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(30154 - 30172)

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SPECIAL COURT FOR SIERRA LEONE  
TRIAL CHAMBER I

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

Acting Registrar: Mr. Herman Von Hebel

Date filed: 4 July 2007

SPECIAL COURT FOR SIERRA LEONE	
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THE PROSECUTOR

against

ISSA HASSAN SESAY  
MORRIS KALLON  
AUGUSTINE GBAO

Case No. SCSL -2004-15-T

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PUBLIC

GBAO- REQUEST FOR LEAVE TO CALL ADDITIONAL WITNESSES AND FOR ORDER FOR PROTECTIVE MEASURES, WITH ANNEX A AND EX PARTE ANNEX B

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Office of the Prosecutor

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Court Appointed Counsel for  
Augustine Gbao

John Cammegh

1. Pursuant to Rule 73ter (E) of the Rules of Procedure and Evidence (RPE), Counsel for Augustine Gbao hereby files an application for leave to add 6 additional witnesses on the witness list, to testify on behalf of the third Accused. A summary of the evidence to be given by the proposed additional witnesses can be found in Annex A of the present filing.

### **Procedural History**

2. On 30 October 2006, the Trial Chamber ordered each of the defence teams to file, by the 16 February 2007, the following documents:<sup>1</sup>
  - a. A “core” and “back up” witness list;
  - b. An indication as to whether the Accused will testify at trial;
  - c. A list of expert witnesses;
  - d. An indication of common witnesses;
  - e. A list of exhibits;
  - f. A chart indicating, for each paragraph of the indictment, the testimonial and documentary evidence upon which the Defence will rely to defend the Accused against the allegations contained therein.
3. On 7 February 2007, the Trial Chamber, following a request by the defence teams,<sup>2</sup> granted an extension of time and ordered the above mentioned materials to be filed no later than the 5 March 2007. The filing was done on 5 March 2007.<sup>3</sup> The witness list for the third accused contained 66 core witnesses, including one *92bis* witness, and 13 back up witnesses.
4. On 7 March 2007, the Trial Chamber ordered that the witness list of the Gbao defence team to be refilled as confidential, and that a public version to be made available to the public.<sup>4</sup> This was done on 19 March 2007.<sup>5</sup>

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<sup>1</sup> Scheduling Order Concerning the Preparation and Commencement of the Defence Case of 30 October 2006, Trial Chamber I, paragraph 1.

<sup>2</sup> Defence Application for an Adjournment of the 16 February 2007 Filing, Sesay Defence Team, 24 January 2007; Kallon Defence Application to Vary the 16 February Filing Date, Kallon Defence Team, 28 January 2007; Gbao Submissions on Sesay Request for Modification of Time Limits for Filing, Gbao Defence Team, 29 January 2007.

<sup>3</sup> Gbao – Filing of Defence Materials, 5 March 2007.

<sup>4</sup> Order to Reclassify and Review Defence Materials, Trial Chamber I, 7 March 2007.

<sup>5</sup> Gbao – Filing of the Public Version of Defence Materials, 19 March 2007.

5. On 28 March 2007, the Trial Chamber ordered each of the Defence teams to file any reviewed and reduced witness list no later than the 16 April 2007.<sup>6</sup> Such witness list would include a revision of the witness summaries with a view of making them more detailed. In addition, the defence teams had been requested to reassess the estimated length of examination in chief.
6. On 16 April 2007 a reduced witness list was filed by the defence team for Augustine Gbao, containing 55 core witnesses, including one 92bis, and 13 back up witnesses.<sup>7</sup>
7. On 2 May 2007, the Trial Chamber stated that the witnesses testifying for Augustine Gbao, the third Accused, should be referred to by the pseudonym 'DAG' instead of 'B'.<sup>8</sup> An updated witness list was therefore filed on 7 May 2007.<sup>9</sup>
8. The defence team for Augustine Gbao is currently in the process of reviewing its witnesses with a view to reduce their number. A reduced version of the Gbao defence witness list will be filed shortly after your honours have decided on the present application. As of today, the number of witnesses has been reduced from 55 to 30 core witnesses, including 4 witnesses who would testify under rule 92bis, and 2 back up witnesses. If the present application is granted the total number of witnesses would be 36 core and 2 back up witnesses.

