

002

SCSL-2003-09-PD - 002
(29)

2



SPECIAL COURT FOR SIERRA LEONE

OFFICE OF THE PROSECUTOR

1A SCAN DRIVE • OFF SPUR ROAD • FREETOWN • SIERRA LEONE

PHONE: +1 212 963 9915 Extension: 178 7100 or +39 0831 257100 or +232 22 236527

FAX: Extension: 174 6998 or +39 0831 236998 or +232 22 295998

THE SPECIAL COURT FOR SIERRA LEONE

THE PROSECUTOR

Against

AUGUSTINE GBAO

REQUEST FOR TRANSFER AND PROVISIONAL DETENTION UNDER ARTICLE 40 BIS OF THE RULES OF PROCEDURE AND EVIDENCE OF THE SPECIAL COURT FOR SIERRA LEONE

TO ONE OF THE HONOURABLE JUDGES SITTING PURSUANT TO RULE 28 OF THE RULES OF PROCEDURE AND EVIDENCE OF THE SPECIAL COURT FOR SIERRA LEONE:

I, DAVID M. CRANE, Prosecutor of the Special Court for Sierra Leone, pursuant to the authority given to me by Rule 40 *bis* of the Rules and Procedure and Evidence of the Special Court for Sierra Leone (hereafter "the Rules") request the issuance of an Order for the transfer and provisional detention of AUGUSTINE GBAO in the premises of the detention unit of the Special Court on the following grounds:

1. On Friday 14 March, 2003 pursuant to the authority given to me by Rule 40 I requested the Republic of Sierra Leone Police Force to arrest AUGUSTINE GBAO and place him in custody in accordance with the laws of Sierra Leone.
2. The Office of the Prosecutor is currently investigating AUGUSTINE GBAO for crimes committed within the territory of Sierra Leone and within the temporal jurisdiction of the Special Court namely:

SPECIAL COURT FOR SIERRA LEONE	
COURT RECORDS	
RECEIVED	
NAME	<i>W. HART</i>
SIGNATURE	<i>[Signature]</i>
DATE	<i>17/03/2003</i>
TIME	<i>09:00</i>

- A. CRIMES AGAINST HUMANITY, punishable under Article 2 of the Statute of the Special Court (hereafter “the Statute”).
 - B. VIOLATIONS OF ARTICLE 3 COMMON TO THE GENEVA CONVENTIONS AND OF ADDITIONAL PROTOCOL II, punishable under Article 3 of the Statute.
 - C. OTHER SERIOUS VIOLATIONS OF INTERNATIONAL HUMANITARIAN LAW, punishable under Article 4 of the Statute.
3. It appears from these investigations, particularly from the information contained in the affidavit of MORIE LENGHOR annexed hereto, that there is evidence that AUGUSTINE GBAO may have committed crimes over which the Court has jurisdiction, and which may give rise to the following provisional charges:
- A. Between 23 December, 1999 and 31 December, 2000, AUGUSTINE GBAO and other members of the AFRC/RUF alliance looted an unknown number of civilian homes in Makeni, Bombali District in the Northern Province Sierra Leone.

By his acts and omissions in relation to, but not limited to these events, AUGUSTINE GBAO, pursuant to Article 6.1. and or alternatively, Article 6.3. of the Statute, is individually criminally responsible for the crime alleged below:

PILLAGE, a Violation of Article 3 Common to the Geneva Conventions 1949 and of Additional Protocol II, punishable under Article 3f of the Statute of the Special Court for Sierra Leone (hereafter “the Statute”).

- B. Between about 15 April, 2000 and about 15 September, 2000, AFRC/RUF forces including AUGUSTINE GBAO engaged in widespread attacks against UNAMSIL peacekeepers and humanitarian assistance workers within the Republic of Sierra Leone, including but not limited to locations within Bombali, Kailahun, Kambia, Port Loko and Kono Districts. These attacks included unlawful killing of UNAMSIL peacekeepers, and abducting hundreds of peacekeepers and humanitarian assistance workers who were then held hostage.

By his acts or omissions in relation, but not limited to these events, AUGUSTINE GBAO, pursuant to Article 6.1 and, or alternatively, Article 6.3 of the Statute, is individually criminally responsible for the crimes alleged below:

INTENTIONALLY DIRECTING ATTACKS AGAINST PERSONNEL INVOLVED IN A HUMANITARIAN ASSISTANCE OR PEACEKEEPING MISSION, which constitutes OTHER VIOLATION OF INTERNATIONAL HUMANITARIAN LAW, punishable under Article 4 b of the Statute.

