



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

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Document(s): **NORMAN DEFENCE TEAM SUBMISSIONS ON HIS DEATH**

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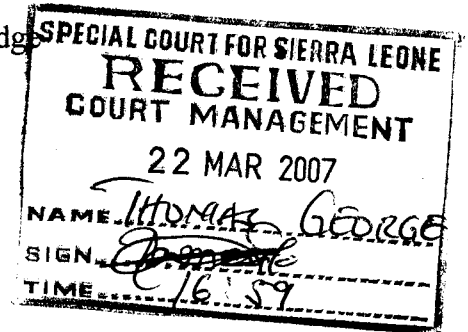


**SPECIAL COURT FOR SIERRA LEONE
In Trial Chamber I**

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

Registrar: Lovemore G. Munlo SC

Date: 22 March 2007.



**The Prosecutor against Sam Hinga Norman
Moinina Fofana
Allieu Kondewa
Case No. SCSL -04-14-T**

NORMAN DEFENCE TEAM SUBMISSIONS ON HIS DEATH

Office of the Prosecutor

Stephen Rapp
James C. Johnson
Joseph F. Kamara

Court Appointed Counsel for Sam

Hinga Norman
Dr. Bu-Buakei Jabbi
John Wesley Hall Jr.
Alusine Sani Sesay

**Court Appointed counsel for Moinina
Fofana**

Victor Koppe
Michiel Pestman
Stephen Powles
Arrow J. Bockarie

**Court Appointed Counsel for Allieu
Kondewa**

Charles Margai
Yada Williams
Ansu Lansana

NORMAN DEFENCE TEAM SUBMISSIONS ON HIS DEATH

BACKGROUND

1. Upon the death in a hospital in Dakar, Senegal, on 22 February 2007, of Mr. Sam Hinga Norman, First Accused in the Civil Defence Forces (“the CDF”) trial recently concluded and now pending judgment in Trial Chamber 1 (“the Chamber”) of the Special Court for Sierra Leone (“the Court”), the Registrar duly informed the President of the Court (“the President”) thereof. Thereafter, pursuant to Rules 19 and 33 of the Rules of Procedure and Evidence of the Court (“the Rules”) and Rule 22 of the Rules Governing the Detention of Persons Awaiting Trial or Appeal before the Special Court for Sierra Leone or Otherwise Detained on the Authority of the Special Court for Sierra Leone (“Rules of Detention”), the President issued an Order Assigning a Judge to Conduct an Inquiry (“the Assigning Order”),¹ dated 23 February 2007, mandating Justice Renate Winter, Vice-President of the Court, “to conduct an inquiry into the circumstances surrounding the death of Mr. Sam Hinga Norman while in the care of l’Hopital Aristide Le Dante in Dakar and to report the findings of that inquiry to me (i.e. the President) directly as soon as is reasonably possible.” Thereafter, by a separate confidential Order,² the Registrar also submitted to the Chamber a certified copy of the Death Statement for Mr. Norman issued by the Senegalese authorities and dated 22 February 2007, though it was not a statement of the cause of death but merely of the fact of death.
2. Subsequently, the Registrar issued yet another Order on 6 March 2007 (“the Registrar’s Submission”),³ by which he moved the Chamber “to consider

¹ SCSL-04-14-T-760

² SCSL-04-14-T-761, “Transmission of the Death Certificate for Mr. Sam Hinga Norman,” 23 February 2007.

³ SCSL-04-14-T-765, “Registrar’s Submission Pursuant to Rule 33 (B) Relating to the Death of Mr. Sam Hinga Norman,” 6 March 2007.

this application and to take any measures that it may deem appropriate in relation to Mr. Norman's demise."

