morning, Your Honour.
8 PRESIDING JUDGE: We are back with you this morning?
9 MR CAMMEGH: We have asked the witness to be kept out
09:47:49 10 temporarily. As I indicated yesterday evening, Your Honour,
11 Augustine Gbao has one or two concerns he'd like to address you
12 on. I would leave it to Your Honours to direct how he should
13 proceed.
14 PRESIDING JUDGE: You may remain in your position. I wish
09:48:12 15 to inform you, Mr Cammegh, that we are not prepared to hear
16 Mr Gbao and Mr Gbao should be informed that if he wants to
17 address the Court, he's got to do it through his counsel. If his
18 comments and remarks to the Court have to do with appointment of
19 counsel, we are not prepared to entertain any such application.
09:48:33 20 Regardless of what it is, we have made a decision. We have
21 communicated our decision through the Principal Defender. This
22 is the decision of the court and this is a unanimous decision,
23 and we do not intend to remove any counsel on his team. We are
24 not prepared to hear you, Mr Gbao.
09:49:02 25 THE ACCUSED GBAO: [Microphone not activated].
26 PRESIDING JUDGE: Mr Gbao.
27 JUDGE ITOE: We are not prepared to hear you, Mr Gbao.
28 This is not a political forum or a political arena. This is a
29 court of law. We are not prepared to hear you.

1 THE ACCUSED GBAO: [Microphone not activated]

2 PRESIDING JUDGE: Mr Gbao, we are not prepared to hear you.
3 We have just said that. We have informed your counsel. You are
4 in court. You have heard the comments we've made. You've heard
09:49:26 5 Justice Itoe tell you that we are not prepared to hear you. This
6 is the decision we have issued and we're not prepared to review
7 that decision as to who should or should not act as your counsel
8 in Court. This is the decision of the court. This is not, at
9 this time, a decision that we are prepared to review, in the
09:49:40 10 circumstances.

11 JUDGE ITOE: You want the removal of a counsel from your
12 team. The Court has ruled that we are not removing that counsel
13 from the team. That is the decision of the Court.

14 THE ACCUSED GBAO: [Microphone not activated]

09:50:00 15 JUDGE ITOE: You are receiving it verbally now. You will
16 receive it in due course in a written form.

17 PRESIDING JUDGE: I have informed the Principal Defender on
18 17 March 2006 of the decision of the Court that we were prepared
19 and agreed with his recommendation that one other Sierra Leonean
09:50:13 20 lawyer could be added to the team, and the name of that lawyer is
21 known to you because it is a name that you had proposed. We have
22 agreed that this additional lawyer --

23 THE INTERPRETER: Your Honours, could you please go slowly
24 so the interpretation could be done?

09:50:33 25 PRESIDING JUDGE: Thank you, Mr Interpreter. I have said
26 that he have informed the Principal Defender, through
27 correspondence to him on the 17th of March 2006, as to what we
28 considered to be the composition of your defence team, and we
29 have informed the Principal Defender at that time that we have

1 agreed with his recommendation that it would be useful to have a
2 competent Sierra Leonean lawyer added to your team, and agreed
3 that the lawyer to be added to your team could be Mr Shears
4 Moses [phon], a name that you had suggested, but we also
09:51:24 5 indicated to the Principal Defender that we are not prepared to
6 change the structure of your defence team. If Mr Shears Moses
7 were to be added to the team, he would form part of the team
8 after discussing with the actual team leaders, and he would not
9 be either lead counsel or co-counsel.

09:51:47 10 This is the decision of the Court, and this is the position
11 we communicated to the Principal Defender. Whether now he has
12 referred that information back to you, I am not in a position to
13 say. All I can say is that this is information we have given to
14 him. If you have not been privy to that information, I can ask
09:52:02 15 the Principal Defender to copy the letter we forwarded to him to
16 you so you are fully informed of what it is.

17 THE ACCUSED GBAO: [Microphone not activated]

18 JUDGE THOMPSON: I would like to add, Mr Gbao, that I,
19 Justice Bankole Thompson, give my unqualified support to that
09:52:27 20 decision. It seems to me the correct decision to take at this
21 time in the interests of justice, and also to ensure that this
22 trial proceeds with a greater degree of expedition. I want to
23 repeat this morning that I support without any reservation, that
24 decision and I think it is a decision taken in the interests of
09:52:53 25 justice.

26 We cannot have these trials delayed or chequered by reason
27 of changing of counsel midstream at the whim or the caprice of
28 defence or the accused person. It is important that you
29 recognise that, for some reason, the Court has considered it

1 reasonable that your request for someone of your choice be even
2 given consideration. That is what we did. Clearly, this
3 position is firm and, as the Presiding Judge has said,
4 irrevocable.

09:53:46 5 THE ACCUSED GBAO: It is obvious I have received that
6 document which the Presiding Judge has just indicated. What is
7 the problem here, My Lord, is that I believe other accused have
8 already been -- I mean, enjoyed the privilege of changing their
9 legal counsel, and at the same time --

09:54:10 10 PRESIDING JUDGE: Mr Gbao, we're not prepared to hear you
11 on this. I've just informed you. We're not prepared to hear any
12 further arguments on this. The information you have provided to
13 us, through the Principal Defender -- you wrote to the Bench. We
14 have assessed dutifully all the information that was provided to
09:54:30 15 us and we have determined that, in the circumstances, we are not
16 prepared, and I underline, we are not prepared to change the
17 status of your defence team.

