

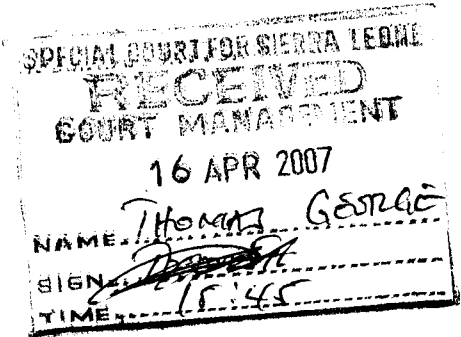
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SCSL-04-15-7
(27637 - 27639)

27637

SPECIAL COURT FOR SIERRA LEONE
TRIAL CHAMBER I

Before: Hon. Justice Bankole Thompson, Presiding Judge
Hon. Justice Pierre Boutet
Hon. Justice Benjamin Mutanga Itoe



Acting Registrar: Mr. Herman Von Hebel

Date filed: 16 April 2007

THE PROSECUTOR

Against

ISSA HASSAN SESAY
MORRIS KALLON
AUGUSTINE GBAO

Case No. SCSL -2004-15-T

PUBLIC

GBAO – REQUEST FOR THE GBAO OPENING STATEMENT TO BE GIVEN AT THE
BEGINNING OF THE PRESENTATION OF EVIDENCE FOR THE THIRD ACCUSED

Office of the Prosecutor

Peter Harrisson
Mohamed A. Bangura
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James C. Johnson
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Court Appointed Counsel for Gbao

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Defence Counsel for Kallon

Shekou Touray
Charles Taku
Melron Nicol-Wilson

Defence Counsel for Sesay

Wayne Jordas
Sareta Ashraph

1. According to the Chamber's order of 30 October 2006, the defence case in the RUF trial is due to start on 2 May 2006.¹ By virtue of Rule 84 of the Rules of Procedure and Evidence, each party is entitled to make an opening statement at the beginning of his case. The Rule provides specifically that:

At the opening of his case, each party may make an opening statement confined to the evidence he intends to present in support of his case. The Trial Chamber may limit the length of those statements in the interests of justice.

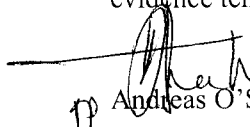
2. It is submitted that the natural and ordinary meaning of 'the opening of his case, each party' is that the appropriate moment for the making of an opening statement is at the beginning of the evidence for that party. This accords with the principle that the Accused should be treated the same as if they were tried separately even though tried together.
3. In the alternative, in so far as there is any ambiguity, it is submitted such ambiguity should be determined in favour of the Accused.
4. In the alternative, the rule is either capable of meaning 'at the start of the evidence for a party' or the judges have the discretion, under Rule 54 alone or in combination with rule 84, to defer the opening statement in the interests of justice. The size of this case means that any opening statement made before the evidence for the first Accused, would have less impact and meaning than if given at the beginning of the evidence for the third Accused. In case the opening statement is given at the beginning of the presentation of the defence case for the first Accused, there is likely to be a significant space of time between the statement being given and the evidence for the third Accused starting. In addition, the evidence which may be presented for the third Accused may differ or be reduced after the evidence for other Accused has been tendered.

ACCORDINGLY, it is requested that the Chamber either applies Rule 84 of the Rules of procedure and evidence, or in the alternative applies their discretion under Rule 54 alone or

¹ Scheduling Order Concerning the Preparation and Commencement of the Defence Case of 30 October 2006, Trial Chamber I, paragraphs 1. (Hereinafter "Scheduling Order of 30 October 2006").
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in combination with Rule 84, in the interests of justice, to defer the opening statement of the third Accused until the beginning of the case for the third Accused meaning the start of evidence tendered on his behalf.


r Andreas O'Shea

For Augustine Gbao,
16 April 2007.