For the unlawful killings:

MURDER, A CRIME AGAINST HUMANITY punishable under Article 2a of the Statute;

In addition, or in the alternative:

VIOLENCE TO LIFE, HEALTH AND PHYSICAL OR MENTAL WELL-BEING OF PERSONS, in particular, MURDER, a Violation of Article 3 Common to the Geneva Conventions 1949 and of Additional Protocol II, punishable under Article 3a of the Statute.

For the abductions and holding of persons as hostages:

TAKING OF HOSTAGES, a Violation of Article 3 Common to the Geneva Conventions 1949 and of Additional Protocol II, punishable under Article 3a of the Statute.

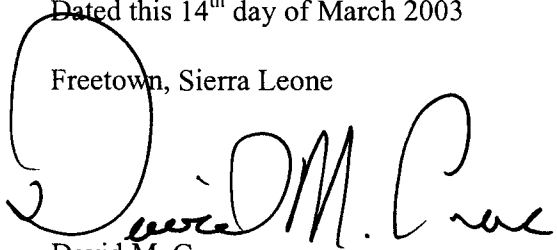
- 4. I submit that the provisional detention of AUGUSTINE GBAO is a necessary measure to prevent his escape, physical or mental injury to or intimidation of a victim or witness or the destruction of evidence, or to be otherwise necessary for the continued conduct of the investigations.

ACCORDINGLY, I REQUEST THAT YOU GRANT ALL ASPECTS OF THE PRESENT REQUEST AND THEREBY:

- A. **DECLARE** that there is reason to believe that AUGUSTINE GBAO may have committed the crimes specified in the provisional charges above, over which charges the Special Court has jurisdiction;
- B. **CONSIDER** provisional detention to be a necessary measure to prevent the escape of AUGUSTINE GBAO, physical or mental injury to or intimidation of a victim or witness or the destruction of evidence, or to be otherwise necessary for the conduct of the investigation;
- C. **ORDER** the transfer of AUGUSTINE GBAO from the custody of the Sierra Leone Police to the detention premises of the Special Court; and
- D. **ORDER** that AUGUSTINE GBAO be provisionally detained for an initial period not exceeding 30 days from the day of the transfer at the detention unit of the Special Court.

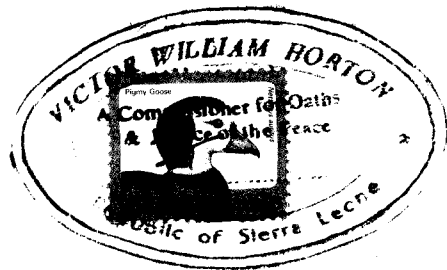
Dated this 14th day of March 2003

Freetown, Sierra Leone



David M. Crane

The Prosecutor

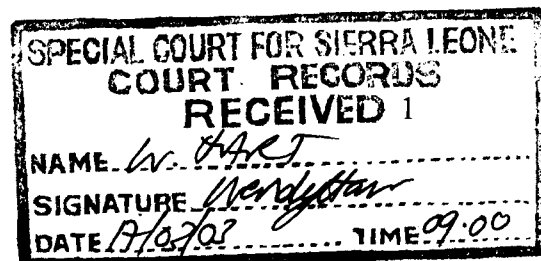


THE SPECIAL COURT FOR SIERRA LEONE

AFFIDAVIT

I, MORIE LENGOR, Investigator in the Office of the Prosecutor, Special Court for Sierra Leone at 1A Scan Drive, Off Spur Road, Wilberforce, Freetown in the Western Area of the Republic of Sierra Leone make oath this 14th day of March, 2003 and say as follows;

1. I work as an Investigator in the Office of the Prosecutor and I have due authority to make this Affidavit.
2. I am also a professionally trained Policeman of the rank of Assistant Commissioner in the Sierra Leone Police Force where I have been working as a Policeman since 1980.
3. Since November, 2003 I have been working in the Office of the Prosecutor, Special Court for Sierra Leone where my duties include investigating crimes against International Humanitarian Law and Sierra Leonean Law committed within the territory of Sierra Leone from 30 November 1996, during the period of armed conflict in Sierra Leone.
4. I have in particular been investigating the role played by AUGUSTINE GBAO as a member of the Revolutionary United Front ("RUF") and later the RUF/AFRC (i.e. Armed Forces Revolutionary Council) alliance.
5. On the 14 March 2003, I personally served the Inspector General of the Sierra Leone Police a written request made by the Prosecutor of the Special Court pursuant to Rule 40 of the Rules of Procedure and Evidence of the Special Court of Sierra Leone for the arrest and detention of AUGUSTINE GBAO.