3. Further to the Registrar's Submission, the Chamber then issued its Order for Extended Filing ("the Extension Order"),⁴ requiring that Parties' responses thereto "shall be filed no later than" Friday, 16 March 2007 at 4:00 p.m. Among other things, the Extension Order set out two sets of crucial considerations in its preamble, as follows:

- (i). "that it is in the interests of justice that submissions or any other initiatives by the Prosecution and each of the Defence Teams are necessary in order to contribute to a resolution of the legal and factual issues and/or consequences that have arisen or are likely to arise in the judicial determination of the case against the Accused Persons as a result of the death of the First Accused Sam Hinga Norman;" and
- (ii). "that this matter requires that the Parties be provided with sufficient time in order to make their submissions."

However, on request by motion of the Norman Defence Team for extension of filing time for the Team,⁵ the Chamber graciously extended the time to "no later than" Thursday, 22 March 2007 at 4:00 p.m.⁶

4. Meanwhile the two living accused persons and the Prosecution had by then filed their own responses to the Registrar's Submission: Fofana⁷ on 13 March 2007 and the Prosecutor⁸ and Kondewa⁹ on 16 March 2007.

⁴ SCSL-04-14-T-766.

⁵ SCSL-04-14-T-769, "Deceased Norman's Defence Team Request for Extended Filing", 15 March 2007.

⁶ SCSL-04-14-T-773, "Decision on Norman Motion for Extension of Time," 16 March 2007.

⁷ SCSL-04-14-T-768, "Fofana Submission on the Death of the First Accused," 13 March 2007.

⁸ SCSL-04-14-T-771, "Prosecution Submissions Pursuant to Order for Extended Filing," 16 March 2007.

⁹ SCSL-04-14-T-771, "Kondewa Submissions on the Death of the First Accused, Samuel Hinga Norman," 16 March 2007.

5. An important set of background factors that are apt to be of much relevance, import and significance in “the judicial determination of the case against the Accused Persons as a result of the death of the First Accused” include the nature and structure of the indictment, the plurality of accused persons involved, the nature of their involvement in the various charges, and the overall character of the evidence adduced. For the trial was conducted on the basis of a consolidated indictment in which all the accused persons were jointly charged on each of several counts therein and upon a command responsibility foundation of the alleged criminal liability, and the evidence adduced against the respective accused persons being understandably guided or controlled by these factors.
6. An extremely important background factor is the procedural posture of the death of Mr. Norman as the First Accused in the CDF trial; that is to say, the stage in the overall adjudicatory process at which the said death has taken place. It is to be noted that trial proceedings proper closed on 30 November 2006, nearly three months before the unfortunate death of the First Accused, and the matter was then stood over for verdict or judgment. Thus, the procedural posture of the death in this case is that it took place after all trial proceedings proper had been completed and the case for each accused person closed, but before delivery of the verdict or judgment by the Trial Chamber. Indeed, judgment still remains pending and no specified date for its delivery has as yet been projected or notified. This factor is an important factual and legal “issue and/or consequence” to contend or reckon with in the pending judicial determination of the case against the three accused persons in the CDF indictment.

PRELIMINARY OBSERVATIONS

7. There is obviously much subject overlap and relative concentricity, though by no means an exact co-extensiveness, between the respective remits in the
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President's Assigning Order to the Vice-President and the Chamber's Extension Order issued consequent upon the Registrar's Submission. Responses to the latter are inevitably likely to contain matters of import or relevance to the subject of the Assigning Order, however consciously or unconsciously. However, none of the responses to the Registrar's Submission by the Prosecutor and the two living accused persons consciously or expressly adverts to the Assigning Order. This response by the Norman Defence Team considers it inescapable or unavoidable to advert or refer, though necessarily briefly, to the remit in the Assigning Order.

