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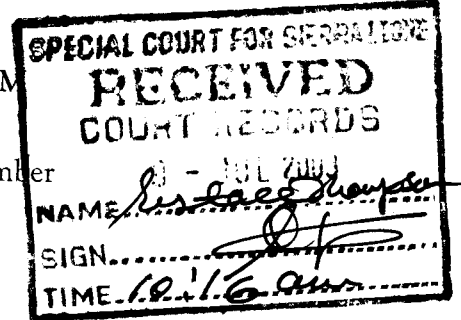
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SCSL-2003-11-PD-020
(727-754)



SPECIAL COURT FOR SIERRA LEONE
JOMO KENYATTA ROAD • FREETOWN • SIERRA LEONE
PHONE: +39 0831 257000 or +232 22 297000 or +1 212 963 9915 Ext:178 7000
FAX: +39 0831 257001 or +232 22 297001 or +1 212 963 9915 Ext: 178 7001

INTEROFFICE MEMORANDUM



To: Judge Pierre Boutet, Designated Judge of the Trial Chamber
From: Robin Vincent, Registrar
Date: 2 July 2003

R. Vincent

Subject: The Prosecutor v. Moinina Fofana, SCSL-2003-11-PD, The Prosecutor v. Allieu Kondewa, SCSL- 2003-12-PD: Judge Boutet's Request for Information on the Service and Interpretation/Translation to the Suspects of the Documents relating to their Arrest, Transfer and Provisional Detention

1. At the Initial Hearing held on Wednesday 4 June 2003, pursuant to Rule 40bis (J), Judge Pierre Boutet, Designated Judge of the Trial Chamber, requested the Registrar for Information regarding the service and interpretation/translation of Documents relating to the Arrest, Transfer and Provisional Detention of Suspects, Mr. Moinina Fofana and Mr. Allieu Kondewa. The minute of the Hearing is attached for reference¹. Please find herewith the following information, submitted pursuant to Rule 33(B) of the Rules of Procedure and Evidence ("Rules").

The Judge has requested that the Registrar respectively addresses the following issues in his Report:

- The service of documentation relating to the Arrest, Transfer and Provisional Detention of the Suspect and the interpretation or translation of such documents to the Suspect, Mr. Moinina Fofana, and to the Defence Office; and
 - The service of documentation relating to the Arrest, Transfer and Provisional Detention of the Suspect and the interpretation or translation of such documents to the Suspect, Mr. Allieu Kondewa, and to the Defence Office.
2. In light of the fact that the arrest and transfer of the Suspects, Moinina Fofana and Allieu Kondewa, were carried out concomitantly, the following report will address both cases and will present all information available to the Registry regarding the service and interpretation/translation of the documents relating to their arrest and transfer into the custody of the Special Court.

¹Annex 1: Minutes of Proceedings in the Case of *The Prosecutor v. Allieu Kondewa*, and Minutes of Proceedings in the Case of *The Prosecutor v. Moinina Fofana*. Both held on Wednesday 4 June 2003. Hearing Pursuant to Rule 40 bis (J).

3. The arrest and transfer of the Suspects, as well as the circumstances surrounding the service and interpretation/translation of the documents relating to the said arrest and transfer are described by Mr. Bob Parnell, Chief of Security, in his Memorandum of 24 June 2003 entitled "Arrest and Detention of Moinina Fofana and Allieu Kondewa"².

APPLICABLE RULES AND PROCEDURE

Rule 40bis: Transfer and Provisional Detention of Suspects

4. On 26 May 2003, the Prosecutor filed requests for the transfer and provisional detention of Mr. Fofana and Mr. Kondewa pursuant to Rule 40bis. An "Order for Transfer and Provisional Detention pursuant to Rule 40bis" ("Transfer Order") was issued on 28 May 2003 by Judge Pierre Boutet. The Order granted the Prosecutor's requests and ordered that Mr. Fofana and Mr. Kondewa be transferred as soon as possible to the Detention Facility of the Special Court.
5. The Registrar, in accordance with Rule 40bis(I) and Rule 55(C)(i) requested the national authorities to transfer Mr. Fofana and Mr. Kondewa into the custody of the Special Court upon their arrests by the Sierra Leone Police. The Registry served the documents as listed in Rule 55(C) on the Deputy Inspector General of Police, Mr. Brima Alha Kamara³. In accordance with Rule 55(C)(ii) the said authorities served a set of documents upon the Suspects and caused them to be read to the Suspects and to caution them as to their rights, as detailed in paragraph 9 below.
6. Pursuant to Rule 55(C)(iii), the documents relating to the arrest, transfer and provisional detention of the Suspects were interpreted/translated to them in a language which they understood, as described in paragraphs 10-11 below.

FACTUAL BACKGROUND

7. On 29 May 2003, Mr. Fofana and Mr. Kondewa were arrested by the Sierra Leone Police and transferred to Matura Junction and Bo, respectively, for transportation to the Special Court Detention Facility in Bonthe. As stated in the Memorandum from Mr. Bob Parnell in Annex. 2, Mr. Fofana and Mr. Kondewa, as well as their arresting officers, Superintendent of Sierra Leone Police Mr. Augustine M. Kailie and Superintendent of Sierra Leone Police Mr. Amos Kargbo, were transported from Mamy Yoko helipad by UNAMSIL helicopter to the Detention Facility in Bonthe, where the Suspects were officially transferred into the custody of the Special Court.
8. Upon entry into the custody of the Special Court on 29 May 2003, the "Statement relating to the Transfer of an a Suspect to the Custody of the Special Court"⁴ was completed by Superintendent of Sierra Leone Police Mr. Augustine M. Kailie ensuring

² Annex 2: Memorandum from Bob Parnell, Chief of Security, to Robin Vincent, Registrar, entitled: "Arrest and Transfer of Moinina Fofana and Allieu Kondewa", dated 24 June 2003.

³ Annex 3: Return of Service on National Authorities Forms for Mr. Moinina Fofana and Mr. Allieu Kondewa, signed by the Deputy Inspector General of Sierra Leone Police, Mr. Brima Alha Kamara.

⁴ Annex 4: Statement for Handover to the Suspect relating to the transfer of Mr. Moinina Fofana in the custody of the Special Court, dated 29 May 2003.

that the Suspect, Mr. Fofana, had been served with the Order for Transfer and Provisional Detention, the Request for Transfer and Provisional Detention and a certified copy of the Rights of Suspect duly admonished. A "Statement relating to the Transfer of an a Suspect to the Custody of the Special Court"⁵, also dated 29 May 2003 and completed by Superintendent of Sierra Leone Police Mr. Amos Kargbo, attests to same in reference to the Suspect, Mr. Kondewa.

