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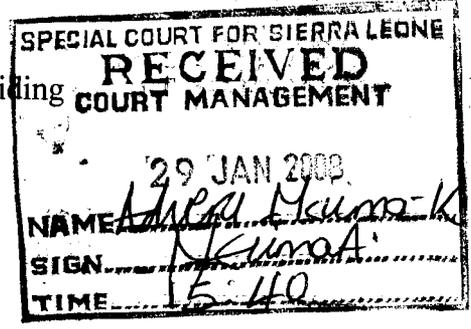
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SPECIAL COURT FOR SIERRA LEONE
OFFICE OF THE PROSECUTOR
Freetown – Sierra Leone

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

Registrar: Mr. Herman von Hebel

Date filed: 29 January 2008



THE PROSECUTOR **Against** **Issa Hassan Sesay**
Morris Kallon
Augustine Gbao

Case No. SCSL-04-15-T

URGENT PUBLIC
PROSECUTION MOTION FOR RELIEF IN RESPECT OF THE KALLON MOTION CHALLENGING
DEFECTS IN THE FORM OF THE INDICTMENT

Office of the Prosecutor:
Pete Harrison
Vincent Wagana

Court Appointed Defence Counsel for Sesay
Wayne Jordash
Sareta Ashraph

Court Appointed Defence Counsel for Kallon
Shekou Touray
Charles Taku
Kennedy Ogetto
Lansana Dumbuya

Court Appointed Defence Counsel for Gbao
John Cammegh
Scott Martin

I. INTRODUCTION AND RELIEF SOUGHT

1. On 28 January 2008, the Accused Kallon filed the “Kallon Motion Challenging Defects in the Form of the Indictment and Annexes A, B and C,”¹ (“Motion”). The section titled Motion is 9 pages long, Annex A is 5 pages long (the 5th page is blank), Annex B is 9 pages long and Annex C is 15 pages long (the 15th page is blank). The Annexes are clearly in the nature of submissions and legal argument, and there is no appropriate basis for calling these submissions and arguments Annexes. The reality is that the Accused Kallon has filed a 38 page Motion, far exceeding the 10 page maximum imposed by the Special Court’s Practice Direction.² The Prosecution applies to the Trial Chamber to direct Court Management that the document not be accepted for filing.
2. In the alternative, the Prosecution applies pursuant to Rule 7bis for an extension of time for filing its Response. Such an order can be granted without receiving a Response to the motion for extension of time.³ The Prosecution asks that the time for filing its response be extended to 3 p.m. on 21 February 2008. The Prosecution further applies for permission to file a response not longer than 35 pages.
3. The Accused Kallon cynically filed this Motion 11 days after this Trial Chamber rendered the “Decision on Gbao Request for Leave to Raise Objections to the Form of the Indictment,”⁴ (“Gbao Request Decision”). The Gbao Request Decision is obvious authority for dismissing the Kallon Motion, a fact that would have been known to the Accused Kallon. The inference that should be drawn is that the Accused Kallon filed the Motion in an attempt to create a record of having complained of defects in the Indictment, this being done for the first time in the Motion. The Motion serves no other purpose given the Gbao Request Decision.
4. Disingenuous pleading is an affront to the solemnity of the Court’s process. The gross violation of the page limit rule established by the Practice Direction cannot be ignored

¹ *Prosecutor v. Sesay et al*, SCSL-04-15-T-960, “Kallon Motion Challenging Defects in the Form of the Indictment and Annexes A, B and C,” 28 January 2008.

² Special Court of Sierra Leone, “Practice Direction on Filing Documents before the Special Court for Sierra Leone,” Article 6, C.

³ Rule 7bis: “Any response to a motion for extension of time shall be filed within three days of receipt of the motion. Any reply to the response shall be filed within two days of the receipt of the response. However, a motion for an extension of time may be disposed of without giving the other party the opportunity to respond if a Judge or Chamber is of the opinion that no prejudice will be caused to the other party.”

⁴ *Prosecutor v. Sesay et al*, SCSL-04-15-T-944, “Decision on Gbao Request for Leave to Raise Objections to the Form of the Indictment,” 17 January 2008.

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and Court Management should be directed to reject the filing. Filing such a frivolous Motion, in total disregard to an on-point decision rendered 11 days earlier, deserves judicial comment. Rule 46(C) should be invoked and the Registrar directed to withhold payment of any fees sought by the Accused Kallon with respect to the Motion.⁵

Filed in Freetown,

29 January 2008

For the Prosecution,



Pete Harrison

⁵ Rule 46 (C): “Counsel who bring motions, or conduct other activities, that in the opinion of a Chamber are either frivolous or constitute abuse of process may be sanctioned for those actions as the Chamber may direct. Sanctions may include fines upon counsel; non-payment, in whole or in part, of fees associated with the motion or its costs, or such other sanctions as the Chamber may direct.”

List of Authorities

Decisions and Judgements

Prosecutor v. Sesay et al, SCSL-04-15-T-960, “Kallon Motion Challenging Defects in the Form of the Indictment and Annexes A, B and C,” 28 January 2008

Prosecutor v. Sesay et al, SCSL-04-15-T-944, “Decision on Gbao Request for Leave to Raise Objections to the Form of the Indictment,” 17 January 2008

Rules and Practice Direction

Rules of Procedure and Evidence, *7bis* and 46(C)

Practice Direction on Filing Documents before the Special Court for Sierra Leone, last amended 16 January 2008, Article 6, C.