

THE SPECIAL COURT FOR SIERRA LEONE

CASE NO.: SCSL-04-14-T
TRIAL CHAMBER I

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

23 JUNE 2004
1434H
CONTINUED TRIAL

Before the Judges:

Benjamin Mutanga Itoe, Presiding
Bankole Thompson
Pierre Boutet

For the Registry:

Ms. Maureen Edmonds

For the Prosecution:

Mr. Charles Caruso
Mr. James Johnson
Ms. Adwoa Wiafe

For the Accused Sam Hinga Norman:

Dr. Bu-Buakei Jabbi
Mr. Ibrahim Yillah
Mr. John Wesley Hall
Mr. Quincy Whitaker

For the Accused Moinina Fofana:

Mr. Arrow Bockarie
Mr. Michel Uiterwaal

For the Accused Allieu Kondewa:

Mr. Charles Margai
Mr. Yada Williams

Court Reporter:

Ms. Gifty C. Harding

P R O C E E D I N G S

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MR. PRESIDENT:

The session resumes. We mightn't be coming back to that all the time, but I suppose appearances are as before, unless we have evidence of some resignations, which I do not think is the case here now.

We have taken care of what in French we call our *cuisine interieur*, matters relating to our kitchen and what we have to eat. This said, we shall be delivering our decision on Mr. Norman's request, you know, which was made before this Court on the 17th and on the 18th, you know, of this month. And the decision will be read and delivered by Honourable Judge Boutet.

MR. JABBI:

My Lord -- My Lords, I'm sorry to have to intervene at this stage. I am informed that the first Accused has a preliminary observation to make in respect of that ruling before it is delivered, My Lord. It's just a preliminary observation.

MR. PRESIDENT:

Yes, please, you may make your preliminary observation, Mr. Norman.

THE ACCUSED NORMAN:

Thank you, My Lord. I did inform my stand-by counsel that from the time of request to Your Lordships right up to my appearing before you here today I did not observe nor did I notice or see any follow up from the Registry into the conditions about which I made my reports and requests to Your Lordships. That's all I wanted to say.

MR. PRESIDENT:

All right, it's noted. But let me inform you that the Registrar has been very, very active looking into this. He's been very, very active, you know, looking into these -- the requests which you have made, and I think he went into it in a lot of detail, even holding -- and holding meetings to see, you know, how far he could meet up with your request.

THE ACCUSED NORMAN:

Thank you.

MR. PRESIDENT:

So the Registrar certainly has done his job, Mr. Norman.

MR. NORMAN:

Thank you.

MR. PRESIDENT:

Right. Yes.

JUDGE BOUTET:

Thank you.

1 Decision on request by Samuel Hinga Norman for additional resources to prepare his Defence. The
2 Trial Chamber of the Special Court for Sierra Leone, composed of Judge Benjamin Mutanga Itoe,
3 Presiding Judge, Judge Bankole Thompson, and Judge Pierre Boutet, seized of the request by
4 Samuel Hinga Norman, Accused's request for adequate resources to prepare his defence made
5 during trial proceedings on the 17th and 18th of June 2004.

6
7 I will not read the whole decision but move to the salient parts of that decision and I will also inform all
8 parties that this decision will be filed right after this Court hearing this afternoon. So --

9
10 Findings of the Trial Chamber: By a letter of the 3rd of June 2004, the Accused submitted his
11 intention to represent himself in the criminal proceedings against him. By a decision of the 8th of
12 June 2004, the Trial Chamber held that the Accused had a qualified right to represent himself. By
13 virtue of this decision and the consequential order issued by the Chamber on the 14th of June 2004,
14 the Trial Chamber ordered the Registrar to appoint stand-by counsel whose role is defined in the said
15 order.

16
17 The Trial Chamber is now seized with a request from the Accused to provide him with adequate and
18 effective resources to assist him in conducting his defence.

19
20 In making a determination on this request, the Trial Chamber has been guided by the report of the
21 Registrar on this issue.

22
23 The Trial Chamber also refers, in particular, to certain provisions of Article 17 of the Statute which set
24 out minimum guarantees to which an Accused person, appearing before the Special Court, is entitled,
25 and which include the right to have adequate time and facilities for the preparation of his defence.