8. Among "the legal and factual issues and/or consequences that have arisen" and need to be resolved for the purpose of "the judicial determination of the case against the Accused Persons as a result of the death of the First Accused Sam Hinga Norman," is the autopsy that was recently conducted on the body of Norman in Dakar, Senegal, before it was conveyed to Freetown for burial. And it is also obviously involved in "the circumstances surrounding the death of Mr. Sam Hinga Norman while in the care of" the hospital, which is the subject of the Assigning Order.
9. Let it, however, be merely noted at this stage that the Norman Family are concerned that up until now they have not been intimated as to the findings of the autopsy nor as to the inquiry and report commissioned in the Assigning Order. They had expected and still do expect to be consulted and allowed to be actively involved in appropriate areas of the Vice-President's inquiry under the Assigning Order; but regrettably up until now no intimation or invitation to the effect has been received by them.
10. Probably most dominant of all among "the legal and factual issues and/or consequences that have arisen or are likely to arise in the judicial determination of the case against the Accused Persons as a result of the death of the First Accused" is the issue of the possible effect of that death upon the "whether", nature, mode, and scope of verdict or judgment to be given, if at all, by the Trial Chamber in the case against the three CDF accused persons. This is, indeed, and quite rightly so, the main focus of the

responses by the Prosecutor and the two living accused persons, Fofana and Kondewa, with the latter accused persons adopting similar stances that quite substantially differ from that by the Prosecutor.¹⁰

OTHER PARTIES' SUBMISSIONS

11. In brief, in its paragraph 2, the Fofana Submissions accept as a basic premise that it is invariably “the practice before all international criminal tribunals and in most, if not all, municipal jurisdictions” that when an accused person dies, presumably irrespective of the stage of that death in the overall criminal adjudicatory process, then “proceedings shall be terminated upon notification and proof of the death.” On the basis of this presumption, the right of a living accused person to be tried without undue delay, and the joint nature of the CDF trial proceedings, the Fofana Submissions conclude in its paragraph 9 that the Trial Chamber “should (i) immediately order the severance and termination of the proceedings against Mr. Norman and (ii) continue with the preparation of the CDF judgment without further delay.” These Submissions hardly realise that all the international tribunal cases cited in its Footnote 2 as the basis of its general abatement theory deal with the death of an accused person before the evidentiary stage of first instance trial processes had come to a close in the relevant cases.
12. On more or less similar presumptions, the Kondewa Submissions conclude in paragraph 16 thereof as follows: “That in the absence of any provision for the continuance of proceedings against a deceased accused person in the Statute of the Special Court and the Rules of Procedure and in the light of the practice (in) international criminal tribunals and in various national jurisdictions, Counsel submits that the case against the 1st Accused, Samuel Hinga Norman, ought to be abated.” The Kondewa Submissions cite some of the municipal UK authorities supporting the abatement principle, especially *R .v. Jefferies* (1968) 3 All ER 238 (CA) and *R. v. Kearly*(No. 2) (1994) 3 All ER 246 (HL); but it fails to heed the pointers in those very

¹⁰ See Footnotes 7, 8, and 9 above.
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citations (see paragraphs 9, 12, 14, 15 thereof) to the need for developments in a somewhat different direction.

13. There is much greater awareness in the Prosecution Submissions of the variety and complexity of the issue of the effects of death of an accused person at one stage or another of the overall criminal adjudicatory process. The international criminal tribunal citations of this phenomenon are noted in paragraph 3 thereof, with its supporting Footnotes 4 to 7 inclusive referencing the case law, and clearly indicating that they relate to deaths occurring before or during the evidentiary stages of first instance trial proceedings and before closure of case. And, what is more, the limited relevance of that jurisprudence to the present CDF case is clearly and emphatically noted by the Prosecution Submissions at the end of paragraph 3:

*“The usefulness of these precedents of the *ad hoc* tribunals is limited by the fact that there has been no instance at the ICTY or ICTR in which an accused in a joint multi-accused trial died after the closing of the case but prior to judgment”* (Emphasis added).

14. The Prosecution Submissions then proceed to briefly but instructively survey in paragraphs 5 to 10 and the supporting Footnotes 8 to 14 inclusive what is termed the

“inconsistent practice in different national jurisdictions in cases where an accused dies after the verdict has been given in a case, but before an appeal in the case has been finally determined” (para. 5; emphasis added).