### **Applicable Law**

9. The law governing requests by the defence to vary its witness list and additional witnesses is rule 73ter (E), which reads as follow:

After commencement of the defence case the defence may, if it considers it to be in the interests of justice, move the trial chamber for leave to reinstate the list of witness or to vary its decision as to which witness will be called.

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<sup>6</sup> Consequential Orders Concerning the Preparation and the Commencement of the Defence Case, Trial Chamber I, 28 March 2007.

<sup>7</sup> Gbao – Filing of Revised Witness List and Revised Indictment Chart in Accordance with Court Order of 28 March 2007, 16 April 2007.

<sup>8</sup> RUF Transcripts of 2 May 2007, p.15.

<sup>9</sup> Gbao – Filing of Revised Witness List Complying with Oral Order of 2 May 2007, 7 May 2007.

10. An analysis of case law reveals that two principles should be taken into account when deciding upon the admission of new witnesses. Firstly, good cause has to be shown by the requesting party: it has to advance a credible justification for failing to disclose the new witnesses at an earlier stage.<sup>10</sup> Secondly, it has to be demonstrated that acceptance of the additional witnesses would be in the interests of justice.<sup>11</sup>
11. Case law also shows that several elements can be taken into account when deciding upon whether or not granting a request for additional witnesses. In assessing the "interests of justice" and "good cause" the Chamber has to take into account such considerations as the materiality of the testimony, the complexity of the case, the possible prejudice to the defence/prosecution resulting from the addition of the witnesses (including elements of surprise), on-going investigations as well as replacements and corroboration of evidence by the additional witnesses.<sup>12</sup>
12. In other words, the Chamber has to be satisfied that:<sup>13</sup>
- i. The circumstances why the leave for additional witness is sought are directly related and material to the fact in issue;
  - ii. The facts to be testified upon by the new witnesses are relevant to determine the issue at stake and would contribute to serving the overall interest of law and justice;
  - iii. That granting the leave would not prejudice the right of the Accused to a fair and expeditious trial;
  - iv. That the evidence could not have been discovered or made available at a point earlier in time notwithstanding the exercise of due diligence.
13. Additional factors include sufficiency of time of disclosure of the witness information and the probative value of the proposed testimony.<sup>14</sup>

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<sup>10</sup> *Prosecutor against Issa Hassan Sesay, Morris Kallon, Augustine Gbao*, Case No. SCSL-2004-15-T, ('RUF Case') Decision on Prosecution Request for Leave to Call Additional Witnesses and Disclose Additional Witness Statements, Trial Chamber I, 11 February 2005 ('RUF decision of 11 February 2005'), para.34.

<sup>11</sup> *Prosecutor v. Ferdinand Nahimana, Hassan Ngeze, Jean Bosco Barayagwiza*, Case No. ICTR-99-52-I, ('Nahimana case'), Decision on the Prosecutor Oral Motion for Leave to Amend the List of Selected Witnesses, Trial Chamber I, 26 June 2001 ('Nahimana Decision of 26 June 2001'), para.19.

<sup>12</sup> Nahimana Decision of 26 June 2001, para. 20; repeated in para. 16 of CDF Decision of 29 July 2004 and in para.25 of the RUF decision of 11 February 2005.

<sup>13</sup> RUF Decision of 11 February 2005, para.35.

<sup>14</sup> CDF Decision of 29 July 2004, para.30.

14. To conclude, the consideration for additional witnesses requires a close analysis of each witness, of the defence/prosecution ability to make an effective cross examination and of the justification given for the addition of witnesses.<sup>15</sup> In addition, the absence of delays in the trial proceedings contributes to a finding of "good cause".<sup>16</sup>

## SUBMISSIONS

15. As a preliminary issue defence counsel for Gbao stresses the particularity of the situation where, until a very late stage of the prosecution case, the Accused refused any cooperation with defence counsel and therefore did not give any instructions as to the searching of defence witnesses. As a result and despite constant efforts aimed at identifying witnesses, the ability of the Gbao defence team to undertake investigations was seriously impaired. Catering for witnesses to testify on behalf of Augustine Gbao only started in the spring 2006.<sup>17</sup> The first investigation took place in May 2006, after the investigator discussed with the client and the team members about the witnesses to be looked for.
16. As a result, defence counsel requests the understanding of the court that its ability to identify certain fundamental insider witnesses was hindered by the non cooperation from the Accused.

