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SCSL-04-14-T  
(15084 - 15087)

15084

**SPECIAL COURT FOR SIERRA LEONE**

**In Trial Chamber I**

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

Interim Registrar: Mr Lovemore Munlo, SC

Date: 29 March 2006

**THE PROSECUTOR**

**-against-**

**SAMUEL HINGA NORMAN, MOININA FOFANA, and ALLIEU KONDEWA**

SCSL-2004-14-T

PUBLIC

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**FOFANA SUBMISSIONS AS  
TO COMMON WITNESSES**

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**For the Office of the Prosecutor:**

Mr Desmond de Silva, QC  
Mr Christopher Staker  
Mr James C. Johnson  
Mr Kevin Tavener  
Ms Nina Jørgensen

**For Moinina Fofana:**

Mr Victor Koppe  
Mr Arrow Bockarie  
Mr Michiel Pestman  
Mr Andrew Ianuzzi

**For Samuel Hinga Norman:**

Mr John Wesley Hall Jr  
Dr Bu-Buakei Jabbi  
Mr Alusine Sani Sesay  
Ms Clare DaSilva  
Mr Kingsley Belle

**For Allieu Kondewa:**

Mr Charles Margai  
Mr Yada Williams  
Mr Ansu Lansana  
Ms Susan Wright  
Mr Martin Michael

SPECIAL COURT FOR SIERRA LEONE  
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30 MAR 2006  
NAME: TA-reen (Toni)  
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TIME: 10-31

## INTRODUCTION

1. Counsel for the Second Accused, Mr Moinira Fofana, (the “Defence”) hereby makes the following submissions as to common witnesses, pursuant to the ‘Consequential Order to the Status Conference of 22 March 2006’<sup>1</sup> (the “Consequential Order”).

## SUBMISSIONS

### Discussion Among the Defence Teams

2. The Defence has made efforts to comply with the Chamber’s request “to discuss [its] common witnesses”<sup>2</sup> with the Norman and Kondewa Defence Teams. Communications with both of those teams has revealed the following information:
  - (a) The Norman Defence Team is currently in the process of bringing its witness summaries into compliance with the Consequential Order and therefore was not, at the time of filing, in a position to share those summaries with the Defence.
  - (b) The Kondewa Defence Team no longer intends to call any witnesses common to the Fofana witness list.

### Common Witnesses

3. The Defence has reviewed the Chamber’s chart entitled “Common Witnesses”, circulated in advance of the 22 March 2006 Status Conference, and confirms the Chamber’s understanding of witnesses common to the current Fofana and Norman witness lists<sup>3</sup>. The Defence submits that the differences in the spelling of the various names are inadvertent and inconsequential—the names, as listed, refer to the same individuals.

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<sup>1</sup> *Prosecutor v. Norman et al.*, SCSL-2004-14-T-575, Trial Chamber I, 23 March 2006, ¶ 7.

<sup>2</sup> *Ibid.*

<sup>3</sup> As noted above, the Kondewa Team has indicated its intent not to call witnesses common to the Fofana list.

4. Taking into consideration that four witnesses common to the Fofana and Norman witness lists have already testified<sup>4</sup>, the Defence relies on its previous submissions with respect to the information sought by the Consequential Order regarding the remaining common witnesses<sup>5</sup>, namely (i) summaries of proposed testimony, (ii) points of the Indictment to which each witness will testify, (iii) estimated length of time for each witness, and (iv) language of the proposed testimony. This information has been publicly filed and is currently on record<sup>6</sup>.
5. The Defence takes this opportunity to note that, while common to both the Fofana and Norman witness lists, the remaining “common” witnesses<sup>7</sup> are in no sense “joint” ones. That is to say, they have been investigated, interviewed, and otherwise handled separately by the Fofana and Norman Teams. The Defence has indicated to the Chamber in its written submissions the areas it will seek to explore with these witnesses, and accordingly, intends to follow the routine already employed with the four common witnesses who have testified to date<sup>8</sup>. Simply put, while the Defence will avoid delving into areas previously covered by the Norman Defence Team, it will in no sense delegate any portions of its own examination-in-chief to that team.
6. Finally, the Defence notes that it soon intends to file a comprehensive, updated witness list based on further investigations now in progress, making the appropriate applications where necessary. The Defence anticipates such filing, as well as an update with respect to its proposed expert witnesses, during the early weeks of the next trial session.

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<sup>4</sup> These are, as correctly identified by the Chamber, Albert Joe DEMBY, Kenneth KOKER, Ishmael KOROMA, and Mohammed COLLIER.

<sup>5</sup> These are, as correctly identified by the Chamber, Musa JUNISA, Ahmad Tejan KABBAH, Arthur KOROMA, Mustapha KOROMA, Dixon KOSIA, Victor MALU, Brima SEI, Abdul-One MOHAMMED, and Kinny TORMA.

<sup>6</sup> See *Prosecutor v. Norman et al.*, SCSL-2004-14-T-540, ‘Fofana Materials Filed Pursuant to the Consequential Order to the Status Conference of 18 January 2006’, 23 January 2006, which already provides, in its entirety, the information sought by the most recent Consequential Order. N.B. Despite representations made at the 22 March 2006 Status Conference, the witnesses are there listed alphabetically and not in the order in which the Defence intends to call them. Such decision will be made at a date closer to the commencement of the Fofana defence case.

<sup>7</sup> See n.5, *supra*.

<sup>8</sup> See n.4, *supra*.

**Mandatory Cooperation and Joint Filings**

7. In the future, the Defence will seek to invoke its rights under Rule 82(A) of the Rules of Procedure and Evidence<sup>9</sup> in response to further orders by the Chamber to cooperate or make joint submissions. While the Defence acknowledges the benefits of cooperation among the various defence teams, in light of certain practical realities which need not be mentioned here, the Defence will resist, pursuant to the above-stated Rule, any future *orders*<sup>10</sup> in this regard. The Defence trusts the Chamber appreciates its position.

**CONCLUSION**

8. Again, the Defence regrets that a joint submission was not possible, yet assures the Chamber of its intent to cooperate fully without prejudice to the rights of the Second Accused.

COUNSEL FOR MOININA FOFANA

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Victor Koppe

<sup>9</sup> Rule 82(A) provides: "In joint trials, each accused shall be accorded the same rights as if he were being tried separately".

<sup>10</sup> Naturally, the Defence does not take issue with *requests* to cooperate or make joint submissions, with which it shall always endeavour to comply.