The survey covers the common law jurisdictions of Federal and States courts in the United States of America, a few UK authorities, and a larger number of Canadian court decisions. The Prosecution then submits

“that it is in the interests of justice that the Trial Chamber not automatically terminate the proceedings against Norman without first analyzing the evidence that has been adduced before the Trial Chamber” (para. 11 thereof).

15. Paragraphs 12 to 27 of the Prosecution Submissions then examine various aspects of the evidence adduced in the whole case, the consolidated nature of the indictment, the multiplicity of accused persons, and the conception of

criminal adjudication as a pursuit of the truth wherein every witness is “a witness of truth (who is) required to contribute to the establishment of the truth”,¹¹ all for the purpose of adopting the position

“that the Trial Chamber (should) consider all the evidence in the case, **not for the purpose of issuing a verdict against Norman**, but in order to issue a final determination against the two remaining accused” (para. 12; emphasis added).

With a somewhat indiscriminate use of the word “against” in this area of its Submissions, the Prosecution’s main concern is that the death of Norman should not be used to endorse a suggestion that all the evidence “presented against Norman and by Norman” should be eliminated or “severed” in order for the proceedings in respect of him to be terminated as a result of his death.

“The Prosecution submits that it would be very difficult, if not impossible, to separate the evidence in this joint trial and asks the Trial Chamber to issue findings of fact with respect to the elements of the crime, the crime bases and the modes of liability with respect to Norman, **without issuing a final verdict on either his guilt or innocence**” (para. 28; emphasis added).

There is, however, no explanation of any sort throughout the Prosecution’s Submissions why, in any case, “a final verdict on either his guilt or innocence” may or need not be issued in respect of Norman, the now deceased First Accused in this case.

PROCEDURAL POSTURES OF DEATH

16. The Norman Defence submits that a proper perception of the procedural posture of the death of an accused person in the entire range of the criminal adjudicatory process is crucial for determining its effects on that process in individual cases; and that, depending on the stage in the process when such a death occurs, the effects are not uniform or invariable across the board. It is the failure to appreciate this that leads to a blanket or sweeping abatement theory whenever an accused person dies during the overall adjudicatory

11. Cited from *P. v. Kordic and Cerkez*, IT-95-14/2-PT, “Decision on Prosecutor’s Motion on Trial Procedure”, Trial Chamber, 19 March 1999.
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process of a case, irrespective of the exact procedural stage at which the death takes place in a given case.

16. Broadly speaking, some three or four such procedural postures or stages at which an accused person may die can be identified, though they are not thereby necessarily exhaustive, as follows:

- i). Before or during the first instance trial proceedings up until the final closing of case, i.e. all processes and activities before case commences and/or closes finally for all parties involved;
- ii). After final closure of case but before verdict or judgment is delivered;
- iii). After verdict or judgment is delivered but before expiry of period within which to appeal or before completion of appeal proceedings;
- iv). After expiry of period for appealing and without having appealed or applied for leave to appeal, where necessary.

It is submitted that the authorities, in so far as they are available, suggest that the effects of death at the above procedural stages are not uniform or invariable from one stage to the other; and that such authorities relate mainly to stages (i) and (iii) above. The death of Norman falls under stage (ii) above.

(a). Stage (i): Before Case Commences and/or Closes

17. All the international criminal tribunal cases in respect of the death of an accused person that are cited in the responses so far by the Prosecution and the Fofana and Kondewa Defences, with the exception of one, fall under this first category of procedural posture or stage.¹² The rationale for the application of abatement *ab initio* to the proceedings is obvious and clear.