## Good Cause

17. The witnesses concerned came to the knowledge of the investigator around one year ago. However, some of the individuals could not be located by the investigator. This was the case for DAG 084 and DAG 104. Other potential witnesses, when the investigator first met them, expressed the fear of being indicted as well. Indeed, some of them were high ranking officials within the RUF. This was the reason why DAG 089, DAG 099, DAG 101 and DAG 103 initially refused to testify. It was only after further meetings that the investigator convinced them that this would not be the case.

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<sup>15</sup> Bagosora Decision of 17 November 2006, para.2.

<sup>16</sup> *Nahimana case*, Decision on the Prosecutor's Application to Add Witness X to its List of Witnesses and for Protective Measures, Trial Chamber I, 14 September 2001, ('Nahimana Decision of 14 September 2001'), para.19.

<sup>17</sup> The national investigator's contract was first signed in April 2006.

18. The investigator continuously tried to get information about DAG 084 but could not locate him. In December 2006 the investigator was told by another witness about the location of the witness. Unfortunately when the investigator went there the witness was in another town. When DAG 084 eventually came back, the investigator met him and took statement from him on 17 February 2007.
19. The investigator first met DAG 089 in May 2006. Nevertheless the witness was afraid that if she would testify in favour of Augustine Gbao and the RUF she too could be indicted, as she was involved with the RUF. Since then, the investigator regularly met her. She agreed to testify in May 2007, and the investigator took a statement from her on 16 May 2007.
20. DAG 099 was first met by the investigator in May 2006. However the witness was afraid that if he would testify in favour of Augustine Gbao and the RUF he would be indicted as he was working for the agricultural committee. Since their first meeting the investigator regularly met him. The witness finally agreed to testify in May 2007 and gave a statement on 24 May 2007.
21. The investigator first met DAG 101 in May 2006. At that time, the witness was afraid that if she would testify in favour of Augustine Gbao and/or of the RUF, she could be indicted too. Furthermore, the witness' parents shared her fears and prohibited her from testifying. Since their first meeting the investigator regularly met her, and also met her parents. The witness accepted to testify on 26 April 2007, and gave a statement on the following day.
22. The investigator first met DAG 103 in June 2006. The witness was nonetheless unwilling to testify. Indeed, as the witness used to be a senior member of the RUF he thought he too would be indicted. The investigator regularly met him and the witness finally accepted to testify in May 2007. He has not given a statement yet, because he was unavailable at the time the investigator met him. The investigator is going to meet him before the middle of July and a summary of his statement will be provided to the Court shortly thereafter.
23. The investigator first heard of DAG 104 in May 2006 but could not locate him. He was trying to get information as to his location but people gave him several different indications. Finally in May 2007, the investigator came across DAG 103 who explained him where the witness was. According to DAG 103, the witness is willing to testify. The investigator will meet him to get a statement before the middle of July 2007 and a summary will be provided to the Court shortly thereafter.

24. Despite constant efforts and ongoing investigations, the investigator was not able to obtain a statement from the proposed witnesses until recently, as they previously refused to testify or could not be located. It is therefore counsel's submission that the impossibility to locate a witness and its unwillingness to testify constitute good cause.<sup>18</sup>

### Interests of Justice

25. First of all, defence counsel would like to reiterate that the team has been working on reducing the witness list. If the present application is granted the total number of witnesses (core and back up) would be 38, including four *92bis*. As a result, the call of the 6 additional witnesses would not result in any delay of the proceedings.
26. In addition, defence counsel would like to emphasize the fact that the witness will testify when the case of the third accused starts, which is likely to be around the end of 2007/beginning of 2008. As a result, the prosecution and the other defence teams will have sufficient time to prepare for the cross examination of the proposed additional witnesses. There would be no element of surprise related to the call of the additional witnesses and their calling would not have any negative impact on the proceedings, in full respect of the right of the accused persons to a fair and expeditious trial.
27. Due to their particular roles during the armed conflict in Sierra Leone, the proposed additional witnesses would provide special evidence and add a particular element to the defence case. In addition to corroborate the evidence to be given by other defence witnesses,<sup>19</sup> the evidence to be given by the witnesses is unique and distinctive, as will be explained below. Furthermore, the proposed witnesses have personally witnessed the events they will be testifying about.
28. Defence counsel wants to emphasize that the testimony of the proposed additional witnesses is of high probative value regarding the individual criminal responsibility of the Accused. Indeed, the additional witnesses' testimony is going to relate to numerous parts of the indictment, as well as to several allegations made by the prosecution's witnesses.