26 Article 17 – 17 provides, in part one in this respect, as follows:

27
28 One, all Accused shall be equal before the Special Court;

29
30 Two, the Accused shall be entitled to a fair and public hearing subject to measures ordered by Special
31 Court for the protection of victims and witnesses;

32
33 Four (*sic*), in determination of any charge against the Accused, pursuant to the present Statute, he or
34 she shall be entitled to the following minimum guarantees in full equality. And so paragraph B, to
35 have adequate time and facilities for the preparation of his or her defence and to communicate with
36 counsel of his or her own choosing.

1 With respect to the specific request of the Accused, the Trial Chamber finds as follows:

2
3 Request for computer: The Trial Chamber grants the request of the Accused for a computer set. The
4 Accused shall be provided with a desktop computer and printer in his cell for use at any time.

5 On the basis of security concerns, however, expressed by the Registrar, including the acting chief of
6 the detention facility and the chief of security for the Special Court, the computer will not be connected
7 to the Internet or Special Court Network. Should any materials be required by the Accused from
8 these resources, he may make a request to the Defence office and/or his stand-by counsel to provide
9 such necessary materials.

10
11 Request for telephone: Currently the Accused is provided with a wireless DECT phone which he can
12 use from any location within the detention facility between the hours of 7 a.m. to 9 p.m., in accordance
13 with Rule 44(A) of the Rules governing the detention of persons awaiting trial or appeal before the
14 Special Court for Sierra Leone or otherwise detained on the authority of the Special Court for Sierra
15 Leone, called Rules of Detention, adopted on the 7th of March 2003 and amended on the 25th of
16 September 2003 and the 4th of May 2004, telephone calls between accused and counsel are
17 privileged unless otherwise ordered by a judge or a chamber.

18
19 The Trial Chamber considered that the Accused may further assisted -- may be further assisted,
20 pardon me, by placing a stationary desk telephone in his cell which he can use at any time for the
21 purpose of being in contact with his stand-by counsel. The phone will be programmed with the
22 telephone numbers of his stand-by counsel both inside and outside Sierra Leone.

23
24 As telephone costs are borne by the Court, usage will be reviewed to ensure that the number and
25 duration of telephone calls are -- is reasonable.

26
27 Request for stationery: The detention facility provides stationery to detainees and should continue to
28 provide the Accused with stationery requests which shall be reasonable and proportionate to the
29 requirements of representing himself on the understanding that the Chamber has assigned stand-by
30 counsel -- has assigned stand-by counsel to assist him in the process.

31
32 Request for assistance: The Trial Chamber considers that the provision of four stand-by counsel to
33 the Accused to assist him in the defence of his case, is adequate and it is not necessary to appoint an
34 additional assistant.

35
36 Request for investigator: The Trial Chamber considers that any investigations required by the
37 Accused for his defence at trial is a matter within the competence of the Defence Office, who shall

1 make the necessary arrangements that are required.

2
3 Request for modification of lock-up hours: The Trial Chamber considers that the lock-up hours for the
4 detention facility from 10 p.m. to 7 a.m. each day are reasonable. Furthermore, upon being provided
5 with the computer and a stationary phone in his cell, the Accused may continue to prepare his case
6 after lock-up time. Where exceptional circumstances would exist, and on a case by case basis, he
7 may apply to the detention facility to be outside his cell beyond the regular lock-up hours.

8
9 Request for exercise and food: According to the findings of the Registrar, the standard applied for
10 exercise and food for detainees at the detention facility is in conformity with prescribed international
11 standards verified from time to time by the International Committee for the Red Cross. The Trial
12 Chamber accordingly finds no merit in these requests.

13
14 For all of the above stated reasons, the Trial Chamber grants the request of the Accused for a
15 computer set and a personal telephone and orders that the Registrar provide him with a desktop
16 computer and printer, and a stationary desk telephone to be set up in his cell for his use at any time.

17
18 The Trial Chamber further orders that the detention facility provides the Accused with stationery within
19 reasonable limits and proportionate to his needs, his needs to present his own defence considering
20 the availability to him of his stand-by counsel.

21
22 Done in Freetown, Sierra Leone, this 23rd day of June 2004.

23
24 This is the decision of the Court.

25 MR. PRESIDENT:

26 Mr. Walker? That is the decision of the Court.

27 MR. WALKER:

28 Thank you.

29 MR. PRESIDENT:

30 Let it please be registered in Court Management and distributed to the parties today, at least before
31 the close of the day.

32
33 And if counsel would wish to facilitate the exercise, I think they can call at Court Management, you
34 know, to pick up copies of the decision rather than wait for them to be sent to you by post.