¹² See generally: *P. v. Mrksic et al.*, IT-02-54-T, "Order Terminating Proceedings Against Slavko Dokmanovic", 15 July 1998; *P. v. Kovacevic*, IT-97-24-T, "Order Terminating the Proceedings Against Milan Kovacevic", 24 August 1998; *P. v. Hadzihasnovic*, IT-01-47-T, Transcript, 12 March 2003, pp. 170-172 (Reporting to the Trial Chamber that co-accused Gen. Mehmed Alagic "has passed away before the proceedings even started or were completed", p. 172 lines 9-10); *P. v. Momir Talic*, IT-99-36/1-T, "Order Terminating Proceedings Against Momir Talic", 12 June 2003; *P. v. Janko Bobetko*, IT-02-62-I, Order Terminating Proceedings Against Janko Bobetko", 24 June 2003; *P. v. Slobodan Milosevic*, "Order Terminating the Proceedings", 14 March 2006. NB: Contrary to what the Prosecution asserts at p. 2, Footnote 4 of its above Submissions, it is not true that Djordje Djukic in *P. v. Djukic*, IT-96-20, "Order Terminating Proceedings", Appeal Chamber, 29 May 1996. Rather, the Trial Chamber had granted Djukic provisional release for reasons of ill-health, against which the Prosecution appealed; but Djukic died before completion of the appeal proceedings and the Appeal Chamber issued the Order terminating the appeal proceedings against Djukic.

For the domestic English practice in this regard, see para. 3 – 202 of *Archbold: Criminal Pleading, Evidence & Practice*, ed. P. J. Richardson, Sweet & Maxwell, 2001, p. 290; and para D 13.27 of *Blackstone's Criminal Practice*, ed. Peter Murphy, OUP, 2003, p. 1401.

The accused having been neither subjected to the full rigours of the criminal trial process nor accorded the full rights of the accused as required by the relevant provisions of the relevant Statute and Rules of the international tribunal in question, the impossibility of affording them to him as a result of his death as good as nullifies the entire process from its inception.

(b). Stage (iv): After Verdict but Failing to Invoke an Appeal.

18. Appellate courts and varying modes of entitlement or otherwise to appeal being invariably creations of some form or other of statute, a lot in appeal related matters understandably depends upon the exact terms of the applicable primary and/or secondary legislation. As Widgery LJ said of the English Court of Appeal as a creature of the Criminal Appeal Act 1907 in *R. v. Jefferies* (1968) 3 All ER 238 at 240 D:

“Whatever may be the powers of courts exercising a jurisdiction that does not derive from statute, the powers of this court are **derived from, and confined to,** those given by the Criminal Appeal Act, 1907” (Emphasis added).

However, understandably, where verdict or judgment has been given in a criminal case and the accused person subject to it fails to invoke the relevant appeal provisions, including application for leave to appeal, if applicable, before he dies, the terms of the relevant judgment and/or sentence would invariably remain intact, to the extent of course that they are enforceable or applicable to the said accused person after death. Death in this category of procedural posture does not seem to generate a lot of legal authorities.

(c). Stage (iii): After Judgment but Before Expiry of Period for Appeal or Completion of Appeal Proceedings.

19. This seems to be jurisprudentially the most active and fertile area among the categories of the procedural posture of the deaths of accused persons. And there has been a lot of change and development over time in the applicable laws, whether judge-made or statutory, in almost all the major common law jurisdictions of the world. (See, for example, the survey in the Prosecution Submissions cited in paragraph 14 above). The state of the law at a particular time, together with the scope and potential for change and development, may be seen in the following 1968 and 1994 judicial

pronouncements from the English Court of Appeal and House of Lords respectively:

“We take it to be a general principle that whenever a party to proceedings dies, the proceedings must abate, *unless* his personal representatives both have an interest in the subject matter and can by virtue of the express terms of a statute (or from rules of court made by virtue of jurisdiction given by statute) take the appropriate steps to have themselves substituted for the deceased as a party to the proceedings”
(*Per* Widgery LJ, in *R. v. Jefferies* (1968) 3 All ER 238 at 240 D. Emphasis added).

“My Lords, as a pure matter of construction untrammelled by authority I should have had little hesitation in concluding that a right of appeal to the Court of Appeal under Pt. I of the 1968 Act was personal to the convicted person.....