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<sup>18</sup> Nahimana Decision of 14 September 2001.

<sup>19</sup> The fact that the evidence to be given by the proposed additional witnesses would corroborate the evidence by other witnesses has been recognised in the interest of justice in the *ICTR Nahimana case* decision of 26 June 2001, para.20.

29. Due to their particular positions during the war, the proposed witnesses will be able to give specific and original evidence. Indeed, DAG 084 and DAG 089 were close to Augustine Gbao during the armed conflict. As civilians, these two witnesses will provide important evidence on the relationship between the RUF and civilians, as well as on the role of Augustine Gbao with the civilian population. Especially, DAG 084 will testify on the existence looting within the RUF. They will also testify on forced marriage and forced labour within the RUF.
30. DAG 099, DAG 101, DAG 103 and DAG 104 held a particular position within the RUF, for some of them very high ranking. DAG 099 was working for the agricultural committee. As a result, the witness will be able to provide unique and direct evidence concerning forced labour. DAG 101 was involved in the Women Armed Corps. DAG 103 and DAG 104 were high ranking officials within the RUF.<sup>20</sup> As a result, they will be able to testify on the role of Augustine Gbao within the RUF as well as on the internal functioning of the RUF and its organs. Furthermore, DAG 104 would be able to give very precise and direct evidence regarding the killing of the alleged 65 Kamajors in Kailahun as he was there. The evidence of these witnesses regarding the allegations of command responsibility of Augustine Gbao is of extreme relevance to the defence case and would be of invaluable assistance to the court in determining the case at issue.
31. In addition, the principle of equality of arms<sup>21</sup> requires the Chamber to allow for the call of additional witnesses since the Prosecution was allowed to do so during the presentation of its case, and at a later stage in the presentation of its case.<sup>22</sup>
32. With regards to the absence of delay in the proceedings and the probative value<sup>23</sup> of the evidence to be given by the proposed witnesses, it is defence counsel's submission that the admission of the additional witnesses would be in the overall interest of law and justice.

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<sup>20</sup> As the disclosure of the role of this witness during the war could lead to a finding of his identity, an explanation of the witness' importance for the third accused can be found in *Ex Parte* Annex B to the present filing.

<sup>21</sup> *Prosecutor v Sam Hinga Norman, Moinana Fofana, Allieu Kondewa*, Case No. SCSL-04-14-T, ('CDF case'), Decision on Prosecution Request for Leave to Call Additional Witnesses, Trial Chamber I, 29 July 2004 ('CDF Decision of 29 July 2004'), para.32.

<sup>22</sup> Decision on Prosecution Request for Leave to Call Additional Witnesses and Disclose Additional Witness Statements, Trial Chamber I, 11 February 2005; Decision on Prosecution Request for Leave to Call Additional Witness and Notice to Admit Witness' Solemn Declaration Pursuant to Rule 73bis (E) and 92bis, 5 April 2006; Decision on Prosecution Request for Leave to Call Additional Witness TF1 371 and For Order for Protective Measures, Trial Chamber I, 6 April 2006.

<sup>23</sup> CDF, Decision of 29 July 2004.



## PROTECTIVE MEASURES

33. The defence counsel also request the pre-existing protective measures previously granted to the witness testifying for Augustine Gbao, as listed in paragraph 43 of the Trial Chamber's Decision of 1 March 2007,<sup>24</sup> to be extended to the proposed additional witnesses.
34. Indeed, most of the witnesses only lately accepted to testify because of fear of testifying before the court. It is submitted that they accepted to testify only after many efforts made by the investigator, and that if their identity came to be disclosed, this would undermine the work done by the investigator in order to secure their confidence.
35. Defence counsel reiterates its previous argument that, as the presentation of the defence case for the third accused is not likely to start before the end of the year, the disclosure of the identity and location of the witnesses and the potential for fear being generated from investigation by the prosecution or other defence teams places the witnesses and the Gbao defence case in unnecessary jeopardy.
36. In addition, the important role played by these witnesses within the RUF increases their vulnerability to be identified and therefore endangered.<sup>25</sup>
37. It is submitted that if their identity is revealed the witnesses would refuse to testify, which would also impair the right of the accused to have witnesses testifying on his behalf.<sup>26</sup>