9. Mr. Fofana was read his rights, including his right to be assisted by a lawyer under the Special Court legal aid scheme and the right to have the free assistance of an interpreter, in both English and Krio by the Security Section as certified by Mr. Augustine M. Kailie in the "Statement relating to the Transfer of a Suspect to the Custody of the Special Court"⁶. Thereafter, the Deputy Chief of Detention, Mr. John Newell, proceeded to inform the Suspect of the Rules of Detention and to ensure that information regarding the Suspect's next of kin and date and place of birth was accurately recorded. Mr. Fofana, who speaks fluently both Krio and Mende, also Acknowledged Receipt of the documents served on him in accordance with Rule 40bis(I) and Rule 55(C)⁷.
10. Subsequently, Mr. Kondewa was read his rights, including his right to be assisted by a lawyer under the Special Court legal aid scheme and the right to have the free assistance of an interpreter, in English, Krio and Mende by the Security Section as certified by Mr. Amos Kargbo in the "Statement relating to the Transfer of a Suspect to the Custody of the Special Court"⁸. The Suspect was equally informed by the Deputy Chief of Detention, Mr. John Newell, of the Rules of Detention and he also Acknowledged Receipt of the documents served on him in accordance with Rule 40bis(I) and Rule 55(C)⁹.
11. On 29 May 2003, copies of the Orders for Transfer and Provisional Detention of Mr. Fofana and Mr. Kondewa were served on the Defence Office¹⁰, in accordance with Rule 40bis(E).¹¹
12. On 30 May 2003, Mr. John R.W.D. Jones, then Acting Chief of the Defence Office, visited the Suspects, Mr. Fofana and Mr. Kondewa, in the Detention Facility in Bonthe. A Mende and Krio interpreter, Mr. Joseph Sahr Bundor, from the Language Unit of the Court Management Section of the Registry, accompanied Mr. Jones. He facilitated the communications with both Suspects, interpreted the rights of suspects and went through the relevant Rules, namely Rule 40bis and interpreted the provisions into Krio and Mende for the suspects respectively.

⁵ Annex 5: Statement for Handover to the Suspect relating to the transfer of Mr. Allieu Kondewa in the custody of the Special Court, dated 29 May 2003.

⁶ See Annex 3 at Footnote 3.

⁷ Annex 6: Acknowledgement of Receipt by a Suspect Form, dated 29 May 2003 and signed by Mr. Fofana.

⁸ See Annex 4 at Footnote 4.

⁹ Annex 7: Acknowledgement of Receipt by a Suspect Form, dated 29 May 2003 and signed by Mr. Kondewa.

¹⁰ Annex 8: Proof of Service Form, dated 29 May 2003 and Transcripts of Hearing pursuant to Rule 40bis(J), *The Prosecutor v. Moinina Fofana*, SCSL-2003-11-PD, held on 4 June 2003, at page 10, lines 19-23.

¹¹ According to Rule 42 (Rights of Suspects during Investigations), a Suspect has "[t]he right to legal assistance of his own choosing, including the right to have legal assistance provided by the Defence Office where the interests of justice so require and where the suspect does not have sufficient means to pay for it" (Rule 42(A)(i)). See also Rule 45 (Defence Office) and, more particularly, paragraph (A).

13. Furthermore, copies of the audio-recordings of the Hearing pursuant to Rule 40bis(J) held on 4 June 2003 were given to both Suspects. Mr. Fofana and Mr. Kondewa were subsequently provided with the opportunity and the necessary equipment to listen to the aforementioned audio-cassettes.
14. According to the Minutes of the Hearing pursuant to Rule 40bis(J), held for both Mr. Fofana and Mr. Kondewa on 4 June 2003, the Judge also instructed the Registrar to submit a report about the use and requirement, if any, of instruments of restraint during the transfer of the Suspects from the Detention Unit to the Courtroom. A report¹² to this effect drafted by then Deputy Chief of Detention, Mr. John Newell, is hereinafter attached as Annex 9.

Regards.

¹² Annex 9: Report from Mr. John Newell, Deputy Chief of Detention, entitled "Detention Unit – Instruments of Restraint".

LIST OF ANNEXES

- Annex 1:** Minutes of Proceedings in the Case of *The Prosecutor v. Allieu Kondewa*, and Minutes of Proceedings in the Case of *The Prosecutor v. Moinina Fofana*. Both held on Wednesday 4 June 2003. Hearing Pursuant to Rule 40 bis (J).
- Annex 2:** Memorandum from Bob Parnell, Chief of Security, to Robin Vincent, Registrar, entitled: "Arrest and Transfer of Moinina Fofana and Allieu Kondewa", dated 24 June 2003.
- Annex 3:** Return of Service on National Authorities Forms for Mr. Moinina Fofana and Mr. Allieu Kondewa, signed by the Deputy Inspector General of Sierra Leone Police, Mr. Brima Alha Kamara.
- Annex 4:** Statement for Handover to the Suspect relating to the transfer of Mr. Moinina Fofana in the custody of the Special Court, dated 29 May 2003.
- Annex 5:** Statement for Handover to the Suspect relating to the transfer of Mr. Allieu Kondewa in the custody of the Special Court, dated 29 May 2003.
- Annex 6:** Acknowledgement of Receipt by a Suspect Form, dated 29 May 2003 and signed by Mr. Fofana.
- Annex 7:** Acknowledgement of Receipt by a Suspect Form, dated 29 May 2003 and signed by Mr. Kondewa.
- Annex 8:** Proof of Service Form, dated 29 May 2003 and Transcripts of Hearing pursuant to Rule 40bis(J), *The Prosecutor v. Moinina Fofana*, SCSL-2003-11-PD, held on 4 June 2003, at page 10, lines 19-23.
- Annex 9:** Report from Mr. John Newell, Deputy Chief of Detention, entitled "Detention Unit - Instruments of Restraint".

