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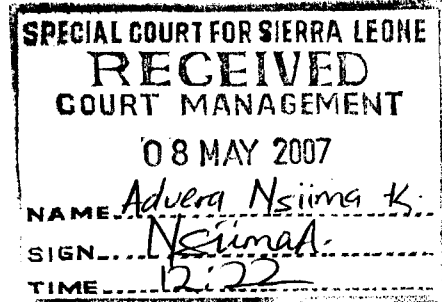
SCSL-04-15-T  
28283-28286  
**SPECIAL COURT FOR SIERRA LEONE**  
OFFICE OF THE PROSECUTOR  
Freetown – Sierra Leone

28283

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

Acting Registrar: Mr. Herman von Hebel

Date filed: 8 May 2007



**THE PROSECUTOR**

**Against**

**Issa Hassan Sesay**  
**Morris Kallon**  
**Augustine Gbao**

Case No. SCSL-04-15-T

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**PUBLIC**

**PROSECUTION RESPONSE TO THE DEFENCE MOTION REQUESTING REASONS FOR PROSECUTION OBJECTION TO AUTHENTICITY OF THE EXHIBITS FILED BY ISSA SESAY**

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Office of the Prosecutor:  
Pete Harrison  
Charles Hardaway

Defense Counsel for Issa Hassan Sesay  
Mr. Wayne Jordash  
Ms. Sareta Ashraph

Defense Counsel for Morris Kallon  
Mr. Shekou Touray  
Mr. Charles Taku  
Mr. Melron Nicol-Wilson

Defense Counsel for Augustine Gbao  
Mr. Andreas O'Shea  
Mr. John Cammegh

## I. INTRODUCTION

1. Paragraph 2. e.) of the “Scheduling Order Concerning the Preparation and the Commencement of the Defence Case,”<sup>1</sup> states that “where possible” the Prosecution should advise whether there is any objection to the authenticity of the exhibits filed by an Accused.
2. The Defence for the First Accused filed an exhibit chart listing 395 exhibits (DIS/EXH/1 to DIS/EXH/395).<sup>2</sup>
3. The Prosecution, upon inspection of the exhibits, filed a notification of objection to the authenticity of most of the exhibits that are sought to be tendered by the Defence for the First Accused.<sup>3</sup> Copies of the exhibits have not been given to the Prosecution but the Defence has permitted the Prosecution to inspect copies of the exhibits.
4. The Defence for the First Accused has filed a motion requesting reasons for the Prosecutions objection to the authenticity of the exhibits filed by the First Accused.<sup>4</sup>
5. Upon further inspection, the Prosecution advises that it does not object to the authenticity of the following additional exhibits: DIS/EXH/61, DIS/EXH/68, DIS/EXH/69, DIS/EXH/70, DIS/EXH/80, DIS/EXH82, DIS/EXH/83, DIS/EXH/85, DIS/EXH/86, DIS/EXH/134, DIS/EXH/135, DIS/EXH/138, DIS/EXH/151, DIS/EXH/157, DIS/EXH/161, DIS/EXH/271, DIS/EXH/272.
6. The basis for the Prosecutions objection to the remaining Exhibits is that upon inspection of the Exhibits, the Prosecution is unable to verify authenticity. The Appeals Chamber has previously decided that a statement that is unauthenticated is not necessarily unreliable, and in that particular instance held that the unauthenticated documents were relevant and should have been admitted into evidence.<sup>5</sup> The Prosecution is not at this time suggesting that it will object to the admissibility of the documents listed by the

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<sup>1</sup> *Prosecutor v. Sesay, Kallon, Gbao*, SCSL-2004-15-T-659, “Scheduling Order Concerning the Preparation and the Commencement of the Defence Case”, 30 October 2006.

<sup>2</sup> *Prosecutor v. Sesay, Kallon, Gbao*, SCSL-2004-15-T-726, “Sesay-Filing of Documents in Compliance with the Scheduling Order Concerning the Preparation and the Commencement of the Defence Case dated 30 October 2006”, 5 March 2007 at Annex B.

<sup>3</sup> *Prosecutor v. Sesay, Kallon, Gbao*, SCSL-2004-15-T-758, “Prosecution Notification of Objection to Authenticity of the Exhibits filed by Issa Hassan Sesay”, 18 April 2007.

<sup>4</sup> *Prosecutor v. Sesay, Kallon, Gbao*, SCSL-2004-15-T-767, “Motion Requesting Reasons for Prosecution Objection to Authenticity of the Exhibits Filed by Issa Sesay”, 30 April 2007.

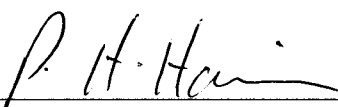
<sup>5</sup> *Prosecutor v. Norman, Fofana, Kondewa*, SCSL-2004-14-T-371, “Fofana – Appeal Against Decision Refusing Bail,” 11 March 2005, para. 25.

Defence, the test being one of relevance, but rather that the Prosecution is unable to confirm the authenticity of the copies of the documents that it inspected at the offices of the Defence.

Filed in Freetown,

8 May 2007

For the Prosecution,



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Pete Harrison

Index of Authorities

1. *Prosecutor v. Sesay, Kallon, Gbao*, SCSL-2004-15-T-659, “Scheduling Order Concerning the Preparation and the Commencement of the Defence Case”, 30 October 2006.
2. *Prosecutor v. Sesay, Kallon, Gbao*, SCSL-2004-15-T-726, “Sesay-Filing of Documents in Compliance with the Scheduling Order Concerning the Preparation and the Commencement of the Defence Case dated 30 October 2006”, 5 March 2007 at Annex B.
3. *Prosecutor v. Sesay, Kallon, Gbao*, SCSL-2004-15-T-758, “Prosecution Notification of Objection to Authenticity of the Exhibits filed by Issa Hassan Sesay”, 18 April 2007.
4. *Prosecutor v. Sesay, Kallon, Gbao*, SCSL-2004-15-T-767, “Motion Requesting Reasons for Prosecution Objection to Authenticity of the Exhibits Filed by Issa Sesay”, 30 April 2007.
5. *Prosecutor v. Norman, Fofana, Kondewa*, SCSL-2004-14-T-371, “Fofana – Appeal Against Decision Refusing Bail,” 11 March 2005, para. 25.