35
36 So, that is that. We shall soon be rising, but before that, you know, we would like to indicate that we
37 are adjourning the delivery of our decision -- our reasoned decision on outstanding issues to the 16th

1 of July 2004 -- on the 16th of July 2004. And we have it on the trial schedule that this trial will resume
2 on the 8th of September 2004. If there are any changes to these schedule, to this particular
3 schedule, counsel will be informed -- counsel and all the Accused persons will be informed by the
4 Court Management.

5
6 Are there any -- any -- well, this is not a status conference, you know, but are there any -- are there
7 any -- you need any clarifications on this, please, before we rise?

8 MR. MARGAI:

9 Except as to the time on 8th September 2004; 9:30, 10 o'clock?

10 MR. PRESIDENT:

11 Nine thirty.

12 MR. MARGAI:

13 As My Lord pleases. Thank you.

14 MR. PRESIDENT:

15 Yes. We want to be here on time, but you see, we have -- we normally have some technical issues to
16 iron out, you know, before we come here, so you should please understand that if we do come a bit
17 late it is not deliberate. We are usually busy doing something that concerns the smooth functioning of
18 the Court.

19
20 Yes, as I said, you know, on the 16th, it will just be a question of -- there will be no matter fixed so the
21 Prosecution should not bother to come with any -- any witnesses. We are only going to deliver a
22 decision and that is all that the agenda for that day, you know, calls for. And, of course, the trial will
23 resume on the 8th of September 2004. Let me say, at 9:30, at 9:30.

24 JUDGE THOMPSON:

25 Yes, Mr. Jabbi.

26 MR. JABBI:

27 My Lord, what would be the time for the session on the 16th as well, 16th of September -- I mean,
28 July; 9:30, or two o'clock?

29 MR. PRESIDENT:

30 Yes, 10:00, 10:00, please, 10:00.

31 JUDGE BOUTET:

32 Ms. Whitaker, was it the same question or you had --

33 MS. WHITAKER:

34 No, My Lord, I was -- it was concerning the matter of payments to the witnesses which was left over
35 from yesterday which I wondered if I could raise.

36 MR. PRESIDENT:

37 We wouldn't want to pursue that matter for very particular reasons. You will get to know them later. I

1 think you better let it rest there for now.

2 MS. WHITAKER:

3 My Lord, I've been in discussion with the Prosecution and we've agreed that it would be appropriate to
4 raise one matter on record before the Court.

5 MR. PRESIDENT:

6 No, let us leave it to rest there. We'll look at that document, you know, when we next, you know,
7 meet.

8 MS. WHITAKER:

9 It's not that document, My Lord.

10 MR. PRESIDENT:

11 Which one is this?

12 MS. WHITAKER:

13 It's the receipts that the Prosecution very properly disclosed to us yesterday which showed that the
14 witness had been paid. We then had discussion about obtaining this kind of documentation through
15 the other witnesses that had been disclosed, as is entirely proper in our entitlement, and my learned
16 friend, Mr. Caruso, very properly has agreed to provide that material that is within the Office of the
17 Prosecutor. Some of it, however, is within the witness support team and we would ask, through the
18 Court, whether that could also be provided. It's simply that it's not within his possession, although I
19 believe that he'd accept that it was appropriate for us to have it.

20 MR. PRESIDENT:

21 We would let that matter rest there for now and we will revisit it, you know, in due time.

22 MS. WHITAKER:

23 My Lord, the difficulty is, of course, we leave -- we leave the country now, and we need to have --

24 MR. PRESIDENT:

25 There are many electronic means of contacting you and what have you. You have -- in any event,
26 Dr. Jabbi is here, and Mr. Yillah is here. So, whether you are here or not, you know, these trials will
27 go on.

28 MS. WHITAKER:

29 Of course, My Lord, but I didn't understand this to be contentious about it. It's simply that the
30 Prosecutor have asked if I could ask for it through the Court because this material is not in their
31 possession. But quite properly, it ought to be disclosed to us.

32 MR. PRESIDENT:

33 I think that we have sent the message across. It's okay. The Court will rise, please.

34 *(Court adjourned at 1453H)*

35 *(Pages 1 to 6 by Gifty C. Harding)*

36

37

CERTIFICATE

I, Gifty C. Harding, Official Court Reporter 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 my ability and understanding.

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

_____ Gifty C. Harding