ANNEX 1



MINUTES OF PROCEEDINGS

Rule 35 of the Rules of Procedure and Evidence

Case Name: 793
Case No: SCSL-03-11-PD
Pre-Trial Judge: Boutet

Before: Judge Pierre Boutet
Prosecution: Jim Johnson
Suspect: Mr. Moinina Fofana
Defence: John RWD Johnes, Ibrahim S. Yilla, Sam Scratch (Duty Counsel)
Registry: Musu D. Kamara, Court Officer; Giorgia Tortora, Court Registrar
Chambers: Matteo Crippa, Simon Meisenberg, Chambers Legal Assistant
Date: Wednesday 4 June 2003

Hearing pursuant to Rule 40 bis (J)

Remarks:

1. Language: English with interpretation in Mende provided for the Suspect;
2. The Suspect identified himself as Moinina Fofana;
3. The Judge through the interpreter read to the Suspect Article 17 of the Statute and Rule 42 and 43 of the Rules of Procedure and Evidence of the Special Court. Thereafter, the Judge informed the Suspect of the provisions of Rule 40 bis and that the purpose of the hearing was to ensure that his rights in relation to his arrest, transfer and detention were respected;
4. Submission from the Parties: Defence raised an issue about the servicing to the Suspect and the Defence of the relevant documentation related to the transfer and the provisional detention of the Suspect, as well as on the interpretation of such documentation to the Suspect. Thereafter, Defence reiterated summarily the argument of his written submission filed on Monday 2 June 2003 and argued of the invalidity of the arrest, transfer and provisional detention of the suspect and requested his immediate release, such further detention being in contravention of the Suspect's fundamental rights. Defence submitted that the Court could dispose of this application under Rule 40 bis (J). Judge informed the Defence and the Prosecution that such submission pertains more to the Trial Chamber as per Rules 40 (C) and 40 bis (K) rather than a Judge alone and invited the Defence to consider the filing of written submissions in the form of a motion before the Trial Chamber, taking into account the new argumentation as raised during the hearing. Defence consequently asked the Court to reserve the right to file further submissions before the Trial Chamber, which was granted. Prosecution submitted that the rights of the Suspect had been respected and that they would respond in due course to the submission to be filed by the Defence. Lastly, Defence requested the Court to issue and order on the use of instrument of restraint during the transfer of the Suspect to the Courtroom as well as on the recording, taking and disclosing to the public of photographic images of the Suspect;

Orders / Decisions rendered on the bench:

5. Judge instructed the Registrar to provide interpretation in Mende of the documentation related to the transfer and the Provisional Detention of the Suspect. Interpretation was provided immediately thereafter during the adjournment period;
6. Judge requested the Registrar to submit a report about the servicing to the Suspect and the Defence of the documentation related to the arrest, the transfer and the provisional detention of the Suspect and the interpretation or translation of such documents to the Suspect;
7. Judge instructed the Registrar to submit a report about the use and requirement, if any, of instruments of restraint during the transfer of the Suspect from the Detention Unit to the Courtroom;

- 8. Judge instructed the Registrar to ensure that consideration be given to the sensitivity of the Suspect with respect to recording, taking and disclosing to the public of photographic images of the Suspect;
- 9. Judge confirmed the provisional detention of the Suspect and adjourned the matter *sine die*.

Pierre G. Boutet

signature

signature

M. Kamara

Commencement	Ajournement	
12hrs15	13hrs00	
14hrs 00	14hrs45	
Total time in Court		1hr30

(SIGNED 10.03.03)
Judge Boutet

(SIGNED 10.03.2003)
Musu D. Kamara for
the Registry



MINUTES OF PROCEEDINGS

Rule 35 of the Rules of Procedure and Evidence

Case Name:
Case No: SCSL-03-12-PD
Pre-Trial Judge: Boutet

735

Before: Judge Pierre Boutet
Prosecution: Jim Johnson
Suspect: Mr. Allieu Kondewa
Defence: John RWD Johnes, Ibrahim S. Yilla, Sam Scratch(Duty Counsel)
Registry: Musu D. Kamara, Court Officer; Giorgia Tortora, Court Registrar
Chambers: Matteo Crippa, Simon Meisenberg, Chambers Legal Assistant
Date: Wednesday 4 June 2003

Hearing pursuant to Rule 40 bis (J)

Remarks:

1. Language: English with interpretation in Mende provided for the Suspect;
2. The Suspect identified himself as Allieu Kondewa;
3. The Judge informed the Suspect of the provisions of Rule 40 bis and that the purpose of this hearing was to ensure that his rights in relation to his arrest, transfer and detention were respected;
4. Submission from the Parties: Defence reiterated the arguments as submitted in his written submission filed on Monday 2 June 2003 and during the Hearing pursuant to Rule 40 bis (J) in the case of the Prosecutor v. Moinina Fofana, Case no. SCSL-2003-11-PD, as the issues pertaining to the present case are essentially identical. Defence took note of the Judge rulings on the same arguments as rendered in such hearing and reserved the right to file further submissions before the Trial Chamber. Prosecution submitted that the rights of the Suspect had been respected and that they would respond in due course to the submission to be filed by the Defence. Consequently, the Judge directed that the Court was to proceed as it did in the case of the Prosecutor v. Moinina Fofana, Case no. SCSL-2003-11-PD

Orders / Decisions rendered on the bench:

5. Judge requested the Registrar to submit a report about the servicing to the Suspect and the Defence of the documentation related to the arrest, the transfer and the provisional detention of the Suspect and the interpretation or translation of such documents to the Suspect;
6. Judge instructed the Registrar to submit a report about the use and requirement, if any, of instruments of restraint during the transfer of the Suspect from the Detention Unit to the Courtroom;
7. Judge instructed the Registrar to ensure that consideration be given to the sensitivity of the Suspect with respect to recording, taking and disclosing to the public of photographic images of the Suspect;
8. Judge confirmed the provisional detention of the Suspect and adjourned the matter *sine die*.

signature

signature

Commencement	Ajournement	
15hrs00	15hrs30	
Total time in Court		30min

(SIGNED 10.03.03)
Judge Boutet

(SIGNED 10.03.2003)
Musu D. Kamara for
the Registry

ANNEX 2



MEMORANDUM

24 June 2003

From: Bob Parnell, Chief of Security *Bob Parnell*

To: Registry Officer

Subject: Arrest and Detention of Moinina Fofana and Allieu Kondewa

On 29 May 2003, Moinina Fofana and Allieu Kondewa were arrested by the Sierra Leone Police, transported to the Special Court detention facility at Bonthe and transferred to the custody of the Special Court. The following is a chronology of my knowledge of the arrest and transfer of Fofana and Kondewa:

- On 26 May 2003, I was informed by the Court (Prosecution) Investigations Section that suspects Fofana and Kondewa had been located in Gbap village and a village near Bo respectively and were to be arrested by the Sierra Leone Police during the week. I was asked to arrange helicopter transport for movement of Fofana and Kondewa from the arrest sites and to provide security personnel to assist in escorting the suspects to Bonthe. I was informed that the arrests had been requested under Rule 40bis pending completion of indictments against the two. I was additionally informed that Bazy Kamara, who was under indictment by the Court, was to be arrested by the Sierra Leone Police under charges brought by the Sierra Leone authorities and that he, also, was to be transported to Bonthe and transferred to the custody of the Court.
- On 27 May 2003, I was informed by the Court's (Prosecution) Investigations Section that Kamara had been arrested by the Sierra Leone Police and was being held at the Jui Police station and that the arrest of Fofana and Kondewa would be made on 29 May 2003. Based on this information, I confirmed the availability of a UNAMSIL helicopter to transport Fofana and Kondewa and their arresting Sierra Leone Police officers from their planned arrest locations to Bonthe. I arranged for members of my section to move Kamara and his Sierra Leone Police officer from Jui to Hastings airfield and on to Bonthe for transfer to Court custody.
- On 28 May 2003 I attended a Sierra Leone Police planning session for the arrests of Fofana and Kondewa. In attendance were senior members of the Sierra Leone

Police including the head of operations and designated arresting officers and members of the Court's (Prosecution) Investigation Section. The planning entailed having the arrest team for Kondewa to meet at Mano town with local police at 0530 on 29 May, move to Bendu village where Kondewa was believed to be, arrest Kondewa between 0730 and 0800 and transport him to Bo airfield for movement to Bonthe. The arrest team for Fofana was to meet with local police at 0530 at Matura Junction, move to Gbap where Fofana was believed to be, arrest Fofana between 0730 and 0800 and await pickup at a designed helicopter landing site near Gbap for transport to Bonthe. As Kamara was in police custody, movement to Bonthe was to be effected following the arrest and transfer of Fofana and Kondewa.

- Following the meeting with the police planning team on 28 May, I informed the office of the Inspector General of Police that Return of Service on National Authority Form and supporting documents for Karama had been prepared, and that the Return of Service on National Authority Form and supporting documents for Fofana and Kondewa were being prepared and would be delivered to the Inspector General or his Deputy on 29 May.
- At 0700 on 29 May 2003, I took the UNAMSIL helicopter to Bonthe to await notification of the arrest of Fofana and Kondewa. I was accompanied by Malcolm Hutchinson and Atig Shaikh of the Security Section, Gilbert Morissette of the (Prosecution's) Investigation Section and John Newell of the Detention Section. On arriving at Bonthe at 0745, I received a call via satellite phone that Fofana had been arrested in Matura Junction and the arrest team needed him picked up immediately. I had the helicopter launched and arrived at an improvised landing site in Matura Junction at 0800. At the landing site I met the arrest team accompanied by members of the Investigation Section. I placed Fofana and his Sierra Leone Police arresting officer, Superintendent Augustine M. Kailie, aboard the helicopter and proceeded to Bo airfield. At Bo I met the arresting team, again accompanied by members of the Investigation Section, and placed Kondewa and his Sierra Leone Police arresting officer, Superintendent Amos Kargbo, aboard the helicopter. Both Fofana and Kondewa had been handcuffed by the Sierra Leone police on arrest; the restraints remained in place during transit.
- The helicopter landed at Bonthe at 0945. I moved Fofana and Kondewa with their arresting officers to the detention facility. At the detention facility, Fofana was transferred to Court custody, had his wrist restraints removed and was read his rights in English and Krio. Fofana then signed a statement indicating that he had been read his rights and understood his transfer to the custody of the Court. Kondewa was then transferred to the custody of the Court, had his wrist restraints removed and was read his rights in English, Krio and Mende. Kondewa then signed a statement that he had been read his rights and understood his transfer to the custody of the Court. Further in processing was conducted by John Newell who informed Fofana and Kondewa of the rules of the detention center and ensured that the Court had accurate information on next of kin and date and place of birth. Both Fofana and Kondewa were then given physical examinations by Court Doctor Harding.

- At 1130 I departed Bonthe aboard the UNAMSIL helicopter and traveled to Hastings airfield. From Hastings, I went to Jui police station and picked by Bazy Kamara and his Sierra Leone Police arresting officer. We proceeded back to Hastings where we were met by James Johnson of the Prosecutor's office. I then moved Kamara, his arresting officer and Johnson to Bonthe aboard the UNAMSIL helicopter.
- On return to Bonthe at approximately 1430 29 May 2003, I transported Kamara to the detention facility. At the facility, Kamara was transferred to the custody of the Court and read his rights in English and Krio. He was then informed of detention center rules and given a physical examination by Doctor Harding.
- Prior to my departure from Bonthe at 1630, I visited Fofana and Kondewa and personally ensured that they had in their possession binders containing certified true copies of the following documents:
 - 1) Order for the Transfer and Provisional Detention
 - 2) Request for Transfer and Detention
 - 3) Rights of Suspect
 - 4) Agreement between the United Nations and the Government of Sierra Leone on the Establishment of the Special Court for Sierra Leone
 - 5) Statute of the Special Court for Sierra Leone
 - 6) Special Court Agreement, 2002 (Ratification) Art, 2002
 - 7) Rules of Procedure and Evidence of the Special Court for Sierra Leone.

Originals of the Statement for Hand Over to the Suspect, Return of Service on National Authority and Acknowledgement of Receipt by the Suspect are on file with the Court.



MEMORANDUM

24 June 2003

From: Bob Parnell, Chief of Security

To: Registry Officer

Subject: Arrest and Detention of Moinina Fofana and Allieu Kondewa

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- On 27 May 2003, I was informed by the Court's (Prosecution) Investigations Section that Kamara had been arrested by the Sierra Leone Police and was being held at the Jui Police station and that the arrest of Fofana and Kondewa would be made on 29 May 2003. Based on this information, I confirmed the availability of a UNAMSIL helicopter to transport Fofana and Kondewa and their arresting Sierra Leone Police officers from their planned arrest locations to Bonthe. I arranged for members of my section to move Kamara and his Sierra Leone Police officer from Jui to Hastings airfield and on to Bonthe for transfer to Court custody.
- On 28 May 2003 I attended a Sierra Leone Police planning session for the arrests of Fofana and Kondewa. In attendance were senior members of the Sierra Leone

Police including the head of operations and designated arresting officers and members of the Court's (Prosecution) Investigation Section. The planning entailed having the arrest team for Kondewa to meet at Mano town with local police at 0530 on 29 May, move to Bendu village where Kondewa was believed to be, arrest Kondewa between 0730 and 0800 and transport him to Bo airfield for movement to Bonthe. The arrest team for Fofana was to meet with local police at 0530 at Matura Junction, move to Gbap were Fofana was believed to be, arrest Fofana between 0730 and 0800 and await pickup at a designed helicopter landing site near Gbap for transport to Bonthe. As Kamara was in police custody, movement to Bonthe was to be effected following the arrest and transfer of Fofana and Kondewa.

