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SCSL-2004-14-T
(9671-9673)

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SPECIAL COURT FOR SIERRA LEONE

Before: Judge Benjamin Itoe
Judge Bankole Thompson
Judge Boutet

Registrar: Mr. Robin Vincent

Date Filed: 6th October 2004

THE PROSECUTOR

Against

SAM HINGA NORMAN

MOININA FOFANA

ALLIEU KONDEWA

CASE NO.SCSL-04-14-T

DEFENCE REPLY TO PROSECUTION RESPONSE TO NORMAN MOTION FOR
SERVICE AND ARRAIGNMENT ON SECOND INDICTMENT

Office of the Prosecutor

Court Appointed Counsel for Norman

Luc Cote

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Adwoa Wiafe

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I. BACKGROUND

1. The First Accused, Norman filed a motion for service and arraignment on the second indictment against him dated 20th September 2004. The Prosecution filed a response thereto on the 1st October 2004. The Defence hereby files a reply to the Prosecution response.

II. ARGUMENTS OF THE PROSECUTION

2. As regards service of the consolidated indictment on the First Accused, the Prosecution argues that although this has not been effected, nevertheless since service was effected upon his former defence team and the First Accused appeared in defence of himself against those charges in the first trial session and at the beginning of the second trial session, therefore no such service on the First Accused is required. The Prosecution also referred to this failure of service upon the First Accused as 'an administrative or procedural anomaly' (emphasis added) on the part of the Registry.
3. As regards the question of arraignment of the First Accused on the second indictment, the Prosecution submits that since there are no 'new expanded charges' or no new charges against him, there is no need for arraignment of the Accused on that indictment.
4. As to the First Accused's request that the old indictment be quashed or declared superseded in order to protect him against double jeopardy or that alternatively, the Trial Chamber make a ruling barring the Prosecution from pursuing the old indictment against him in the event of an acquittal on a part or whole of the second indictment, the Prosecution merely submits that because of international legal principles applied by the Special Court he has nothing to fear from further prosecution in the event of an acquittal on the second indictment.

III DEFENCE SUBMISSIONS

5. The Defence adopts all the facts and submissions in paragraphs 2 through 12 inclusive of its motion of 20th September 2004.
6. Briefly, the Prosecution's own admission of 'an administrative or procedural anomaly'- albeit being 'the failure of the Registry' as per paragraph 7 of the Prosecution Response - warrants the effecting of personal service of the second indictment on the First Accused in order to correct that 'anomaly'.
7. In so far as arraignment is concerned, the First Accused repeats and adopts his submissions as per paragraphs 9 through 11 of his motion of 20th September 2004.
8. By the same token, the First Accused repeats and adopts his submission in paragraph 12 of his aforesaid motion as regards the avoidance of double jeopardy in the form of having two indictments lying against him in principle in respect of essentially the same or similar allegations.

IV. CONCLUSION

9. Based on the foregoing, the First Accused implores the Trial Chamber to make rulings and/or orders along the lines prayed for in his motion of 20th September 2004 in respect of service, arraignment and avoidance of double jeopardy, at least if only *ex abundante cautela*.

Freetown, 6th day of October, 2004


Dr. B. Buakei Jabbi