

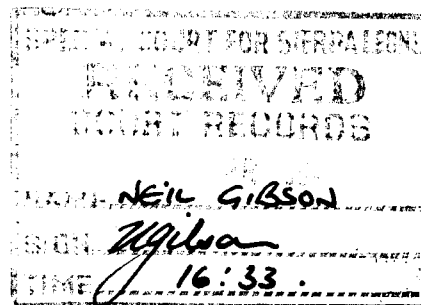
SPECIAL COURT FOR SIERRA LEONE

IN THE TRIAL CHAMBER

Before: Judge Bankole Thompson,
Designated Judge

Registrar: Robin Vincent

Date: 06 April 2004



PROSECUTOR Against

Samuel Hinga Norman
Moinina Fofana
Allieu Kondewa
(Case No. SCSL - 04-14-PT)

**DEFENCE RESPONSE TO INTERIM ORDER FREEZING BANK
ACCOUNT OF ACCUSED, AND SCHEDULING ORDER.**

Office of the Prosecutor

Desmond de Silva

Walter Marcus Jones

Defence Counsel for Sam Hinga Norman.

James Blyden Jenkins-Johnston

Sulaiman B. Tejan-Sie

DEFENCE COUNSEL for the Accused SAM HINGA NORMAN hereby gives this response to the Interim Order freezing the Bank Account of the Accused Sam Hinga Norman and the Scheduling Order made by Judge Bankole Thompson on Friday 2nd April 2004.

- (1) It is noted in the preamble to the said Order that the Learned Judge stated, *inter alia*, that

“.....Noting that despite the fact that the Motion has been filed *ex-parte* by the Prosecution, it has been erroneously served to Counsel for the Accused.....”

Counsel wishes to state that at no time was the said Ex-Parte Motion or any other motion touching and concerning the Accused's Bank Account ever served on Counsel for the Accused up to and including Monday 5th April 2004.

- (2) Counsel states that the Interim Order and Scheduling Order made by the Learned Designated Judge was served on Counsel for the Accused at his Chambers at 4 Percival Street, Freetown at precisely 6.03pm on Monday 5th April 2004 thereby making it impossible for the deadline set in the said Order for the Defence Counsel to file any response to the said Motion by 4pm on Monday 5th April 2004 to be met.

- (3) Counsel submits most respectfully that the said interim order directed to the Government of Sierra Leone

“...as an interim measure and with immediate effect to freeze the Account of the Accused numbered 210-006598-01 held at the Union Trust Bank (SL) Ltd. located in Lightfoot Boston Street, PMB 1237 until a decision on the Motion is rendered....”

was made contrary to the rules of Natural Justice in that neither the Accused nor his Counsel were heard on the reasons for the said Application before the Order was made.

See: - ADMINISTRATIVE LAW - by Professor HWR WADE Q.C.
Chapter 5 - Natural Justice PP 186 to 218.

Counsel submits that the said Interim Order should be rescinded or reversed.

