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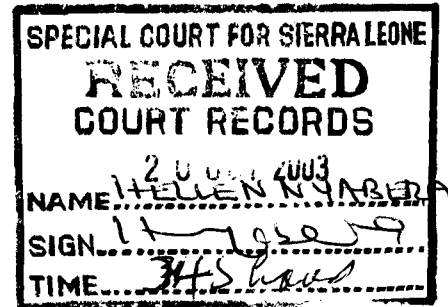
SCSL-2003-08-PT  
(2647-2650)

2647

**THE SPECIAL COURT FOR SIERRA LEONE**

**APPEALS CHAMBER**

Judge Robertson: President  
Judge King: Vice-President  
Judge Ayoola  
Judge Winter  
Judge [unknown at time of drafting]



**Registrar:** Robin Vincent

**Date:** 20th October 2003

**The Prosecutor**

**v.**

**Sam Hinga Norman**

**Case SCSL – 2003-08-PT**

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**DEFENCE REPLY  
TO PROSECUTION RESPONSE TO  
DEFENCE APPLICATION TO STAY DETERMINATION  
OF ALL PRELIMINARY MOTIONS – DENIAL OF  
RIGHT TO APPEAL**

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**Office of the Prosecutor:**

David Crane  
Desmond de Silva QC  
Luc Cote  
James C. Johnson

**Defence Counsel**

James Blyden Jenkins-Johnston  
Sulaiman Banja Tejan-Sie  
Quincy Whitaker

2648

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1. This Reply is filed on behalf of the accused Chief Sam Hinga Norman pursuant to the Prosecution Response filed on the 13<sup>th</sup> of October 2003 to the Defence Application for a Stay of all Preliminary Motions filed on the 2<sup>nd</sup> of October 2003 pending determination of the Defence Motion on Denial of Right to Appeal before the Trial Chamber (also filed on the 2<sup>nd</sup> of October). The substantive Motion challenges the legality of the amendment to Rule 72

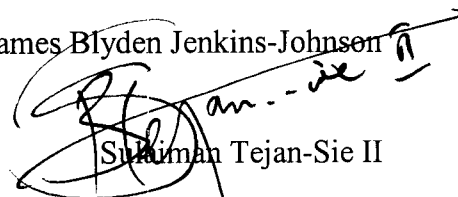
of the Rules of Procedure and Evidence for the Special Court for Sierra Leone agreed at a plenary session of all judges of the Special Court for Sierra Leone in August 2003 which requires all Preliminary Motions “which raise a *serious* issue of jurisdiction” to be referred to the Appeals Chamber at first instance.

2. The Defence notes that the Prosecution acknowledged at paragraph 4 of their Response to the current Application that the Defence have properly filed a Motion before the Trial Chamber on the 2nd October 2003 entitled “Motion on Denial of Right to Appeal”. The Defence agree with the Prosecution submission at paragraph 5 of their Response that the request for a Declaration that the amendment to Rule 72 is *ultra vires* the Statute and/or the ICCPR and international human rights norms falls within the jurisdiction of the Trial Chamber at first instance to decide the issue as a first instance Chamber. In the premises, the Defence withdraw all applications before the Appeals Chamber other than the application for a Stay of Proceedings on all Preliminary Motions before the Appeals Chamber pending determination of the substantive Motion on Denial of Right to Appeal currently before the Trial Chamber.
3. With reference to the concern of the Prosecution expressed at paragraph 7 that the Defence application requests a Stay of all Preliminary Motions when in fact only three out of four Preliminary Motions filed on behalf of the accused had been referred to the Appeals Chamber for determination, the Defence confirms that the application refers to all outstanding Preliminary Motions before the Appeals Chamber and that there are no longer any extant Preliminary Motions awaiting determination before the Trial Chamber.
4. The Defence notes that the Prosecution at paragraph 10 of their Response consider the Defence application for a Stay to be reasonable and further notes and prays in aid that the Prosecution maintain their position that “serious issues of jurisdiction are such fundamental questions that they should have the possibility to be decided by all eight judges of the Special Court” and that this position is consistent with the procedures for the International Criminal Tribunal for the Former Yugoslavia, the International Tribunal for Rwanda and the International Criminal Court.

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**For the Defence, 20 October 2003**

James Blyden Jenkins-Johnson

A handwritten signature in black ink, appearing to be 'James Blyden Jenkins-Johnson', written over the printed name. The signature is somewhat stylized and includes a horizontal line extending to the right.

Suliman Tejan-Sie II

Quincy Whitaker