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SCSL-2003-09-PT-053
(982-986)

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SPECIAL COURT FOR SIERRA LEONE
OFFICE OF THE PROSECUTOR
FREETOWN – SIERRA LEONE

Before: Judge Thompson, Presiding Judge
Judge Itoe
Judge Boutet

Registrar: Robin Vincent

Date filed: 24th June 2003

THE PROSECUTOR

Against

MORRIS KALLON also known as (aka) BILAI KARIM

CASE NO. SCSL – 2003 – 07 – PT

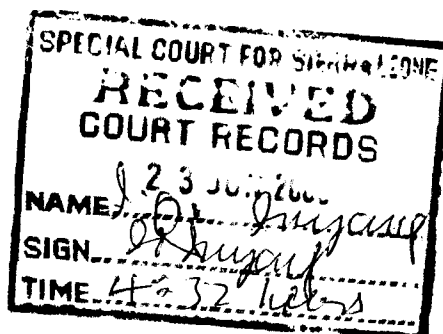
**PROSECUTION RESPONSE TO DEFENCE “FURTHER APPLICATION
FOR EXTENSION OF TIME TO FILE PRELIMINARY MOTIONS”**

Office of the Prosecutor:

Luc Côté, Chief of Prosecution
Robert Petit, Senior Trial Counsel
Sharan Parmar, Assistant Trial Counsel

Defence Counsel:

James Oury
Steven Powles



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MOTIONS”**

INTRODUCTION

The Prosecution submits that the Further Application of the Defence for an extension of time appears to: a) raise objections to an earlier Decision dated 14 June 2003 denying an extension of time, and b) state grounds in support of a further application for an extension of time. The Prosecution submits that objections to a decision should properly be raised within an appeal. The Prosecution further submits that those grounds alleged in support of the Further Application do not constitute good cause. However, should the Chamber grant an extension of time, the Prosecution submits that it be limited to the preparation and filing of the preliminary motion on the form of the indictment.

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1. On 16 June 2003, the Defence filed a “Further Application for Extension of Time to File Preliminary Motions” (the “**Further Application**”). In the Further Application the Defence:
 - (i) sought an extension of 21 days until 8 July 2003 to file preliminary motions and a motion on the form of the indictment;
 - (ii) stated that the Decision of the Trial Chamber dated 14 June 2003 (the “**Decision**”) denying an earlier “Application for Extension of Time to File preliminary motions” (the “**Application**”) overlooked arguments outlining circumstances which had yielded a lack of time and facilities for the preparation of the Defence of the Accused;
 - (iii) reiterated and elaborated upon these circumstances, which were argued as constituting good cause to warrant an extension of time to file preliminary motions, in particular on the form of the indictment.

ARGUMENT

I. Issues more properly raised within an Appeal

2. From a reading of the Further Application it appears that the Defence is using the instant application to respectfully question the Decision on the initial application as well as bring additional arguments in support of a Further Application.
3. The Prosecution submits that all arguments regarding due consideration given by the learned Judge in the Decision to the logistical constraints mentioned in support of the original Application, and elaborated upon in the instant Further Application, should properly be addressed within the context of an Appeal. Therefore, the Prosecution submits that it would be improper to address such issues herein.

II. Arguments in support of the Further Application do not establish good cause

4. The Prosecution submits that the following arguments raised by the Defence in support of the Further Application do not constitute good cause:

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- i. Inadequate meeting time with the Accused: While in agreement with the right of the Accused to meet with Defence counsel and prepare his defence, the Prosecution reiterates its submission that the preparation of preliminary motions does not require such extensive contact with the Accused as alleged in paragraphs 3 and 4 of the Further Application;
- ii. In-depth review of disclosure materials: The Prosecution reiterates its submission that as indicated by practice at the International Tribunals, which provides for prosecutorial disclosure *after* preliminary motions have been filed, an in-depth review of disclosed witness statements by Defence counsel and the Accused is not required to the degree maintained by the Defence for the preparation of preliminary motions;
- iii. Absence of finalized remuneration for Defence counsel: Although the Prosecution agrees that Defence counsel should be properly remunerated in a timely manner, the Prosecution submits that this factor can not be considered as good cause warranting an extension of time;
- iv. Physical distance between Defence and Accused: International Tribunals are characterized by the assignment of Defence counsel removed from the seat of the Tribunal prior to trial, therefore, the Prosecution submits that difficulties inherent to this model can not of themselves constitute good cause; and
- v. Collaboration amongst Defence counsel: While in agreement that this should be encouraged, the Prosecution submits that maintenance of broader Defence coordination could potentially yield undue delays if not reasonably monitored, especially since Defence counsel are located in different countries.

III. Argument in favour of granting a reasonable extension of time

4. The Prosecution notes that the Defence chose to utilise its imparted delay in this case to file two separate motions regarding jurisdiction (See *The Prosecutor against*

Morris Kallon, SCSL – 2003 – 07 – PT, “Preliminary Motion Based Upon Lack of Jurisdiction/Abuse of Process: Amnesty Provided By Lomé Accord” and “Preliminary Motion Based Upon Lack of Jurisdiction: Establishment of the Special Court Violates Constitution of Sierra Leone”), and that the Further Application refers to its intention to file a motion on the form of indictment and “other motions”.

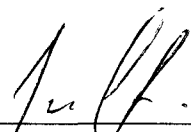
5. The Prosecution reiterates its initial submission that the importance and complexity of the preliminary motions referred to in the Application require time to properly consider and carefully prepare. However, the Defence having now filed two motions on jurisdiction, the Prosecution submits that should the Trial Chamber grant an extension of time to the Defence, any such extension should be limited to the Defence preparation and filing of the preliminary motion on the form of the indictment, as requested by the Defence in paragraphs 12, 16 and 17 of the Further Application.

CONCLUSION


The Prosecution submits that the Defence Further Application for an extension of time raises objections to the Decision that may constitute grounds for appeal, and therefore may not be addressed by the Prosecution within the present application. Should the Chamber consider that the grounds brought forth in support of the Further Application do constitute good cause, the Prosecution submits that any extension of time be limited to the filing and preparation of a preliminary motion on the form of the indictment.

Freetown, 23 June 2003

For the Prosecution



Luc Côté
Chief of Prosecutions



Robert Petit
Senior Trial Counsel