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SCSL-2004-15-PT
(1162-1164)

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SPECIAL COURT FOR SIERRA LEONE

OFFICE OF THE PROSECUTOR

FREETOWN – SIERRA LEONE

IN THE APPEALS CHAMBER

Before:

Registrar: Mr. Robin Vincent

Date filed: 5th March 2004

PROSECUTOR

Against

**ISSA SESAY
MORRIS KALLON
AUGUSTINE GBAO**

(CASE NO. SCSL-2004-15-PT)

**KALLON – PROSECUTION RESPONSE TO DEFENCE MOTION FOR EXTENSION
OF TIME FOR FILING OF APPLICATION FOR LEAVE TO APPEAL AGAINST
REFUSAL FOR BAIL**

Office of the Prosecutor:

Luc Côté

Robert Petit

Abdul Tejan-Cole

Boi-Tia Stevens

Defence Counsel:

Sylvain Roy

Rupert Skilbeck

Haddijiatou Kah-Jallow

SPECIAL COURT FOR SIERRA LEONE	
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FREETOWN-SIERRA LEONE

PROSECUTOR**Against****ISSA SESAY
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I. BACKGROUND

1. On 27 February 2004, the Defence Office filed a “Defence Motion for Extension of Time for Filing of Application for Leave to Appeal against Refusal of Bail” (“the Application”).¹ In the Application, the Defence argues for an extension of time to allow Counsel for Morris Kallon (“the Accused”) to file an application for leave to appeal the decision of Judge Boutet of 23rd February 2002 refusing to grant the Accused bail. The Defence makes its application pursuant to Rules 65(E) and 116 of the Rules of Procedure and Evidence.
2. In paragraph 18 of its Motion, the Defence Office states that the Accused does not currently have an assigned Counsel following the decision of the Acting Principal Defender on 27th February 2004 to withdraw assigned Counsel. They further argue that it is of fundamental importance that each accused is properly represented by assigned counsel; that the Defence Office cannot adequately represent the interest of the Accused

¹ Registry Page (“RP”) 916-926.

as it was not privy to the contents of the Motion which was filed confidentially; that there is good cause to grant the extension of time to apply for leave to appeal and that the Accused's rights will be irreparably harmed if he is not granted an opportunity to submit an application for leave to appeal the decision refusing him bail.

II. ARGUMENTS

3. In response to the Defence's arguments, the Prosecution states that it does not object to the granting of an extension of time considering the circumstance of this case. However, the Prosecution objects to the length of time requested by the Defence Office for the extension and submits that any extension of time granted must be reasonable.
4. The Prosecution submits that an extension of the time for filing a motion for leave to appeal against the decision to grant bail for a period "until 6 weeks after the appointment of the Assigned Counsel" is inordinately long and unreasonable in the circumstances. Rule 65(E) applications for leave to appeal shall be filed within seven days of the impugned decision. The Prosecution submits that to grant the Defence an extension of 6 weeks to determine whether to seek leave to appeal would defeat the purpose of Rule 65(E). The Prosecution argues that an application for leave to appeal the decision to grant bail does not involve detailed legal and factual research and therefore reiterates its position that an extension for a period "until 6 weeks after the appointment of the Assigned Counsel" is unduly lengthy in the present case.
5. The Prosecution submits that in circumstances where it is unjustified or unreasonable to grant the extension of time as requested the Judge or Chamber may grant an extension for a time shorter than the requested time. In the case of *Elizaphan Ntakirutimana and Gerard Ntakirutimana v The Prosecutor*,² the Defence requested an extension of time for a period of 45 days. The Appeals Chamber of the ICTR granted an extension but reduced the time requested from 45 days to 20 days (3rd June 2003 – 23rd June 2003) stating that an extension of time for a period of 45 days was not justified in that case.

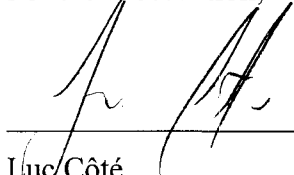
III. CONCLUSION

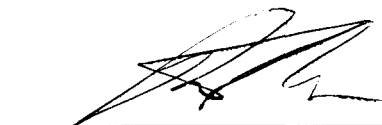
² Case No. ICTR-96-10-A and ICTR-96-17-A "Order Granting an Extension of Time for the Filing of the Appellants' Appeal Briefs" 20 May 2003.

6. In view of the premise, the Prosecution does not object to the request for an extension of time but considers the length of time requested by the Defence Office in the present case as unreasonable. The Prosecution humbly request that this matter be ruled on expeditiously considering the nature of the Application and that a delay in ruling on the same may potentially affect the proceedings, which involves not only the Accused but also the other Accused with whom he is jointly charged.

Freetown, 5th March 2004.

For the Prosecution,



Luc Côté
Chief of Prosecutions

Robert Petit
Senior Trial Attorney