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SCSL - 2003 - 11 - PD

(11-13)



SPECIAL COURT FOR SIERRA LEONE

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Before: Judge Pierre Boutet

Registry: Mr. Robin Vincent

Decision of: 28th May 2003

THE PROSECUTOR

Against

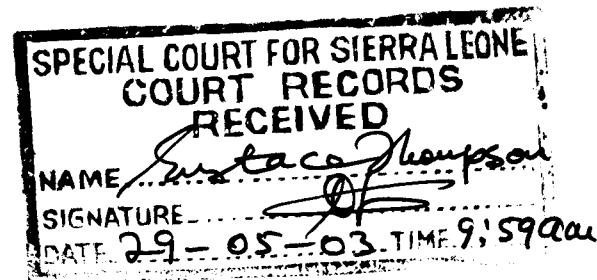
MOININA FOFANA

CASE NO. SCSL-2003-11-PD

**ORDER FOR TRANSFER AND PROVISIONAL DETENTION PURSUANT TO
RULE 40bis**

The Office of the Prosecutor:

Mr. James C. Johnson



THE SPECIAL COURT FOR SIERRA LEONE (“the Special Court”),

SITTING AS Judge Judge Pierre Boutet designated pursuant to Rule 28 of the Rules of Procedure and Evidence (“the Rules”);

HAVING RECEIVED on the 26 May 2003 from the Prosecutor pursuant to Rule 40 *bis*, a request for the transfer and provisional detention of the suspect, MOININA FOFANA;

CONSIDERING the declaration dated 26 May 2003, attached to the said request from the Prosecutor and signed by Tamba P. Gbekie, Investigator at the Office of the Prosecutor;

CONSIDERING the formal request dated 24 May 2003, addressed by the Prosecutor to the authorities of the Republic of Sierra Leone pursuant to Rule 40 of the Rules to arrest and hold in custody the said suspect, MOININA FOFANA;

WHEREAS the authorities of the Republic of Sierra Leone are expected to grant the said request of the Prosecutor and arrest MOININA FOFANA without undue delay;

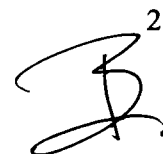
WHEREAS the Prosecutor reports that he is investigating crimes allegedly committed by MOININA FOFANA in the territory of Sierra Leone since 30 November 1996, crimes which fall within the jurisdiction of the Special Court;

WHEREAS, according to the Prosecutor, MOININA FOFANA participated in widespread attacks which included the unlawful killing of and infliction of serious bodily harm on civilians and captured enemy combatants and the looting and destruction of civilian property;

WHEREAS the Prosecution has included provisional charges and a brief summary of the supporting material;

WHEREAS the Special Court considers, on the basis of the request submitted by the Prosecutor, and on the evidence brought to its attention in the affidavit attached to the request, that there is reason to believe that MOININA FOFANA may, in the light of the above have committed SERIOUS VIOLATIONS OF INTERNATIONAL HUMANITARIAN LAW, CRIMES AGAINST HUMANITY, VIOLATIONS OF ARTICLE 3 COMMON TO THE GENEVA CONVENTIONS AND OF ADDITIONAL PROTOCOL II, punishable respectively under Article 4.b., Article 2.a., Article 3.a. and Article 3.c. of the Statute of the Special Court (“the Statute”);

WHEREAS, furthermore, the Prosecutor contends that the provisional detention of MOININA FOFANA is a necessary measure to prevent his escape and also to prevent the suspect from seeking to intimidate or to cause bodily harm to victims or witnesses or to destroy evidence, or to be otherwise necessary for the conduct of the investigation in the matter concerning him;



WHEREAS, the Judge, in light of the above, considers that the provisional detention of MOININA FOFANA is necessary;

NOW THEREFORE: I, Judge Pierre Boutet, for all the aforementioned reasons advanced by the Prosecutor;

RULE that the request submitted by the Prosecutor for the transfer and provisional detention of MOININA FOFANA satisfies the conditions laid down by Rule 40 *bis* (B) of the Rules;

ON THESE GROUNDS,


GRANT the request submitted by the Prosecutor and consequently:

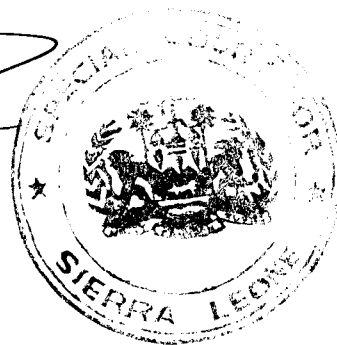
ORDER that MOININA FOFANA be transferred as soon as possible to the Detention Facility of the Special Court;

ORDER FURTHER that MOININA FOFANA be kept in provisional detention for a maximum of thirty days, with effect from the day after his transfer, and that he, in accordance with Rule 40 *bis* (J) of the Rules, be brought before me or another Judge designated under Rule 28 of the Rules, to ensure that his rights are respected;

INSTRUCT the Registrar to serve the present Order on the Authorities of the Government of Sierra Leone, for its immediate execution, upon the arrest of MOININA FOFANA by the Sierra Leone Police, pursuant to the provisions of Section 20 of the Special Court Agreement 2002 (Ratification) Act.

Done in Freetown, this 28th day of May 2003.


Judge Pierre Boutet
Designated Judge



Seal of the Special Court for Sierra Leone