“My Lords, although I reach the foregoing conclusion without hesitation, I do so with some regret. There is no doubt that as the law now stands **injustice could**, as Lord Goddard CJ pointed out in *R. v. Rowe* (1955) 2 All ER 234 at 235, (1955) 1 QB 573 at 575, **result** if an individual’s estate were obliged to suffer a wrongly imposed pecuniary penalty whether by way of a fine, confiscation order or an order for costs, because there existed no procedure for challenging the order. It must be for serious consideration whether **some machinery to alleviate such possible injustice** should not be available. This is, however, a matter for Parliament since it would be necessary to determine as a matter of policy to whom any such machinery should be available and whether it should be limited to cases involving pecuniary matters or **whether, and if so in what circumstances, it should also include cases in which relatives of the deceased were anxious to clear his name**”

(*Per* Lord Jauncey in *R. v. Kearley(No. 2)* (1994) 3 All ER 246 (HL) at 253-254; (1994) 3 WLR 413 (HL) at 419-420. Emphases added).

20. These long-standing concerns in the highest judicial circles obviously bore fruit when, by section 7(1) of the Criminal Appeal Act 1995, parliament enacted and inserted into the Criminal Appeal Act 1968 a new **section 44(A)** thereof on appeals in cases of death, with subsection (1) thereof being as follows:

“(1) Where a person has died –
(a) any relevant appeal which might have been begun by him had he remained alive may be begun by a person approved by the Court of Appeal; and
(b) where any relevant appeal was begun by him while he was alive or is begun in relation to his case by virtue of paragraph (a) above or by a reference by the Criminal Cases Review Commission, any further step which might have been taken by him in connection with the appeal if he were alive may be taken by a person so approved.”

21. A similar trend obtained in the Federal and States’ courts of the United States of America. Although there is much greater variety there in the

various courts as to the effect of the death of an accused person after verdict but pending appeal proceedings, the rule upheld by a majority of courts there is that when a criminal defendant dies before final resolution of his pending appeal, any party may file a motion for substitution, and if no such motion is made, then all prosecutorial proceedings would be abated from their original inception.¹³ Primary legislation also deals with various scenarios of the phenomenon of death in criminal proceedings. For example, a recent bill introduced in the Senate of the United States on 4 January 2007, entitled Preserving Crime Victims' Restitution Act of 2007, makes stipulations as to various forms of this category of death including a range of collateral aspects like fine, restitution, forfeiture, etc. And the Rules of the Mississippi Supreme Court, for instance, provide under Rule 43(a) as follows:

“If a party dies after a notice of appeal is filed or while a proceeding is otherwise pending in this Court, the personal representative of the deceased party may be substituted as a party on motion filed by the representative or by any party with the clerk of this Court If the deceased party has no representative, any party may suggest the death on the record and proceedings shall then be had as this Court may direct. If a party entitled to appeal shall die before filing a notice of appeal, the notice of appeal may be filed by that party's personal representative, or, if there is no personal representative by that party' attorney of record within the time prescribed by these rules. After the notice of appeal is filed, substitution shall be effected in this Court in accordance with this Rule 43(a).”¹⁴

22. The main rationale of the abatement *ab initio* rule is that the appeal is an integral part of the accused person's right to a final determination of the merits of the case, and that if that is frustrated before completion then the proper investigation of those merits has itself been frustrated. The guiding premise of the abatement remedy is that “a conviction that cannot be tested by appellate review is both unreliable and illegitimate.”¹⁵

¹³ See, for example, the copious surveys of the relevant case law in Rosana Cavallaro, “Better Off Dead: Abatement, Innocence, and the Evolving Right of Appeal”, (2002) 73 *Colorado Law Review*, 943 – 986; and Joseph Sauder, “How a Criminal Defendant's Death Pending Direct Appeal Affects the Victim's Right to Restitution under the Abatement *Ab Initio* Doctrine”, (1998) 71 *Temp. L. Rev.*, 347 – 374.

¹⁴ As cited in David Pureza, “Decisions When an Accused Dies Before Judgment”, (1995) 64 *Miss. L.J.*, 819 – 834.