- Following the meeting with the police planning team on 28 May, I informed the office of the Inspector General of Police that Return of Service on National Authority Form and supporting documents for Karama had been prepared, and that the Return of Service on National Authority Form and supporting documents for Fofana and Kondewa were being prepared and would be delivered to the Inspector General or his Deputy on 29 May.
- At 0700 on 29 May 2003, I took the UNAMSIL helicopter to Bonthe to await notification of the arrest of Fofana and Kondewa. I was accompanied by Malcolm Hutchinson and Atig Shaikh of the Security Section, Gilbert Morissette of the (Prosecution's) Investigation Section and John Newell of the Detention Section. On arriving at Bonthe at 0745, I received a call via satellite phone that Fofana had been arrested in Matura Junction and the arrest team needed him picked up immediately. I had the helicopter launched and arrived at an improvised landing site in Matura Junction at 0800. At the landing site I met the arrest team accompanied by members of the Investigation Section. I placed Fofana and his Sierra Leone Police arresting officer, Superintendent Augustine M. Kailie, aboard the helicopter and proceeded to Bo airfield. At Bo I met the arresting team, again accompanied by members of the Investigation Section, and placed Kondewa and his Sierra Leone Police arresting officer, Superintendent Amos Kargbo, aboard the helicopter. Both Fofana and Kondewa had been handcuffed by the Sierra Leone police on arrest; the restraints remained in place during transit.
- The helicopter landed at Bonthe at 0945. I moved Fofana and Kondewa with their arresting officers to the detention facility. At the detention facility, Fofana was transferred to Court custody, had his wrist restraints removed and was read his rights in English and Krio. Fofana then signed a statement indicating that he had been read his rights and understood his transfer to the custody of the Court. Kondewa was then transferred to the custody of the Court, had his wrist restraints removed and was read his rights in English, Krio and Mende. Kondewa then signed a statement that he had been read his rights and understood his transfer to the custody of the Court. Further in processing was conducted by John Newell who informed Fofana and Kondewa of the rules of the detention center and ensured that the Court had accurate information on next of kin and date and place of birth. Both Fofana and Kondewa were then given physical examinations by Court Doctor Harding.

- At 1130 I departed Bonthe aboard the UNAMSIL helicopter and traveled to Hastings airfield. From Hastings, I went to Jui police station and picked by Bazzy Kamara and his Sierra Leone Police arresting officer. We proceeded back to Hastings where we were met by James Johnson of the Prosecutor's office. I then moved Kamara, his arresting officer and Johnson to Bonthe aboard the UNAMSIL helicopter.
- On return to Bonthe at approximately 1430 29 May 2003, I transported Kamara to the detention facility. At the facility, Kamara was transferred to the custody of the Court and read his rights in English and Krio. He was then informed of detention center rules and given a physical examination by Doctor Harding.
- Prior to my departure from Bonthe at 1630, I visited Fofana and Kondewa and personally ensured that they had in their possession binders containing certified true copies of the following documents:
 - 1) Order for the Transfer and Provisional Detention
 - 2) Request for Transfer and Detention
 - 3) Rights of Suspect
 - 4) Agreement between the United Nations and the Government of Sierra Leone on the Establishment of the Special Court for Sierra Leone
 - 5) Statute of the Special Court for Sierra Leone
 - 6) Special Court Agreement, 2002 (Ratification) Art, 2002
 - 7) Rules of Procedure and Evidence of the Special Court for Sierra Leone.

Originals of the Statement for Hand Over to the Suspect, Return of Service on National Authority and Acknowledgement of Receipt by the Suspect are on file with the Court.

ANNEX 3



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SPECIAL COURT FOR SIERRA LEONE

LOMO KENYATTA ROAD • FREETOWN • SIERRA LEONE

PHONE: +39 0831 257000 or +232 22 297000 or +1 212 963 9915 Ext:178 7000

FAX: +39 0831 257001 or +232 22 297001 or +1 212 963 9915 Ext: 178 7001

RETURN OF SERVICE ON NATIONAL AUTHORITY FORM

CASE NO.:SCSL-03-11-PD

THE PROSECUTOR VS. MOININA FOFANA

I, the undersigned, hereby confirm that I have received on this day, 29 May, 2003, from the Registrar of the Special Court for Sierra Leone a set of the following documents:

- 1) Certified true copy of the Order of Transfer and Detention under Rule 40bis of the Rules of Procedure and Evidence of the Special Court for Sierra Leone, signed by Judge Pierre Boutet on 28 May 2003, for the transfer and provisional detention of Moina Fofana;
- 2) Certified true copy of the Request for Transfer and Detention under rule 40bis of the Rules of and Procedure and Evidence of the Special Court for Sierra Leone, filed by the Office of the Prosecutor on 26 May 2003, for the transfer and provisional detention of Moinina Fofana.
- 3) Certified true copy of the Rights of Suspect (Rules 42 and 43 of the Rules for Procedure and Evidence of the Special Court for Sierra Leone);
- 4) Certified true copy of the Agreement between the United Nations and the Government of Sierra Leone for the establishment of the Special Court for Sierra Leone;
- 5) Certified true copy of the Statute of the Special Court for Sierra Leone;
- 6) Certified true copy of the Special Court Agreement, 2002 (Ratification) Act, 2002;
- 7) Certified true of the Rules of Procedure and Evidence of the Special Court for Sierra Leone;

And I have also received the following document:

- 1) A Statement for Handover to the Suspect (pursuant to Rule 55B) (~~blank~~);

2d

Return of Service on National Authorities

Name: B. D. M. A. K. KAMARU

Designation: DEPUTY INSPECTOR GENERAL OF POLICE

Signature: B. D. M. A. K. KAMARU

Official Seal



746

SPECIAL COURT FOR SIERRA LEONE
LOMO KENYATTA ROAD • FREETOWN • SIERRA LEONE
PHONE: +39 0831 257000 or +232 22 297000 or +1 212 963 9915 Ext:178 7000
FAX: +39 0831 257001 or +232 22 297001 or +1 212 963 9915 Ext: 178 7001