## CONCLUSION

38. Defence counsel would like to reiterate the fact that the late disclosure of the witnesses is partly due to its inability to identify several witnesses following the non cooperation of the Accused. In addition, the proposed additional witnesses have been difficult to locate or unwilling to testify until

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<sup>24</sup> Decision on Gbao Defence Motion for Immediate Protective Measures and Confidential Motion for Delayed Disclosure and Related Measures for Witnesses, trial chamber I, 1 March 2007, para. 43.

<sup>25</sup> Ruling on the Prosecution's Application for the Entire Testimony of Witness TF1 362 to be Heard in Closed Session, Trial Chamber I, 11 May 2005, para. 4.

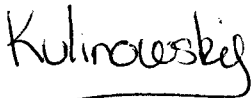
<sup>26</sup> Article 17(4) (e) of the SCSL Statute.

recently, despite the constant efforts of the investigator to locate/ secure them. It is submitted that it was for a good cause that the proposed additional witnesses were not disclosed earlier.

39. Furthermore, the admission of the new additional witnesses would be in the interests of justice as they would provide important and direct evidence on the role of Augustine Gbao, both within the RUF but also in relation with the civilian population. Their particular positions would permit them to give unique evidence in relation to the third Accused. In addition, their acceptance would not impair the preparation of the Prosecution, of the other defence teams and of the Judges since the evidence will not be presented before several months. Finally, the calling of the additional witnesses would not delay the proceedings since the witness list has been reduced from 68 to 38 witnesses. It is therefore submitted that the refusal of the additional witnesses would be contrary to the interests of justice.

40. Defence counsel for the third Accused, Augustine Gbao, hereby requests the court to allow the addition of DAG 084, DAG 089, DAG 099, DAG 101, DAG 103 and DAG 104 on its core witness list. In addition, defence counsel also requests that the existing protective measures previously granted to the defence witnesses for Augustine Gbao be extended to them.

Dated 4 July 2007



John Cammegh

Defence Counsel for Augustine Gbao

P.P

## List of Authorities

### I. Special Court for Sierra Leone

#### A. **RUF Case** (*Prosecutor against Issa Hassan Sesay, Morris Kallon, Augustine Gbao, Case No. SCSL-2004-15-T*)

- Decision on Prosecution Request for Leave to Call Additional Witnesses and Disclose Additional Witness Statements, Trial Chamber I, 11 February 2005. ('RUF decision of 11 February 2005')
- Ruling on the Prosecution's Application for the Entire Testimony of Witness TF1 362 to be Heard in Closed Session, Trial Chamber I, 11 May 2005.
- Decision on Prosecution Request for Leave to Call Additional Witness and Notice to Admit Witness' Solemn Declaration Pursuant to Rule 73bis(E) and 92bis, 5 April 2006.
- Decision on Prosecution Request for Leave to Call Additional Witness TF1 371 and For Order for Protective Measures, 6 April 2006.

#### B. **CDF case** (*Prosecutor v Sam Hinga Norman, Moinana Fofana, Allieu Kondewa, Case No. SCSL-04-14-T*)

- Decision on Prosecution Request for Leave to Call Additional Witnesses, Trial Chamber I, 29 July 2004. ('CDF decision of 29 July 2004')
- Decision on the First Accused's Urgent Motion for Leave to File Additional Witnesses and Exhibit Lists, Trial Chamber I, 6 April 2006. ('CDF Decision of 6 April 2006')
- Decision on Fofana Application for Leave to Call Additional Witnesses, Trial Chamber I, 17 July 2006. ('CDF Decision of 17 July 2006')

- Decision on Kondewa Application for Leave to Call One Additional Witness, Trial Chamber I, 3 October 2006. ('CDF Decision of 3 October 2006')