¹⁵ See Rosana Cavallaro above, at p. 954.

(d). Stage (ii): After Closure of Case but Before Delivery of Judgment

23. This category of the procedural posture of the death of an accused person, to wit, where he dies after the entire evidentiary stage at first instance trial proceedings is completed and the case has closed but before delivery of judgment, is the most pertinent for present purposes. But there is hardly any judicial case law on it in either the international criminal adjudication or in the domestic jurisdiction, at any rate none has come to the notice of the Norman Defence Team. And neither the Statute nor the Rules of the Special Court contain any directly relevant provision concerning such a death. However, certain basic principles deducible from general criminal adjudication, from some of those very Special Court provisions, and also from the jurisprudence relating to a category like the post-verdict but pre-appellate procedural posture may be applied to glean the appropriate effects and solutions.
24. For example, there being no provision directly dealing with the question of verdict in the case of a death after closure of case but before verdict itself, the judges of the Special Court may invoke their powers under Art. 14(2) of the Statute to “adopt additional rules where applicable Rules do not, or do not adequately, provide for a specific situation” like the present death.
25. And in view of the joint nature of the trial and the consolidation of the indictment under Rules 48 and 49, a solution of “severance” of the evidence on Norman at this late stage of the proceedings would be tantamount to an application of Rule 82(B) in clearly inappropriate circumstances, and would in any case be incompatible with the rights of the accused as recited even under Rule 82(A) and certainly under Art. 17(1) of the Statute. Surely a rule or ruling seeking to enforce the separation of Norman’s case even at the stage of verdict would be clearly unfair and would have no basis at all in any provision in the enabling and guiding instruments of the Special Court.
26. Just as a convicted person under the Special Court instruments is entitled to appeal and possible review under Articles 20 and 21 respectively of the Statute, so an accused person who has fully undergone trial and closed his

case also entitled to judgment under Article 18 of the Statute and Rules 87 and 88 of the Rules. There is nothing in those rules and the provision of the Statute to deny or deprive an accused person who has undergone the full rigour of the trial of his entitlement to a verdict.

27. So also under Rule 72 *bis* (iii) of the Rules, the principles of law recited from the American and UK jurisdictions in paragraphs 19 to 22 above may be adaptable for the benefit of an accused person in the position of Norman should he get a verdict one way or the other even after his death. Surely even if he is convicted, which is highly improbable in view of the quality of his defence, the benefits of that jurisprudence and legislation would then still be available to him. And the records of proceedings having been preserved in accordance with Rule 81, his mere death would import no disservice or prejudice at all for post-verdict processes in respect of him.
28. Finally, it should be emphasised that the family of Mr. Norman ardently expect, even possibly to the tune of a demand beyond a mere fervent wish, that a verdict will and should be delivered in respect of him one way or another without any special consideration for his having passed away. They consider that the death of Norman should not be retrospectively used to the prejudice of the findings of the Trial Chamber in respect of him nor indeed of any other accused person.

CONCLUSION

29. The Norman Defence Team submits that there is nothing in the relevant provisions of the Statute and the Rules, nor any in the jurisprudence of either international criminal tribunals or domestic municipal courts, to warrant a decision not to render or deliver a verdict or judgment in respect of Norman in all the circumstances of the joint trial and consolidated indictment, and more especially the fact that he stood his full trial. It would be in the interests of justice to deliver a free and unfettered verdict or judgment for all the three accused persons including Norman as soon as possible. Indeed, it

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would be a violation of his rights “to be tried without undue delay” in accordance with Article 17(4)(c) of the Statute if a verdict in respect of him is delayed much longer, let alone if it is severed or separated in any sense from those of the rest of the CDF accused persons.

30. MAY HIS SOUL REST IN PERFECT PEACE ! ! ! !

Done in Freetown on 22 March 2007.

DR. BU-BUAKEI JABBI



COURT APPOINTED COUNSEL FOR NORMAN