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SCSL-04-15-T
(26044 - 26046)

SPECIAL COURT FOR SIERRA LEONE
TRIAL CHAMBER I

26044

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

SPECIAL COURT FOR SIERRA LEONE
RECEIVED
COURT MANAGEMENT

Registrar: Mr. Herman von Hebel

Date filed: 20 May 2008

20 MAY 2008
NAME THOMAS GEORGE
SIGN [Signature]
TIME 11:49

THE PROSECUTOR

against

ISSA HASSAN SESAY
MORRIS KALLON
AUGUSTINE GBAO

Case No. SCSL-2004-15-T

PUBLIC

GBAO AND SESAY- URGENT APPLICATION FOR EXTENSION OF TIME TO FILE
EXPERT REPORT

Office of the Prosecutor

Mr. Peter Harrison
Mr. Reginald Fynn

Defence Counsel for Issa Sesay

Mr. Wayne Jordash
Mr. Sareta Ashraph

Defence Counsel for Morris Kallon

Mr. Charles Taku
Mr. Kennedy Ogetto
Ms. Tanoo Mylvaganam

Court-Appointed
Counsel for Augustine Gbao

Mr. John Cammegh
Mr. Scott Martin

Introduction

1. On 30 April 2008, the Defence for the Third Accused, Augustine Gbao, filed a Request for leave to call four additional witnesses, including a military expert.¹ In its 19 May 2008 Decision, the Trial Chamber granted leave to the Defence for the Third Accused to call four additional witnesses, including the expert witness.² In the same Decision the Trial Chamber ordered the Defence to disclose the expert report no later than 20 May 2008 at 4pm.³
2. The Defence for the First and Third Accused request that the Court grant an extension of time for the filing of the expert report in accordance with rule 7bis.⁴ The Defence for the First and Third Accused request an extension of time to 26 May to file the expert report.

Unavailability of the Expert Report

3. As stated in the Gbao Reply to the Prosecution Response on the Request to add the expert witness to its witness list, financial issues have seriously impaired the Defence teams' ability to secure the services of an expert witness.⁵
4. Upon resolution of those financial issues and securing of an expert witness, the Defence for the First and Third Accused have been in regular contact with the expert witness. The expert witness came to Freetown in order to conduct research for the preparation of his report. To date, however, no final version of the expert report is available. It is therefore impossible for the Defence for the First and Third Accused to serve the expert report upon the parties in compliance with the Trial Chamber's Order.

No Prejudice to the Prosecution Should the Extension of Time be Granted

5. In its Decision granting leave to add the expert witness, the Trial Chamber ordered that the expert witness to be the last witness called by the Third Accused.⁶ It has also been agreed in court that the case for the Third Accused would not start, at the earliest, before 2 June 2008.⁷ The Defence for the Third Accused is

¹ *Prosecutor v. Sesay, Kallon and Gbao*, SCSL doc. N. SCSL-04-15-T-1107, Gbao Request for Leave to Call Four Additional Witnesses and for Order for Protective Measures, With Annex A, 30 April 2008.

² *Prosecutor v. Sesay, Kallon and Gbao*, SCSL Doc. No. SCSL-04-15-T-1127, Decision on Gbao-Request for Leave to Call Four Additional Witnesses and for Order for Protective Measures, With Annex A, 19 May 2008.

³ *Ibid.*, further order (3).

⁴ Rule of Procedure and Evidence as amended 19 November 2007.

⁵ *Prosecutor v. Sesay, Kallon and Gbao*, SCSL Doc. No. SCSL-04-15-T-1123, Gbao-Reply to Prosecution Response on Request for Leave to Call Four Additional Witnesses and for Order for Protective Measures, 9 May 2008, para. 24.

⁶ *Ibid.*, further order (2).

⁷ EUF Transcripts of 20 May 2008.

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going to call 11 witnesses before the expert witness amounting to approximately 27 hours of examination in chief, i.e. 6 ½ days. This estimate does not include time for cross-examination of these witnesses.

6. Therefore, it is anticipated that the expert witness would not testify before 16 June. Should the Defence be allowed to disclose the expert report on 26 May 2008, Rule 94bis – which requires the expert report to be filed 21 days prior to the expected date of testimony of the expert witness – would be respected.
7. In view of the small number of witnesses testifying on behalf of the Third Accused and the amount of time available for the Prosecution to prepare for the examination of the expert witness (including an adjournment of the proceedings until 2 June), Defence Counsel for the First and Third Accused submit that the Prosecution would not suffer any prejudice should the expert report be disclosed on 26 May 2008.

Conclusion

8. Defence Counsel for the First and Third Accused request the Trial Chamber to grant an extension of time to file the expert report from 20 May 2008 to 26 May 2008. Should the request for extension of time be granted to 26 May, Defence Counsel for the First and Third Accused will nonetheless endeavour to disclose the expert report as early as practically possible before 26 May.

Freetown, 20 May 2008

Counsel for Augustine Gbao

John Cammegh

Scott Martin



Counsel for Issa Sesay

Wayne Jordash

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