## II. International Criminal Tribunal for Rwanda

- *Prosecutor v. Ferdinand Nahimana, Hassan Ngeze, Jean Bosco Barayagwiza* ('Nahimana case'), Case No. ICTR-99-52-I, Decision on the Prosecutor Oral Motion for Leave to Amend the List of Selected Witnesses, Trial Chamber I, 26 June 2001. ('Nahimana Decision of 26 June 2001')
- *Nahimana case*, Decision on the Prosecutor's Application to Add Witness X to its List of Witnesses and for Protective Measures, Trial Chamber I, 14 September 2001. ('Nahimana Decision of 14 September 2001')
- *Case of Théoneste Bagosora, Gratién Kabiligi, Aloys Ntabakuze, Anatole Nsengiyumva* ('Bagosora case'), Case No. ICTR-98-41-T, Decision on Motion to Preclude Testimony of Witness XXN, Trial Chamber I, 21 May 2004. ('Bagosora Decision of 21 May 2004')
- *Bagosora case*, Decision on Bagosora Motion to Present Additional Witnesses and Vary its Witness List, 17 November 2006. ('Bagosora Decision of 17 November 2006')

## III. International Criminal Tribunal for the Former Yugoslavia

- *Prosecutor v. Zejnil Delalic, Zdravko Mucic, Hazim Delic, Esad Landzo*, ('Delalic case'), Case No. IT-96-21, Decision on Confidential Motion to Seek Leave to Call Additional Witnesses, Trial Chamber, 4 September 1997. ('Delalic Decision of 4 September 1997')

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**ANNEX A**

**Summary of Proposed Additional Witnesses Testimony**

**DAG 084**

1. The witness will testify about the area of Makeni, Bombali District.
2. The witness personally knew Augustine Gbao. The witness will testify that Augustine Gbao helped him when some RUF members looted his trade stand, and got the men responsible for this looting to repair the harm done. More generally, the witness will testify that the city of Makeni was peaceful and that everyone kept doing his/her own business while the RUF was present in the city. The witness will also testify that Gbao did not use child soldiers. Furthermore, the witness will give evidence as to the incident of the Lebanese shop, testifying that Gbao was not responsible for it. Finally, the witness will explain that no mutilation took place when the RUF was in Makeni.
3. The evidence to be given by DAG 084 relates to paragraphs 29-34 and 37-39 of the indictment, as well as to counts 1 and 2, counts 10-11 para. 65, count 12, count 13 para. 73 and count 14 para. 81.

**DAG 089**

4. The witness will testify about the area of Makeni, Bombali District.
5. The witness will testify about forced marriage, explaining that it did not happen in Makeni. The witness will give evidence that Augustine Gbao never had people working for him. He was the chief of security in the RUF and was responsible for investigating crimes by both soldiers and civilians, and for making appropriate recommendations to the higher authorities for necessary actions. The witness will comment on the rank of Augustine Gbao within the RUF in Makeni. She will explain that he had a good relationship with the civilians. He was making sure that the RUF rules were respected. The witness will further testify that Augustine Gbao never had child combatants. According to the witness, Augustine Gbao never went to the frontline and was very insignificant in the RUF movement.  
The witness will also give evidence on the UNAMSIL abduction. The witness will testify that two UNAMSIL men were brought to Augustine Gbao's house in his absence and that when he came back and saw them he was very angry and immediately ordered their release and gave them their vehicles back. The witness will testify about the life of civilians in Makeni, giving examples of cases where the wrongdoers were punished.

6. The evidence to be given by DAG 089 relates to paragraphs 17, 29, 32, 34, 37-39 and 41-43 of the indictment, as well as to counts 1 and 2, counts 3-5 para. 51, counts 6-9 para. 57, count 12 and counts 15-18.

**DAG 099**

7. The witness will testify about the area of Kailahun District.
8. The witness (a civilian) was working for the agricultural committee, which had been created to manage the farms left behind by the civilians. As a result he will be able to talk about forced labour within the RUF, and to refute the involvement of Augustine Gbao in such practice. The witness will testify that Augustine Gbao was the overall IDU Commander, responsible for monitoring the security aspect of the area. He was responsible for the maintenance of the lives and properties of the civilians and made sure that no civilian was harassed, molested or intimidated. Augustine Gbao was also in charge of investigating war crimes, by civilian or soldiers, and made recommendations to the authorities for the appropriate line of action. The witness never saw Augustine Gbao with child soldiers. The witness will explain that forced marriage occurred only during the time the Liberians were heading the revolution, and only at the frontline. The day the 65 suspected Kamajors got killed in Kailahun, Augustine Gbao was at the Bailu trading site. He later left there but told the witness that he was going to see his family in Sandiallu.
9. The evidence to be given by DAG 099 relates to paragraphs 32, 34, 37, 38 and 43 of the indictment, as well as to counts 1-2, counts 3-5 para.45, counts 6-9 para.54, count 12 and count 13 para.69.

