

SCSL-2004-14-T
(12522-12524)

12522

384



SPECIAL COURT FOR SIERRA LEONE

JOMO KENYATTA ROAD • FREETOWN • SIERRA LEONE

PHONE: +1 212 963 9915 Extension: 178 7000 or +39 0831 257000 or +232 22 295995

FAX: Extension: 178 7001 or +39 0831 257001 Extension: 174 6996 or +232 22 295996

THE TRIAL CHAMBER

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

Registrar: Robin Vincent

Date: 28th of April, 2005

PROSECUTOR **Against** **SAM HINGA NORMAN**
MOININA FOFANA
ALLIEU KONDEWA
(Case No.SCSL-04-14-T)

DECISION ON REQUEST FOR STAYED WITNESS INDEXING

Office of the Prosecutor:

Luc Côté
James Johnson
Kevin Tavener

Court Appointed Counsel for Sam Hinga Norman:

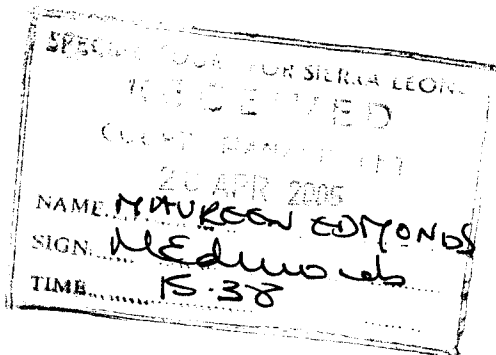
Dr. Bu-Buakei Jabbi
John Wesley Hall, Jr.

Court Appointed Counsel for Moinina Fofana:

Michiel Pestman
Arrow Bockarie
Victor Koppe

Court Appointed Counsel for Allieu Kondewa:

Charles Margai
Yada Williams
Ansu Lansana



TRIAL CHAMBER I (“The Chamber”) of the Special Court for Sierra Leone (“Special Court”) composed of Hon. Justice Benjamin Mutanga Itoe, Presiding Judge, Hon. Justice Bankole Thompson, and Hon. Justice Pierre Boutet;

SEIZED of the *Defence Request for “Stayed” Witness Indexing* (“Request”), filed by Court Appointed Counsel for the First Accused on the 7th of March, 2005, where the Defence sought an order from the Chamber to the Prosecution to provide a comprehensive list of all Prosecution witnesses who have given testimony and those who the Prosecution will call to testify, in respect of the “stayed” portions of the Consolidated Indictment, in addition to providing trifurcated indexing of the “stayed” portions according to the categories of (a) new geographic locations, (b) extended time-scales or temporal jurisdictions and (c) new substantive elements of charges;

NOTING the *Prosecution Response to ‘Defence Request for “Stayed” Witness Indexing*, filed by the Prosecution on the 16th of March, 2005;

NOTING the *Defence Reply to Prosecution Response to Defence Request for “Stayed” Witness Indexing*, filed by the Defence on the 18th of March, 2005;

NOTING the Consolidated Indictment against the Accused, Sam Hinga Norman, Moinina Fofana, and Allieu Kondewa, approved on the 5th of February, 2004;

NOTING the *Order to the Prosecution to File Disclosure Materials and Other Materials in Preparation for the Commencement of Trial*, issued by the Trial Chamber on the 1st of April, 2004 (“Order of the 1st of April, 2004”) and the Prosecution’s subsequent filing on the 26th of April, 2004, of *Materials Filed Pursuant to Order to the Prosecution to File Disclosure Materials and Other Materials in Preparation for the Commencement of Trial of 1 April 2004*, which included, *inter alia*, a list of 158 witnesses the Prosecution intended to call and a summary of their expected testimony;

NOTING the *Prosecution Chart Indicating Documentary and Testimonial Evidence by Paragraph of Consolidated Indictment Pursuant to the Trial Chamber Order Dated 1 April 2004*, filed by the Prosecution on the 4th of May, 2005, which indicated by each paragraph of the Indictment, “the testimonial and documentary evidence upon which the Prosecution will rely to establish the allegations therein”;

NOTING the *Supplemental Materials Filed Pursuant to Order from the Bench During Pre-Trial Conference Held 28 April 2004 and Order to the Prosecution to File Disclosure Materials and Other Materials in Preparation for the Commencement of Trial of 1 April 2004* (“Modified Witness List”), filed by the Prosecution on the 5th of May, 2004, where the Prosecution reduced the total number of witnesses to 154;

NOTING the *Decision on Prosecution Request for Leave to Call Additional Witnesses*, issued by the Trial Chamber on the 29th of July, 2004, (“Decision of the 29th July, 2004”), where the Trial Chamber granted the request to add three witnesses to the Modified Witness List;

NOTING the *Decision on Prosecution Request for Leave to Call Additional Expert Witness Dr. William Haglund*, rendered by the Trial Chamber on the 1st of October, 2004 (“Decision of the 1st of October, 2004”), granting the Prosecution request to add the Expert Witness Dr. William Haglund to the Modified Witness List;

NOTING that the Prosecution submitted two tables listing 100 “core” witnesses, who they intend to call to testify at trial and 58 “back-up” witnesses, who they intend to call “only if it is later deemed necessary at trial” by its filing on the 8th of October, 2004,¹ and that the Prosecution filed a “Revised List of Prosecution Witnesses”, on the 3rd of February, 2005, reducing the number of witnesses on the “core” list to 82 by moving 18 witnesses to the “back-up” list (“Revised Witness List”);

CONSIDERING that the Prosecution have provided the Defence with the Revised Witness List of all witnesses to be called at trial, together with a summary of their expected testimony and a chart on the testimonial and documentary evidence upon which the Prosecution will rely to establish the allegations contained in the Consolidated Indictment;

CONSIDERING that the Prosecution have already put the Defence on notice as to the witnesses it intends to call and the evidence that it seeks to elicit from them with reference to each Count of the Indictment;

CONSIDERING that the Request of Court Appointed Counsel for the First Accused does not raise a fundamental issue about the fairness of the trial;

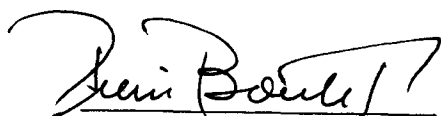
CONSIDERING that it would not be in the interests of justice for the Chamber to order the Prosecution to perform an administrative function that falls within the domain of the Defence and its own trial preparations;

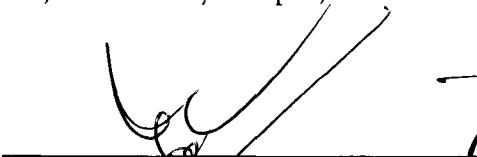
MINDFUL OF Rule 26bis of the Rules of Procedure and Evidence of the Special Court for Sierra Leone (“Rules”);

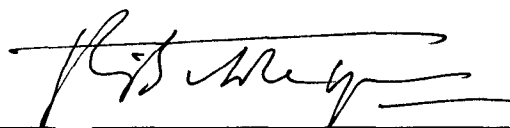
FOR THE ABOVE REASONS,

DENIES the Defence Request.

Done in Freetown, Sierra Leone, this 28th day of April, 2005


Hon. Justice Pierre Boutet


Hon. Justice Benjamin Mutanga Itoe
Presiding Judge,
Trial Chamber I


Hon. Justice Bankole Thompson

[Seal of the Special Court for Sierra Leone]



¹ Revised List of Prosecution Witnesses, p. 1