18 They have acted, to our own knowledge and perception, to
19 the best of their ability to properly defend you while you were
09:54:51 20 not in court, and we are not prepared at this juncture and in
21 those circumstances to change the dynamics of that team. This is
22 our firm decision that we are not prepared to change, that they
23 are to be part of your defence team. They are to be the lead
24 counsel of your defence team. The only change we're prepared to
09:55:11 25 make is to add the person you have suggested, but that person
26 will be added to the team in the conditions we have described -
27 no more.

28 THE ACCUSED GBAO: [Overlapping speakers]

29 JUDGE ITOE: Let me -- please, please, listen.

1 THE ACCUSED GBAO: -- that I want to [overlapping
2 speakers].

3 JUDGE ITOE: Would you listen to me, please, Mr Gbao?

4 THE ACCUSED GBAO: Sorry, Your Honour.

09:55:37 5 JUDGE ITOE: This decision is made in your interests
6 because we are on the 67th or 66th witness. Counsel for your
7 choice is the counsel the Chamber says you can have, and even if
8 Mr Shears Moses comes on board, it is quite a Herculean task for
9 him to be able to be very serviceable to you. It will take time
09:56:04 10 for him to review the evidence of 66 witnesses and the documents
11 before he really becomes effective in the defence of your
12 interests. It is because of these interests, which are yours,
13 and which we, as a court, are mandated to defend, we are saying
14 that your defence team will remain as it is, but we respect your
09:56:30 15 views that Mr Shears Moses should join in it and continue with
16 his colleagues professionally to continue defending your
17 interests.

18 THE ACCUSED GBAO: Your Honour, the person in my team, in
19 my legal team presently that I do not want, that I do not trust,
09:56:45 20 that I do not have confidence in is Professor O'Shea.
21 John Cammegh is quite okay, I should work around with him and
22 Shears Moses.

23 PRESIDING JUDGE: Mr Gbao, we've heard you and we have
24 given you our decision. We reiterate here that we are not
09:56:59 25 prepared to make any change to that decision. We have issued
26 orders in the past as to your application to withdraw counsel.
27 We still stand by these orders. We have agreed to add one
28 additional component to your defence team at your request,
29 because we felt it might be in your interest and the interests of

1 justice that there be a Sierra Leonean lawyer as part of your
2 team. That is all. As far as we are concerned, that ends the
3 matter.

4 JUDGE THOMPSON: Why can't you understand this? As the
09:57:32 5 best the Court can do, we don't want to delay these trials. You
6 people are in detention. You want to know your fate as quickly
7 as possible. Doing what you are suggesting may well, in fact,
8 impede the progress towards an expeditious trial. We have acted
9 in the interests of justice and also in your interest. Why is it
09:57:57 10 so difficult for you to appreciate that the Court has in fact
11 implemented your wish?

12 The difficulty, of course, we find ourselves in is to allow
13 accused persons to come every morning here and tell us, "We don't
14 want this person to go on with our trial," and actually obstruct
09:58:18 15 the progress of the administration of justice. This Court has a
16 limited time mandate. Why is it so difficult for you to
17 understand that? I am at a loss.

18 PRESIDING JUDGE: That concludes the matter, Mr Gbao. We
19 are not prepared to hear you any more and we are not prepared to
09:58:42 20 entertain any more comments on that. We shall proceed with the
21 trial. Please sit down.

22 THE ACCUSED GBAO: Does it mean Professor O'Shea is imposed
23 on me?

24 PRESIDING JUDGE: Yes, he is imposed on you like Mr Cammegh
09:58:51 25 was imposed on you.

26 JUDGE ITOE: Let us tell you that the counsel of your
27 choice is absolute. He's not your absolute choice. It's not
28 your decision. It can be controlled by the Court. It is not an
29 absolute notion that you can get up one morning and dismiss a

1 counsel from the proceeding, no.

2 THE ACCUSED GBAO: Your Honour, I mean, in actual fact he
3 could even be --

4 JUDGE ITOE: I think they should call in the witness so
09:59:10 5 that we can start the proceedings.

6 PRESIDING JUDGE: Mr Gbao, please be seated so the Court
7 can conduct its procedure properly. We have heard you this
8 morning. We've given you more time than we thought we would give
9 you. You've heard our comments, you've heard our point of view.
09:59:24 10 Please be seated so we can proceed properly.

11 THE ACCUSED GBAO: Thank you, Your Honour.

12 JUDGE THOMPSON: We do not want to rule that your conduct
13 is disruptive. We think you have made your point and that is
14 what we've decided.

09:59:42 15 THE ACCUSED GBAO: Thank you, Your Honour.

16 PRESIDING JUDGE: We shall proceed now with the
17 cross-examination - that is where we were, Mr Jordash - of the
18 next witness and that witness is in a closed session. We will
19 ask Court Management to make the necessary arrangements so we can
09:59:57 20 proceed to hear the cross-examination of this witness and that
21 witness should be brought in to the witness chair.

22 [At this point in the proceedings, a portion of the
23 transcript, pages 9 to 109, was extracted and sealed under
24 separate cover, as the session was heard in camera.]

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WITNESSES FOR THE PROSECUTION:

WITNESS: TF1-174 9

CROSS-EXAMINED BY MR JORDASH 9