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SCSL - 2004 - 15 - PT

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(5571 - 5573)

IN THE SPECIAL COURT FOR SIERRA LEONE

THE TRIAL CHAMBER

Before: The Trial Chamber
Judge Bankole Thompson presiding
Judge Benjamin Itoe
Judge Pierre Boutet

Registrar: Mr Robin Vincent

Date filed: 4th May 2004

Case No. SCSL 2004 - 15 - PT

In the matter of:

THE PROSECUTOR

Against

**ISSA SESAY
MORRIS KALLON
AUGUSTINE BAO**

**URGENT REQUEST FOR EXTENSION OF TIME TO RESPOND TO
PROSECUTION MOTION TO HEAR EVIDENCE CONCURRENTLY**

Office of the Prosecutor

Mr Luc Cote, Chief of Prosecutions
Mr Robert Petit

Counsel for Augustine Bao

Mr Girish Thanki,
Professor Andreas O'Shea
Mr Kenneth Carr

Counsel for co-accused

Mr Timothy Clayson and Wayne Jordash for Issa Sessay
Mr Sekou Toure for Morris Kallon



1. The Defence for Augustine Bao respectfully requests further time to respond to the Prosecution Motion to Hear Evidence Concurrently filed on 30th March 2004. It is therefore requested that the defence be granted until Monday 10th April 2004.
2. It is submitted that this is a matter of crucial importance that if the defence submissions are correct and the prosecution proposal is followed is capable of leading to great prejudice to the defence. It is also submitted that the prosecution's proposal is novel and riddled with potential implications.
3. While the defence for Augustine Bao is greatly sympathetic to the Court's anxiety to settle the logistics of the trial quickly, it is respectfully submitted that trial dates can nonetheless be set notwithstanding this issue, since it has already been determined that there will be separate trials and the issue relates only to the possibility of common presentation of evidence in relation to a portion of witnesses. Therefore, a separate trial slot would need to be set for each trial in any event. If there turns out to be any collateral effect resulting from the determination of the question posed here, then the trial dates can always be amended accordingly. Alternatively, the urgency of the necessity for a trial date should not, it is respectfully submitted, be pursued at the cost of the defence not been properly heard on matters of such significant to the whole trial.
4. This matter was not raised by the prosecution at the RUF trial pre-trial conference on 29th March 2004. Nor do I recall the prosecution informing us that there would be such a motion filed until a message came through from the public defender at or about the close business on Friday 30th April 2004 that we should wait because such a motion was on its way shortly that evening.
5. In the case of the team for Augustine Bao, the legal assistant and lead counsel were in London at the relevant time. Andreas O'Shea was present but sorting himself out for his journey back to Arusha, beginning at 7.00 a.m. the following morning. He has just completed three arduous and stressful days of travelling stopping at Conakry, Abidjan, Duala, Addis Abbaba, Nairobi and

Kilimanjaro, finally arriving at home at 22.00 p.m. on Monday 3rd April 2004. While the main issue is the travelling and strong reliance is not placed on this other point, it should be noted as part of the context that he was then in court the following morning, Tuesday 4th April 2004 from 9.00 a.m. to 17.00 p.m, and has full court days until 17.00 p.m. on Thursday. He is the member of the defence team principally responsible for the drafting of motions and has not even had an opportunity to consult with the other members of his team. Mr Girish Thanki has suffered a recent bereavement, his father having passed away and the local legal assistant, Ms Thompson has been in London and is probably travelling back to Freetown around this period.

6. While the defence for Augustine Bao will endeavour to comply with the Court's order before close of business, tomorrow, 5th April, this is going to be an extremely difficult task and may be done at the cost of proper research and consideration of the matters at hand, and may not even be possible within the time constraint provided. This would be most unfortunate on an issue of procedure of such novelty and potential consequences, as we will assert.

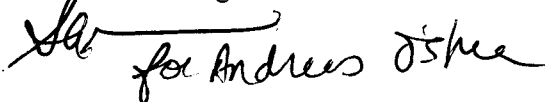
RELIEF SOUGHT

A. It is therefore respectfully requested that the defence for Augustine Bao be granted an extension of time to respond to the prosecution's motion of 30 April until 10th April 2004.

B. It is further requested if the Court is minded to accede to this request that such decision to extend of time be communicated to the defence, if possible, prior to the expiry of the deadline tomorrow, in order that a rushed and inadequate response is not filed by the defence.

Andreas O'Shea

Counsel for Augustine Bao

 for Andreas O'Shea