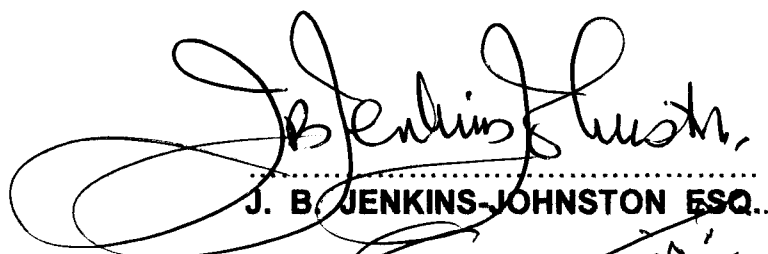
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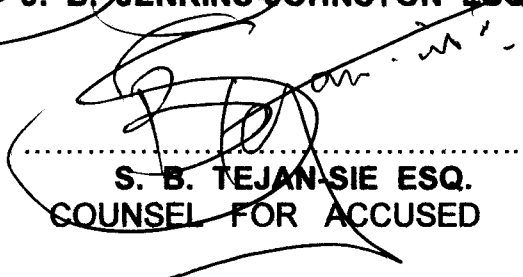
- (4) Counsel notes that the original order approving the Indictment made on the 7th March 2003 is referred to in the preamble to the Interim Order of 2nd April 2004, and submits that that order was made expressly subject to and “without prejudice to the rights of third Parties.”
- (5) Counsel submits that the said Interim Order is totally prejudicial to the rights of the Wife, Children *and* extended family of the Accused who are being maintained from the said Bank Account which is the only source from which this can be done, and has been so since the incarceration of the Accused on 10th March 2003.
- (6) Counsel is unaware of any facts relied upon by the Prosecution for their said Motion, or indeed of any authorities in support of such an application which would override the constitutional right of the wife *and* family of the Accused to a reasonably decent life such as can be provided only by the bread winner of the family, in this case, the Accused.
- (7) Counsel reminds the Court that the Accused is presumed innocent until proven guilty and submits that by freezing his only Bank Account and thereby the only means of support for his family, both he and his family are being collectively punished even before his trial commences.
- (8) Counsel submits that an order such as this which is bound to have the effects described above ought only to be made after a proper hearing *inter partes* on the merits with full disclosure of all facts and evidence relied on, and relevant authorities in support thereto cited to the Court.
- (9) Counsel would strongly urge the Court to rescind or reverse the interim order of the 2nd April 2004 seeking to freeze the Bank

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Account of the Accused, particularly so during this Easter Holiday and Independence Anniversary period.

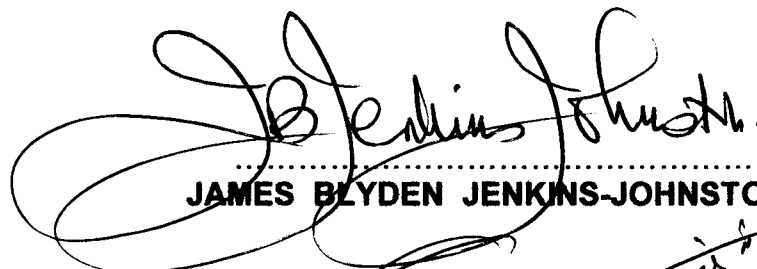
DATED THIS 6TH DAY OF APRIL 2004.


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J. B. JENKINS-JOHNSTON ESQ.

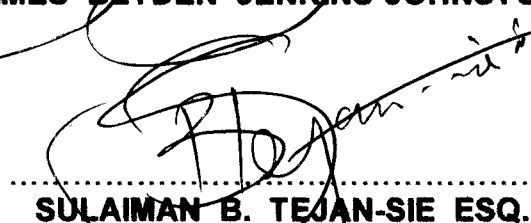

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S. B. TEJAN-SIE ESQ.
COUNSEL FOR ACCUSED

LIST OF AUTHORITIES in support of HINGA NORMAN Defence
Response to reverse Court's Interim Order of 2/4/04.

- (1) **Administrative Law**
By HWR Wade, Q.C., (3rd Edition)
 Chapter 5 - Natural Justice - Pages 186 to 218
- (2) **R v University of Cambridge**
(1723) 1. Str. 557
- (3) **RIDGE vs BALDWIN (1964)**
A. C. 40.
- (4) **Cooper vs Wandsworth Board of Works**
(1863) 14. CB (NS) 180.
- (5) **CONTEH vs REGINAM (1957/60)**
ALR/SL P.47 AT P.50 (WACA)
- (6) **HASSAN vs KAREFA-SMART**
(1962) at P.36 at PP 40 and 41.



JAMES BLYDEN JENKINS-JOHNSTON ESQ.



SULAIMAN B. TEJAN-SIE ESQ.