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SCSL-11-02-PT (70-72)



SPECIAL COURT FOR SIERRA LEONE

TRIAL CHAMBER II

Before:

Justice Teresa Doherty, Presiding

Single Judge of Trial Chamber II

Registrar:

Ms. Binta Mansaray

Case No.:

SCSL-2011-02-PT

Date filed:

15 May 2012

SPECIAL COURT FOR SIERRA LEONF
RECEIVED
COURT MANAGEMENT

15 MAY 2012

SAIMWEL JAMES FORMAN

PROSECUTOR

Against

Hassan Papa Bangura Samuel Kargbo Santigie Borbor Kanu Brima Bazzy Kamara

PUBLIC PROSECUTOR'S ADDITIONAL SUBMISSIONS PURSUANT TO SCHEDULING ORDER OF 1 MAY 2012

Office of the Independent Counsel:

Mr Robert L. Herbst

Counsel for the Accused: Mr Melron Nicol Wilson

Chief Charles A. Taku Mr Kevin Metzger Mr A.F. Serry Kamal

Office of the Principal Defender: Ms Claire Carlton-Hanciles

- 1. In its 1 May 2012 Scheduling Order, the Trial Chamber directed the parties to file submissions on or before 15 May 2012 on the following propositions for the conduct of the trial:
- (i) The court shall consider submissions filed pursuant to R. 100 in respect of Samuel Kargbo and shall deliver its decision on sentence of the said Samuel Kargbo prior to the opening of the Prosecution case against Hassan Papa Bangura, Santigie Borbor Kanu, and Brima Bazzy Kamara.
- (ii) The hearing of the Prosecution case against all Accused shall be conducted in Freetown with a video link to Co-accused in Kagali.
- (iii) In the event of the Accused Hassan Papa Bangura electing to give evidence in defence or wishing to call witnesses in his defence any such evidence shall be heard and adduced in Freetown with a video link to Co-accused in Kagali.
- (iv) In the event of the Accused Santigie Borbor Kanu and/or Brima Bazzy Kamara electing to give evidence or intending to call evidence on their own behalf their defence any such evidence shall be heard and adduced in Kagali with a video link to Co-accused in Freetown[.]
- 2. The Prosecution has no objection to propositions (ii), (iii) and (iv), assuming that such reliable video links can be arranged.
- 3. With respect to proposition (i), however, we respectfully submit the following:
- 4. In Mr. Kargbo's plea agreement, we agreed to recommend that his sentencing be deferred until the conclusion of all trial proceedings against the co-accuseds to permit (a) Mr. Kargbo to fully perform his obligations under the terms of his plea agreement, (b) the Prosecution to fully evaluate the extent of that performance, and (c) the parties to make sentencing recommendations to the Court at a time when all the facts are available with respect to that performance.
- 5. At the 15 July 2011 hearing, in accordance with the plea agreement, the Prosecution and Mr. Kargbo jointly sought deferral of sentencing submissions and the sentencing itself, and the Court ruled that the filing of the Prosecution's brief on sentencing be deferred until four weeks before the date set by the Registrar for sentencing, with the Defence's reply to be filed one week thereafter. (15 July 2011 Transcript, page 57).

6. For the reasons set forth above, we respectfully submit that Mr. Kargbo's sentencing be deferred until after the trial of the co-accuseds. Proceeding in that fashion would permit both the Prosecution and the Defence to submit sentencing briefs with full knowledge of the extent of Mr. Kargbo's cooperation, and would permit the Court to sentence Mr. Kargbo with all the facts concerning both his actions and his cooperation.

Respectfully submitted,

Robert L. Herbst

Independent Counsel

Dated: 8 May 2012