RETURN OF SERVICE ON NATIONAL AUTHORITY FORM

CASE NO.: SCSL-03-11-PD

THE PROSECUTOR VS. ALLIEU KONDEWA

I, the undersigned, hereby confirm that I have received on this day, 29 May, 2003, from the Registrar of the Special Court for Sierra Leone a set of the following documents:

- 1) Certified true copy of the Order of Transfer and Detention under Rule 40bis of the Rules of Procedure and Evidence of the Special Court for Sierra Leone, signed by Judge Pierre Boutet on 28 May 2003, for the transfer and provisional detention of Allieu Kondewa
- 2) Certified true copy of the Request for Transfer and Detention under rule 40bis of the Rules of and Procedure and Evidence of the Special Court for Sierra Leone, filed by the Office of the Prosecutor on 26 May 2003, for the transfer and provisional detention of Allieu Kondewa.
- 3) Certified true copy of the Rights of Suspect (Rules 42 and 43 of the Rules for Procedure and Evidence of the Special Court for Sierra Leone);
- 4) Certified true copy of the Agreement between the United Nations and the Government of Sierra Leone for the establishment of the Special Court for Sierra Leone;
- 5) Certified true copy of the Statute of the Special Court for Sierra Leone;
- 6) Certified true copy of the Special Court Agreement, 2002 (Ratification) Act, 2002;
- 7) Certified true of the Rules of Procedure and Evidence of the Special Court for Sierra Leone;

And I have also received the following documents:

- 1) A Statement for Handover to the Suspect (pursuant to Rule 55B) (28 blank);

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Return of Service on National Authorities

Name: BRIMA ALHA KAMARA

Designation: DEPUTY INSPECTOR GENERAL OF POLICE

Signature: *Brima Alha Kamara*

Official Seal

ANNEX 4



SPECIAL COURT FOR SIERRA LEONE

JOMO KENYATTA ROAD • FREETOWN • SIERRA LEONE

PHONE: +1 212 963 9915 Extension: 178 7000 or +39 0831 257000 or +232 22 295995

FAX: Extension: 178 7001 or +39 0831 257001 Extension: 174 6996 or +232 22 295996

STATEMENT FOR HAND OVER TO THE SUSPECT

RELATING TO THE TRANSFER OF A SUSPECT TO THE CUSTODY OF THE SPECIAL COURT FOR SIERRA LEONE PURSUANT TO RULE 40BIS.

On the 29th day of the month of MAY, in the year two thousand and three,

I Augustine M. Kailie (full name), Supt (title), representative of the police / ~~ministry of justice~~ of SIERRA LEONE.

In my office / a holding cell, at Bonthe, have summoned:

Mr. MOIXANA FOFANA, son of _____,

born on _____ (birth date), in _____ (village / town)

_____ (present occupation), currently in detention at the

_____, and in possession of the following items of personal identification _____.

I have ensured that the party has been served with the following documents:

- 1) Certified true copy of the Order for Transfer and Provisional Detention under Rule 40bis of the Rules of Procedure and Evidence of the Special Court for Sierra Leone, signed by Judge Pierre Boutet on 26 MAY 2003
- 2) Certified true copy of the Request for Transfer and Provisional Detention under Rule 40bis of the Rules of Procedure and Evidence of the Special Court for Sierra Leone, filed by the Office of the Prosecutor on 26 MAY 2003;
- 3) Certified true copy of the Rights of Suspect, duly admonished;

Statement of Hand Over to the Suspect - Special Court for Sierra Leone

- 4) Certified true copy of the Agreement between the United Nations and the Government of Sierra Leone on the Establishment of the Special Court for Sierra Leone;
- 5) Certified true copy of the Statute of the Special Court for Sierra Leone;
- 6) Copy of the Special Court Agreement, 2002 (Ratification) Art, 2002;
- 7) Certified true copy of the Rules of Procedure and Evidence of the Special Court for Sierra Leone.

And the same party has acknowledged receipt thereof by signing the Acknowledgement of Receipt by Suspect Form, dated 29 May 2003.

The interested party has been cautioned, informed of his rights and in particular his right to remain silent and to be assisted by a lawyer under the Special Court legal aid scheme.

Signature Bailie

Date 29th May 2003.

Seal

ANNEX 5



SPECIAL COURT FOR SIERRA LEONE

JOMO KENYATTA ROAD • FREETOWN • SIERRA LEONE

PHONE: +1 212 963 9915 Extension: 178 7000 or +39 0831 257000 or +232 22 295995

FAX: Extension: 178 7001 or +39 0831 257001 Extension: 174 6996 or +232 22 295996

STATEMENT FOR HAND OVER TO THE SUSPECT

RELATING TO THE TRANSFER OF A SUSPECT TO THE CUSTODY OF THE SPECIAL COURT FOR SIERRA LEONE PURSUANT TO RULE 40BIS.

On the 29TH day of the month of MAY, in the year two thousand and three,

I Amos Kargbo (full name), Supt (title), representative of the police / ~~ministry of justice~~ of SIERRA LEONE.

In my ~~office~~ / a holding cell, at Bonthe, have summoned:
Mr. ALLIEW KONDEWA, son of _____,
born on _____ (birth date), in _____ (village / town)

(present occupation), currently in detention at the _____,
and in possession of the following items of personal identification _____.

I have ensured that the party has been served with the following documents:

- 1) Certified true copy of the Order for Transfer and Provisional Detention under Rule 40bis of the Rules of Procedure and Evidence of the Special Court for Sierra Leone, signed by Judge PIERRE Boutet on 26 MAY 2003;
- 2) Certified true copy of the Request for Transfer and Provisional Detention under Rule 40bis of the Rules of Procedure and Evidence of the Special Court for Sierra Leone, filed by the Office of the Prosecutor on 26 MAY 2003;
- 3) Certified true copy of the Rights of Suspect, duly admonished;

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Statement of Hand Over to the Suspect - Special Court for Sierra Leone

- 4) Certified true copy of the Agreement between the United Nations and the Government of Sierra Leone on the Establishment of the Special Court for Sierra Leone;
- 5) Certified true copy of the Statute of the Special Court for Sierra Leone;
- 6) Copy of the Special Court Agreement, 2002 (Ratification) Art, 2002;
- 7) Certified true copy of the Rules of Procedure and Evidence of the Special Court for Sierra Leone.

And the same party has acknowledged receipt thereof by signing the Acknowledgement of Receipt by Suspect Form, dated 29 MAY 2003.

The interested party has been cautioned, informed of his rights and in particular his right to remain silent and to be assisted by a lawyer under the Special Court legal aid scheme.

