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SCSL-04-14-T  
(20957-20961)  
SPECIAL COURT FOR SIERRA LEONE

20957

In Trial Chamber I

Before: Justice Bankole Thompson, Presiding  
Justice Pierre Boutet,  
Justice Benjamin Mutanga Itoe  
  
Registrar: Lovemore G. Munlo SC  
  
Date: 14 March 2007

The Prosecutor against Sam Hinga Norman  
Moinina Fofana  
Allieu Kondewa  
Case No. SCSL -04-14-T

SCSL-2004-14-T

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DECEASED NORMAN'S DEFENCE TEAM REQUEST FOR EXTENDED FILING

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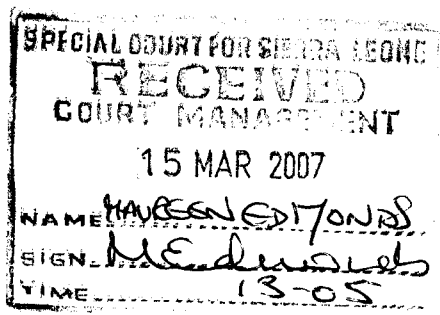
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SCSL-2004-14-T

## INTRODUCTION

1. Further to the Registrar's Submission Pursuant to Rule 33(B) Relating to the Death of Mr. Sam Hinga Norman ("the Registrar's Submission"),<sup>1</sup> Trial Chamber 1 ("the Chamber") issued its Order for Extended Filing ("the Extension Order"),<sup>2</sup> to the effect that responses to the said Registrar's Submission "shall be filed no later than Friday, the 16<sup>th</sup> of March 2007 at 4:00 pm."
2. The Registrar's Submission, among other things, moved the Chamber "to consider this application and to take any measures that it may deem appropriate in relation to Mr. Norman's demise."
3. In its Extension Order, the Chamber sets out two sets of crucial considerations in its preamble, as follows:
  - (i). "that it is in the interests of justice that submissions or any other initiatives by the Prosecution and each of the Defence Teams are necessary in order to contribute to a resolution of the legal and factual issues and/or consequences that have arisen or are likely to arise in the judicial determination of the case against the Accused Persons as a result of the death of the First Accused Sam Hinga Norman;"
  - (ii). "that this matter requires that the Parties be provided with sufficient time in order to make their submissions."
4. It is to be noted that trial proceedings proper closed on 30 November 2006 and the matter was then stood over for verdict or judgment; that is to say, nearly three months before the unfortunate death of the First Accused. And also that there is no specified projected time when the verdict is due.
5. In view of the foregoing facts, events, considerations and orders, the Defence Team for the now deceased First Accused, Sam Hinga Norman ("the Defence Team"), hereby urges that the Chamber do grant it a further extension of time up to Friday, 30 March 2007 at 4:00 pm for filing its own response to the Registrar's Submission; and that this further extension for the deceased Norman's Defence Team be at least seven days after all other Parties shall have filed their own responses upon any further extension of filing time for them in

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<sup>1</sup> *Prosecutor v. Norman et al.*, SCSL-04-14-T-765, Trial Chamber 1, 6 March 2007.

<sup>2</sup> *Ibid*, SCSL-04-14-T-766, 7 March 2007.

consequence of this application. This application is made pursuant to Rule 73 (A) and in cognisance of Rules 7 (C) and 7 *bis*.