**DAG 101**

10. The witness will testify about the area of Kailahun District.
11. The witness will explain that, few time after the RUF took over Bunumbu, Augustine Gbao came to the city and informed the civilians that if the soldiers attacked them they would have to bring a complain to him, and he would deal with it.

The witness will describe the functions and organisation of the women armed corps ('WAC') as well as of the Joint Security Board ('JSB') was composed of the IDU, G-5, M.P, IQ, Black guards. More precisely the witness will explain the reporting system within these units.

The witness will testify that Augustine Gbao was the assistant secretary to the leader Foday Sankoh in Kailahun. At the Bayama base he was an ideology instructor. He was called upon by the leader in 1996 and appointed as overall IDU Commander. Augustine Gbao was defending and protecting the lives and properties of the civilians in the RUF liberated zones. Anyone found guilty of a crime against a civilian would be investigated by Augustine Gbao, who would recommend a line of action to the authorities, and if found guilty would be drastically dealt with. Augustine Gbao was never a MP or a G5 commander. The witness will further explain that he was very insignificant within the RUF hierarchy; Foday Sankoh was the leader and all others like Rashid Mansaray, Mohamed Tarawally, Noah Kanneh, Sam Bockarie, Issa Sesay, Mike Lamin, Jonathan Kposowa, Dennis Mingo, Peter Vandi, Isaac Morego, etc were more senior to Augustine Gbao.

The witness will give evidence that Augustine Gbao did not use child soldiers. Finally the witness will give evidence on forced labour and on forced marriage.

12. The evidence to be given by DAG 101 relates to paragraphs 17, 29, 32, 34, 37, 38, 39 and 43, as well as to counts 1-2, counts 6-9 para.54, count 12, count 13 para.69 and count 14 para 77.

### **DAG 103**

13. The witness will testify about the area of Kailahun District.
14. The witness was a high ranking RUF. He will testify that Augustine Gbao was never a MP, and that even as the chairman of the joint security board ('JSB'), he had no control over the MP unit. He will go further by describing and explaining the individual units operations in the RUF. The witness will describe the RUF and testify that Augustine Gbao was very insignificant within the RUF chain of command.
15. The evidence to be given by DAG 103 relates to paragraphs 29, 32 and 39 of the indictment. The witness testimony also relates to all the counts contained in the indictment, as it concerns command responsibility.



**DAG 104**

16. The witness will testify about the area of Kailahun District.
17. The witness was a high ranking within the RUF from the beginning till the end of the war. He will give evidence as to the killing of the 65 alleged Kamajors by Mosquito in Kailahun. He will testify that Augustine Gbao was not there and did not support this act when he learnt about it afterwards. The witness will also testify on the dictatorial rule of Mosquito (Sam Bockarie) in Kailahun and will describe the arguments that occurred between Sam Bockarie and Augustine Gbao, following Augustine Gbao's investigation of certain suspects. .
18. The evidence to be given by DAG 104 relates to paragraphs 17, 29, 31- 32, 38- 39 and 41-43 of the indictment, as well as to counts 3-4 para. 49.



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Court Management Section – Court Records

**CONFIDENTIAL DOCUMENT CERTIFICATE**

This certificate replaces the following confidential document which has been filed in the *Confidential* Case File.

Case Name: The Prosecutor – v- Sesay, Kallon & Gbao  
Case Number: SCSL-2004-15-T  
Document Index Number: 806  
Document Date 04<sup>th</sup> July 2007  
Filing Date: 04<sup>th</sup> July 2007  
Number of Pages:19 Page Numbers: 30154-30172  
Document Type:-**Confidential Ex Parte Document**

- Affidavit
- Indictment
- Correspondence
- Order
- Other**

Document Title: **Confidential Document**

Name of Officer:

**Thomas P K George**

Signed