Signature *[Handwritten Signature]* Supt.

Date 29th May 2003.

Seal

ANNEX 6

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SPECIAL COURT FOR SIERRA LEONE

JOMO KENYATTA ROAD • NEW ENGLAND • FREETOWN, SIERRA LEONE

PHONE: +1 212 963 9915 Extension: 178 7000 or +39 0831 257000 or +232 22 295995

FAX: EXTENSION: 178 7001 OR +39 0831 257001 EXTENSION: 174 6996 OR +232 22 295996

ACKNOWLEDGMENT OF RECEIPT BY A SUSPECT FORM

CASE NO.: SCSL-2003-11-PD

THE PROSECUTOR VS. MOINIRA FOFANA

I, the undersigned MOINIRA FOFANA, hereby confirm that I have received on this day, 29 MAY, 2003, the following documents:

- 1) Certified true copy of the Order for Transfer and Provisional Detention under Rule 40bis of the Rules of Procedure and Evidence of the Special Court for Sierra Leone, signed by Judge BOUTER Judge Name _____ on 26 date MAY 2003;
- 2) Certified true copy of the Request for Transfer and Provisional Detention under Rule 40bis of the Rules of Procedure and Evidence of the Special Court for Sierra Leone, filed by the Office of the Prosecutor on 26 date MAY 2003;
- 3) Certified true copy of the Rights of the Suspects (Rules 42 and 43 of the Rules of Procedure and Evidence of the Special Court for Sierra Leone);
- Certified true copy of the Agreement between the United Nations and the Government of Sierra Leone on the Establishment of the Special Court for Sierra Leone;
- Certified true copy of the Statute of the Special Court for Sierra Leone;
- Copy of the Special Court Agreement, 2002 (Ratification) Act, 2002;
- Certified true copy of the Rules of Procedure and Evidence of the Special Court for Sierra Leone;

Name : MOINIRA FOFANA

Date: 29 MAY 2003

Signature :

el witness has signature on this document.
R. L. Amell
29 MAY 2003

ANNEX 7



SPECIAL COURT FOR SIERRA LEONE
JOMO KENYATTA ROAD • NEW ENGLAND • FREETOWN, SIERRA LEONE
PHONE: +1 212 963 9915 Extension: 178 7000 or +39 0831 257000 or +232 22 295995
FAX: EXTENSION: 178 7001 OR +39 0831 257001 EXTENSION: 174 6996 OR +232 22 295996

ACKNOWLEDGMENT OF RECEIPT BY A SUSPECT FORM

CASE NO.: SCSL-2003- 11-PD

THE PROSECUTOR VS. ALLIEU KONDEWA

I, the undersigned ALLIEU KONDEWA, hereby confirm that I have received on this day, 29 MAY, 2003, the following documents:

- 1) Certified true copy of the Order for Transfer and Provisional Detention under Rule 40bis of the Rules of Procedure and Evidence of the Special Court for Sierra Leone, signed by Judge Boote Judge Name _____ on 28 date MAY 2003;
- 2) Certified true copy of the Request for Transfer and Provisional Detention under Rule 40bis of the Rules of Procedure and Evidence of the Special Court for Sierra Leone, filed by the Office of the Prosecutor on 26 date MAY 2003;
- 3) Certified true copy of the Rights of the Suspects (Rules 42 and 43 of the Rules of Procedure and Evidence of the Special Court for Sierra Leone);
- Certified true copy of the Agreement between the United Nations and the Government of Sierra Leone on the Establishment of the Special Court for Sierra Leone;
- Certified true copy of the Statute of the Special Court for Sierra Leone;
- Copy of the Special Court Agreement, 2002 (Ratification) Act, 2002;
- Certified true copy of the Rules of Procedure and Evidence of the Special Court for Sierra Leone;

Name : ALLIEU KONDEWA

Date: 29 MAY 2003

Signature :

I witnessed his mark on this document.

R. Powell 29 MAY 03

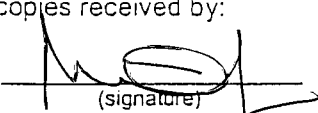
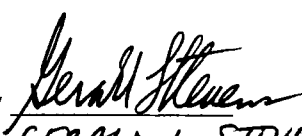
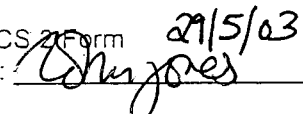
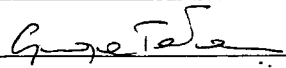
ANNEX 8

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SPECIAL COURT FOR SIERRA LEONE
JOMO KENYATTA ROAD • FREETOWN • SIERRA LEONE

COURT SERVICE – FORM 3 – PROOF OF SERVICE IN FREETOWN

Date: 29-05-03		Case Names: The Prosecutor v. ALLIEU KONDEWA	
		Case No.s: SCSL - 2003 - 12 - PD	
To: A:	<input checked="" type="checkbox"/> TRIAL CHAMBER	<input type="checkbox"/> APPEALS CHAMBER	
	4 copies received by:	_____ copies received by:	
	 (signature)	_____ (signature):	
	For onward transmission to: <input type="checkbox"/> Judge B. THOMPSON, Presiding <input type="checkbox"/> Judge ITOE <input type="checkbox"/> Judge BOUTET <input type="checkbox"/> Legal Officer <input type="checkbox"/> By Fax: See CS 3F Form	For onward transmission to: <input type="checkbox"/> Judge G. ROBERTSON, President <input type="checkbox"/> Judge R. WINTHER <input type="checkbox"/> Judge AYOOLA <input type="checkbox"/> Judge G. KING <input type="checkbox"/> Judge JALLOW <input type="checkbox"/> By Fax: See CS Form 3F	
OFFICE OF THE PROSECUTOR			
<input checked="" type="checkbox"/> Trial Attorney in charge of case James C. Johnson received by  GERALD L STEVENS 29 MAY 03 / 1240			
<input checked="" type="checkbox"/> DEFENSE			
<input type="checkbox"/> Accused: See CS 2 Form 29/5/03			
<input checked="" type="checkbox"/> Defence Office:  <input type="checkbox"/> For onward transmission to Counsel			
<input type="checkbox"/> Counsel: <input type="checkbox"/> In Freetown _____ (signature) Abroad: <input type="checkbox"/> By fax see CS 3F Form			
All Decisions & Imp. Public Docs: <input type="checkbox"/> Press & Public Affairs <input type="checkbox"/> Court Library			
From: <input checked="" type="checkbox"/> Listing Officer <input type="checkbox"/> Court Officer <input type="checkbox"/> Deputy Registrar <input type="checkbox"/> Registrar			
CC: <input checked="" type="checkbox"/> Registrar <input type="checkbox"/> Deputy Registrar <input type="checkbox"/> Chief WVSS <input type="checkbox"/> Chief of Security 			
Subject: Kindly find attached the following documents:			