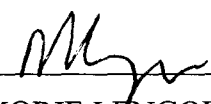
6. My investigations reveal that AUGUSTINE GBAO was a member of the Sierra Leone Police Force up to about 1983 and that he was a combatant in the RUF when the RUF invaded Sierra Leone in March, 1991 from neighbouring Liberia . He later became the RUF Security Chief and by late 1999, was one of the RUF Commanders in Makeni, Bombali District, Northern Province of Sierra Leone, with authority, command and control over subordinates in the RUF/AFRC alliance.

7. From about March, 1999 after the AFRC/RUF retreat from Freetown, AUGUSTINE GBAO as RUF Commander was jointly with MORRIS KALLON, in charge of Makeni. Thereafter, combatants and members of the AFRC/RUF alliance including AUGUSTINE GBAO engaged in widespread looting of civilian houses and property in Makeni. One witness who was interviewed reported that he witnessed the looting, some of it carried out under the supervision of AUGUSTINE GBAO. Another witness reports that during one of these looting sprees a Lebanese woman was raped after her house had been looted at Independence Square in the Makeni Township.

8. Between about 15 April,2000 and 15 September,2000 combatants and members of the AFRC/RUF alliance including AUGUSTINE GBAO engaged in widespread attacks against UNAMSIL peacekeepers and personnel stationed in Bombali, Kailahun, Kambia, Port Loko and Kono Districts. These attacks resulted in the abduction of hundreds of UNAMSIL peacekeepers and personnel and the unlawful killing of some of them. Some of the witnesses report that AUGUSTINE GBAO not only participated in these abductions but gave orders to subordinates in the AFRC/RUF alliance to carry them out and to ill-treat the abductees.

9. Augustine Gbao is currently detained by the Sierra Leone Police. I firmly believe that the detention of the suspect, AUGUSTINE GBAO, is necessary in order to prevent his escape, in the light of the recent Indictments preferred against other leading members of the AFRC/RUF alliance by the Special Court, some of whom are still at large.

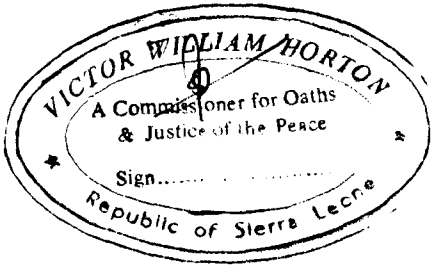
10. The facts deposed to herein are based on evidence collected by Investigators of the Office of the Prosecutor including myself and are true and correct to the best of my knowledge and belief.


MORIE LENGOR

Sworn at Freetown this 14th Day of March, 2003.

At 5:11 O'clock in the Afternoon

BEFORE ME



A COMMISSIONER FOR OATHS



SPECIAL COURT FOR SIERRA LEONE

OFFICE OF THE PROSECUTOR

1A SCAN DRIVE • OFF SPUR ROAD • FREETOWN • SIERRA LEONE

PHONE: +1 212 963 9915 Extension: 178 7100 or +39 0831 257100 or +232 22 236527

FAX: Extension: 174 6998 or +39 0831 236998 or +232 22 295998

REQUEST FOR ARREST, DETENTION, AND RELATED ASSISTANCE

SUBMITTED TO

THE GOVERNMENT OF SIERRA LEONE

1. I have concluded that a case of urgency exists in relation to the arrest, detention, and transfer of **AUGUSTINE GBAO**.
2. I consider **AUGUSTINE GBAO** a suspect and possess reliable information that tends to show that he may have committed crimes within the jurisdiction of the Special Court for Sierra Leone.
3. Therefore, pursuant to my authority as Prosecutor, Special Court for Sierra Leone, acting under Rule 40 of the Rules of Procedure and Evidence, I hereby request that the Government of Sierra Leone, through a designated representative, arrest, and detain **AUGUSTINE GBAO** pending transfer into the custody of the Special Court for Sierra Leone.
4. I request that a representative from the Office of the Prosecutor be present from the time of arrest. I further request that the Government of Sierra Leone, through its designated representative, assist the representative from the Office of the Prosecutor, at any location designated by the Prosecutor, in the search for and seizure of all evidence related to crimes within the jurisdiction of the Court.
5. I further request that the Government of Sierra Leone, through its designated representative, identify and locate assets owned by the suspect within the territory of Sierra Leone and adopt provisional measures to freeze such assets without prejudice to the rights of third parties. The disposition of such assets at a date certain shall be arranged between the Registrar and the Government of Sierra Leone.
6. In accordance with the Statute of the Special Court for Sierra Leone and the Agreement between the United Nations and the Government of Sierra Leone on the Establishment of a Special Court for Sierra Leone, please comply with this request without undue delay. If for any reason, this request for arrest, detention, and related assistance cannot be acted upon immediately, please contact the Office of the Prosecutor without delay.

Hereby requested,

David M. Crane
The Prosecutor

On the 14th day of March of the year 2003.