#### **RATIONALE**

6. Among the factors that necessitate the requested extension for the Defence Team is the very grave seriousness and complexity of the first set of considerations highlighted in the Extension Order, to wit, the “submissions or any other initiatives” by the Parties that are likely to be conducive towards “a resolution of the legal and factual issues and/or consequences” pertinent or relevant to “the judicial determination of the case against the Accused Persons” following the death of the First Accused.
7. For a start, the death of one accused person out of several accused persons after the complete closure of case by or on behalf of all of them but still pending the delivery of judgment, and especially when the trial was conducted on the basis of a consolidated indictment in which all the accused persons were jointly charged on each and every one of several counts, is both a novel and complicated enough legal situation to warrant the most careful legal analysis, research, evaluation and assessment. By the same token, there may be need for “any other initiatives” by the Parties, especially in respect of the deceased indictee, and certain non-legal “factual issues and/or consequences” that are apt to impinge upon the judicial determination of the case in question in view of the demise of the said accused person. As the Chamber itself notes, this would require that the Parties “be provided with sufficient time” for settling and tendering their submissions. And “sufficient time” in this context needs to be construed fairly liberally, again especially in respect of the sole deceased indictee.
8. In such a situation, the Defence Team for the sole deceased accused person out of several others would be especially in need of additional time for the exercise, more particularly where the Registrar’s Submission and the Chamber’s orders in respect thereof substantially overlap with the funeral arrangements, as they have in the present case of the deceased First Accused, Sam Hinga Norman. For one thing, the deep involvement of Lead Counsel in the funeraries of his client took him into the rural hinterland without internet facilities for long stretches of time. So that the initiating filings did not come to his notice until nearly a whole week

afterwards. With the services of Counsel having been practically suspended by correspondence from the OPD since early December 2006, and all of the Defence Team's Legal Assistants being out of the country on some sort of leave, it is understandable that more time would be required for the Team to come back on board and make a meaningful response.

9. It is also necessary that the immediate and wider family of the deceased accused person, considering their obvious interest in his reputation vis-à-vis his indictment, and the civil defence organisation in respect of whom command responsibility was incurred for the purposes of the trial, are adequately consulted before the Defence Team can meaningfully proffer submissions "in order to contribute to a resolution of the factual and legal issues and/or consequences" in the judicial determination of the case against the jointly charged accused persons. As at the time of this presentation, most of the bereaved family members of the deceased accused person are still away in the provinces after the funeral only a few days ago, to wit, on Sunday, 11 March 2007. The Defence Team will have to go back there to do the relevant consultations instead of having to wait indefinitely for more of the family members to return to Freetown. And may be due allowance should be made for humanitarian sensitivity to the plight of the family in the immediate aftermath of their grave loss before bothering them with its possible legal implications and consequences.
10. As for the civil defence organisation in question, they are mostly scattered around in the Southern and Eastern provinces and a tour of visits by the Defence Team to various groups and leading individuals is an altogether inevitable "initiative" if they must be consulted for any meaningful submissions on "the legal and factual issues and/or consequences that have arisen or are likely to arise in the judicial determination of the case ..... as a result of the death of the First Accused."

#### **CONCLUSION**

11. It is submitted that it is in the interests of justice, and it would by no means be prejudicial either to general fairness or to the expeditiousness of the proceedings for all concerned, that the time for filing responses to the Registrar's Submission and for all concerned to do due and proper justice to the crucial considerations

highlighted by the Chamber in its Extension Order, especially for the Defence Team of the sole deceased Accused Person, Sam Hinga Norman, be extended as requested and urged in this application. Indeed, there being for now no specified projected date for delivery of the verdict or judgment in the substantive case, there can hardly be any prejudice whatsoever arising from the grant of the requested extension either to general fairness or to the expeditiousness of the proceedings for all concerned.

12. The Chamber is accordingly hereby urged as follows:

- a). that the time for the deceased Norman's Defence Team to file its response to the Registrar's Submission be extended to Friday, 30 March 2007 at 4:00 pm;
- b). that this time be at least seven days after the final filing time by the Prosecution in particular and the other accused persons who are alive; and.
- c). that the deceased Norman's Defence Team be immediately allowed and offered facilities for at least one week's tour of parts of the South and East of Sierra Leone for appropriate consultations with the Norman Family and the former Civil Defence Forces in preparation for making submissions in respect of the Registrar's Submission and the Chamber's Extension Order.

COURT APPOINTED COUNSEL FOR NORMAN

  
DR. BUAKKEI JABBI