Documents name

Date Filed

Pages

① ORDER FOR TRANSFER AND PROVISIONAL
DETENTION PURSUANT TO RULE 40 bis

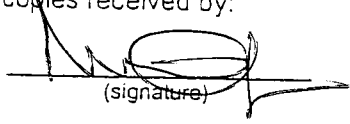
29/05/03

11-13



SPECIAL COURT FOR SIERRA LEONE
JOMO KENYATTA ROAD • FREETOWN • SIERRA LEONE

COURT SERVICE – FORM 3 – PROOF OF SERVICE IN FREETOWN

Date: 29-05-03		Case Names: The Prosecutor v. MOININA FOFANA	
		Case No.s: SCSL - 2003 - 11 - PD	
To: A:	<input checked="" type="checkbox"/> TRIAL CHAMBER	<input type="checkbox"/> APPEALS CHAMBER	
	4 copies received by:	_____ copies received by:	
	 (signature)	_____ (signature):	
	For onward transmission to:	For onward transmission to:	
<input type="checkbox"/> Judge B. THOMPSON, Presiding	<input type="checkbox"/> Judge G. ROBERTSON, President		
<input type="checkbox"/> Judge ITOE	<input type="checkbox"/> Judge R. WINTHER		
<input type="checkbox"/> Judge BOUTET	<input type="checkbox"/> Judge AYOOLA		
<input type="checkbox"/> Legal Officer	<input type="checkbox"/> Judge G. KING		
<input type="checkbox"/> By Fax: See CS 3F Form	<input type="checkbox"/> Judge JALLOW		
	<input type="checkbox"/> By Fax: See CS Form 3F		
OFFICE OF THE PROSECUTOR			
<input checked="" type="checkbox"/> Trial Attorney in charge of case: James C. Johnson received by Gerald L Stevens			
<input checked="" type="checkbox"/> DEFENSE			
<input type="checkbox"/> Accused: See CS 2 Form			
<input checked="" type="checkbox"/> Defence Office: [Signature] <input type="checkbox"/> For onward transmission to Counsel			
<input type="checkbox"/> Counsel:			
<input type="checkbox"/> In Freetown _____ (signature) Abroad: <input type="checkbox"/> By fax see CS 3F Form			
All Decisions & Imp. Public Docs: <input type="checkbox"/> Press & Public Affairs <input type="checkbox"/> Court Library			
From: <input checked="" type="checkbox"/> Listing Officer <input type="checkbox"/> Court Officer <input type="checkbox"/> Deputy Registrar <input type="checkbox"/> Registrar			
CC: <input checked="" type="checkbox"/> Registrar <input type="checkbox"/> Deputy Registrar <input type="checkbox"/> Chief WVSS <input type="checkbox"/> Chief of Security [Signature]			
Subject: Kindly find attached the following documents:			

Documents name

Date Filed

Pages

ORDER FOR TRANSFER AND PROVISIONAL DETENTION PURSUANT TO RULE 40 BIS 29/05/03 11-13

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(Open Session)

1. THE SPECIAL COURT FOR SIERRA LEONE

2. Case No. SCSL – 2003 – 11 – PD

3. THE PROSECUTOR

4. – against –

5. MOININA FOFANA

6. Hearing Pursuant to Rule 40 Bis (J)

7. Moinina Fofana held before Judge Pierre Boutet

8. on Wednesday, 4 June 2003

9. APPEARANCES:

10. Mr. James Johnson For the Prosecution.

11. Mr. John Jones For the Defence

12. Mr. Ibrahim Sorie Yillah

13. Mr. Sam Scratch

- 1. contemplated, to make enquiries as to what language he understood
- 2. and to prepare to arrange to have interpreters present.
- 3. Interpreter: (Interprets in Mende)
- 4. Mr. Jones: So that's it to bring that to your honour's attention,
- 5. I think it's, I estimate it is necessary for those documents to be read to
- 6. Mr. Fofana in a language he understands; that is Mende.
- 7. Interpreter: (Interprets in Mende).
- 8. Judge: Mr. Prosecutor you wish to comment at this particular stage?
- 9. Prosecutor: Your honour, I have no independent knowledge that they
- 10. have or have not been read since his arrest and transfer to the seat of the court.
- 11. But I certainly would support that they be read here and now in
- 12. the court and with the translator present to translate those documents.
- 13. Judge: Mr. Defence counsel. And again Mr. Interpreter would
- 14. you please translate to the suspect.
- 15. Mr. Jones: Your honour I should also add that for the defence office
- 16. we were requesting copies of these documents to be served on
- 17. us as counsel for Mr. Fofana since last Thursday and it was only
- 18. late last night that we received the request and the declaration
- 19. by the Prosecutor. We did receive the Order on I believe it was
- 20. Thursday, 29th of May and I would like to correct one area in the
- 21. Motion which I filed on Monday in which I stated that we have
- 22. only been served informally with the order in the case that it was
- 23. formerly served on us. But the request wasn't and the declaration
- 24. of the Prosecutor wasn't until late last night.
- 25. Interpreter: (Interprets in Mende).
- 26. Judge: Do you wish to comment on that Mr. Prosecutor?
- 27. Prosecutor: Again your honour I have no independent knowledge
- 28. of when they were or were not served.
- 29. Interpreter: (Interprets into Mende).

ANNEX 9

DETENTION UNIT INSTRUMENTS OF RESTRAINT

Rule 35 of the Rules of Detention allow for a Detainee to handcuffed when being transferred outside the Detention unit for whatever reason to ensure that no escape takes place.

On Wednesday 4th June 2003 the court sitting in Bonthe had three detainees produced for hearings before Judge Boutet.

It had already been agreed by the Judge that the Detainees would not be handcuffed in his court. His request was complied

with. Only on transfer from the Detention Unit to the body of the court ~~w~~ere handcuffs applied and before the court sat they

~~w~~ere removed. It should be noted that all three Detainees ~~w~~ere in lawful custody at all times and passing through the public area

of the court to reach the dock. The decision to use restraints rests with the Chief of Detention and his staff. All Detainees are treated

in the same manner when being transferred from the Unit to any other place regardless of their legal standing.

W. J. Newell
Deputy Chief of Detention