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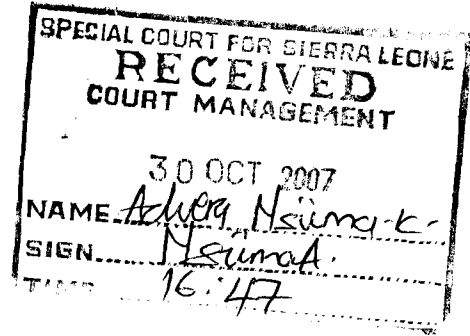
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**SPECIAL COURT FOR SIERRA LEONE
APPEALS CHAMBER**

Before: Hon. Justice George Gelaga King, Presiding
Hon. Justice Emmanuel Ayoola
Hon. Justice Raja Fernando
Hon. Justice Renate Winter

Registrar: Mr. Herman Von Hebel

Date filed: 30 October 2007



THE PROSECUTOR

v.

**ISSA HASSAN SESAY
MORRIS KALLON
AUGUSTINE GBAO**

Case No. SCSL-04-15-T

PUBLIC

CORRIGENDUM TO

**GBAO-RESPONSE TO PROSECUTION NOTICE OF APPEAL AND SUBMISSIONS
REGARDING THE OBJECTION TO THE ADMISSIBILITY OF PORTIONS OF EVIDENCE
OF WITNESS TF1-371**

Office of the prosecutor:

Mr. Peter Harrison
Mr. Reginald Fynn
Mr. Charles Hardaway
Mr. Vincent Wagona

Defence Counsel for Issa Sesay:

Mr. Wayne Jordash
Ms. Sareta Ashraph

Defence Counsel for Morris Kallon:

Mr. Shekou Touray
Mr. Charles Taku
Mr. Ogetto Kennedy

Defence Counsel for Augustine Gbao:

Mr. John Cammegh

1. On 29 October 2007, the Defence for the third Accused, Augustine Gbao, filed its response¹ to the Prosecution appeal² of the Trial Chamber decision to exclude parts of testimony of TF1 371.³
2. The defence for the third Accused hereby files a corrigendum.
3. The last sentence of paragraph 13, which reads ‘As put by defence counsel in court, ‘the fundamental basis of a fair criminal trial is the right of the defendant to test the veracity of Prosecution evidence by way of cross-examination’, should be included at the beginning of the following paragraph, paragraph 14.
4. Paragraph 15 should read

Defence counsel accepts the Prosecution’s account of disclosure as mentioned **in** paragraphs 13 to 18 of its Appeal. However defence counsel would like to stress the fact that in the statement disclosed on 8 May 2006, Augustine Gbao is **alleged to have received reports as chief of the IO while in the 10th of July 2006 proofing, there is no reference to the IO, although Augustine Gbao is alleged to have received reports from the IDU. It should also be stated that the redacted disclosure of the 11 April 2006 contained no legible reference to the Accused.** It should also be stated that the redacted disclosure of the 11 April 2006 contained no legible reference to the Accused. (Footnotes omitted)

5. On page 5 of the Response, right before paragraph 17, the title should read

*Indictment, **Pre-trial** Brief and Supplemental **Pre-Trial** Brief and **Prosecution** Opening Statement*

¹ *The Prosecutor against Issa Hassan Sesay, Morris Kallon and Augustine Gbao*, Doc. SCSL -2004-15-858, Gbao-Response to Prosecution Notice of Appeal and Submissions Regarding the Objection to the Admissibility of Witness Tf1 371 with Confidential Appendices, 29 October 2007. (Hereinafter ‘The Response’).

² *Prosecutor against Issa Hassan Sesay, Morris Kallon, Augustine Gbao*, Doc. No. SCSL-2004-15-T-845, Prosecution Notice of Appeal and Submissions Regarding the Objection to the Admissibility of Portions of the Evidence of Witness TF1 371 with Confidential Appendices, 22 October 2007, paras.9 and 10. (Hereinafter ‘Prosecution Appeal’).

³ *Prosecutor against Issa Hassan Sesay, Morris Kallon, Augustine Gbao*, Doc. No. SCSL-2004-15-T-623, Written Reasons on Majority Decision on Oral Objection Taken by Counsel for the Third Accused, Augustine Gbao, to the Admissibility of Portions of the Evidence of Witness TF1 371, Trial Chamber 1, 2 August 2006, para.13. (‘Trial Chamber Decision’)

6. The last sentence of paragraph 18 should read

In defence counsel's opinion these documents do not, in any case, provide sufficient notice that **evidence will be led to demonstrate that** Augustine Gbao was aware of killings going on in Kono district.

7. The first sentence of paragraph 23 should read

The Prosecution relies on the fact that it alleged command responsibility as a mode of responsibility for Augustine Gbao **to argue that it has provided** sufficient notice that allegations of unlawful killings in Kono will be brought against the third Accused.

8. The last part of paragraph 29 should read

'The logical extension of Joint Criminal Enterprise [...] is that I would have had to cross **examine** every witness on every incident averred in those documents (Indictment and Pre-Trial Brief), regardless of the evidence that we've heard in court and, more specifically, regardless of Gbao's knowledge of those events, his whereabouts at the time, his place in the command structure at that time, et cetera et cetera'. (Footnote omitted).

9. Paragraph 45 should read

The Prosecutor claims that the Trial Chamber erred in law by failing to provide a legal basis for its decision to **exclude** portions of TF1 371 testimony.

10. Paragraph 65 should read

The Prosecution itself recognizes that **the fact that** the third Accused was prevented from cross examining Kono district witnesses on unlawful killings was the consequence of the fact that most Kono witnesses testified before the Prosecution applied to add TF1 371 to its witness list.

11. The second sentence of paragraph 73 should read

The evidence presently **in** issue implies that Augustine Gbao knew about crimes committed in Kono.

12. Paragraph 85 should read

Granting the Prosecution's relief would result in a substantial delay in the proceedings and in a total disorganisation of both **the Prosecution** and the Defence case, which would clearly violate the rights of the Accused (who has already spend 3 years in detention) to have an expeditious trial. This would go against the interests of justice.

13. Paragraph 93 should read

As a final **point** Defence counsel wishes to stress the fact that **this** is the first time that the disclosure of new evidence during the course of the trial goes to the Appeals Chamber. **We respectfully submit that** is an **important** opportunity for the Appeals Chamber to **provide the Trial Chamber an ultimate, overarching** discretion for the Trial Chamber to rule evidence inadmissible when its prejudicial effect on the fundamental rights of the Accused to receive a fair trial necessarily outweighed its probative value.

Done at Freetown on Tuesday the 30th of October 2007,



PP Court Appointed Counsel for Augustine Gbao,
John Cammegh.