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SCSL - 2004 - 15 - PT  
(1180 - 1181)

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IN THE SPECIAL COURT FOR SIERRA LEONE

**THE APPEALS CHAMBER**

**Before:** Judge Robertson QC, President  
Judge King, Vice-President  
Judge Ayoola  
Judge Winter  
Fifth judge not known at the stage of filing

**Registrar:** Mr Robin Vincent

**Date filed:** 5th March 2004

Case No. SCSL 2004 - 15 - PT

**In the matter of:**

**THE PROSECUTOR**

Against

**ISSA SESAY  
MORRIS KALLON  
AUGUSTINE BAO**

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**JOINT**  
**KALLON AND GBAO'S RESPONSE TO SESAY'S MOTION SEEKING THE  
DISQUALIFICATION OF JUDGE ROBERTSON FROM THE APPEALS  
CHAMBER**

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Office of the Prosecutor

Mr David Crane, Prosecutor  
Mr Desmond de Silva, QC, Deputy Prosecutor  
Mr Luc Côté, Chief of Prosecutions

For Morris Kallon

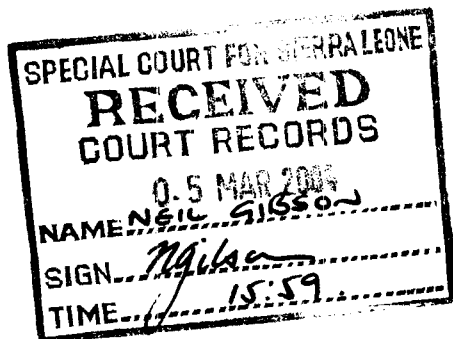
Mr Rupert Skilbeck  
Mrs Haddijatou Kah-Jallow

For Augustine Bao

Mr Girish Thanki  
Professor Andreas O'Shea  
Mr Kenneth Carr  
Ms Glenna Thompson

For Issa Sesay

Mr Timothy Clayson  
Mr Wayne Jordash  
Mr Serry Kamal  
Ms Sareta Ashraph

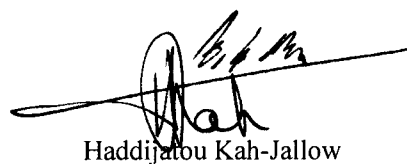


1. The defence for Issa Sesay have submitted the President of the Appeals Chamber, Judge Robertson, should step down or be disqualified from further sitting as an Appeals Chamber judge on the basis that the content of his book, *Crimes against Humanity*, discloses actual or perceived bias on the part of the judge.
2. The defence for Morris Kallon and Augustine Bao accept and support this submission. It is respectfully submitted that the quotations referred to in the above-mentioned motion are clearly capable of creating the appearance of bias, thereby bringing into question whether justice will not only be done but will be seen to be done. This is because in the said book criminal behaviour has been attributed to the RUF, in which the accused Augustine Bao, Morris Kallon and Issa Sesay held positions, and a stance unfavourable to the defence is taken on the legality and desirability of amnesty under the Lomé Accord for the alleged conduct, on which preliminary motions on jurisdiction have been filed;
3. It is further submitted that this is a matter of such significance to the integrity and credibility of proceedings before the Special Court for Sierra Leone that it ought to be decided following an oral hearing, in the absence of the President, held in public to ensure transparency in the decision making process. It is submitted that such hearing may be held in terms of 15(B) of the Rules of Procedure of Evidence. In the alternative, it is submitted that the Appeals Chamber has inherent jurisdiction, implied from articles 13 and 17 of the Statute of the Special Court for Sierra Leone and Article 2(2) of the Agreement for the Establishment of the Special Court for Sierra Leone, to deal with any serious allegation of bias involving the President;

**RELIEF REQUESTED:**

1. That Judge Geoffrey Robertson voluntarily recuse himself from sitting as a judge on the Appeals Chamber of the Special Court for Sierra Leone;
2. In the alternative, that an oral public hearing be held before the remaining members of the Appeals Chamber to determine the above question and that Judge Geoffrey Robertson be asked to step down and/or be disqualified from sitting as a judge on the Appeals Chamber of the Special Court for Sierra Leone.

Professor Andreas O'Shea



Haddijatou Kah-Jallow

5th March 2004