9(8)

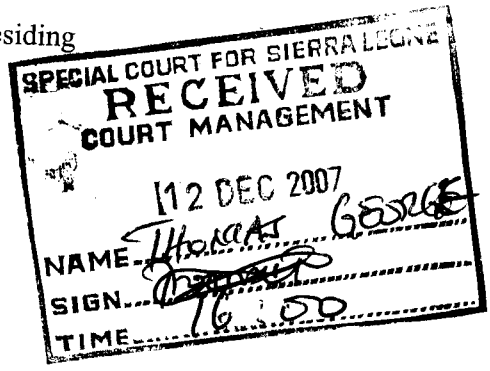
SCSL-04-15-T
(32219 — 32236)

32219

SPECIAL COURT FOR SIERRA LEONE

THE APPEALS CHAMBER

Before: Hon. Justice George Gelaga King, Presiding
Hon. Justice Emmanuel Ayoola
Hon. Justice Raja Fernando
Hon. Justice Renate Winter



Registrar: Mr. Herman Von Hebel

Date filed: 12 December 2007

THE PROSECUTOR **against** **ISSA HASSAN SESAY**
MORRIS KALLON
AUGUSTINE GBAO

Case No. SCSL -2004-15-T

PUBLIC

KALLON NOTICE OF APPEAL AND SUBMISSIONS ON THE DECISION ON SESAY AND GBAO MOTION FOR VOLUNTARY WITHDRAWAL OR DISQUALIFICATION OF HON. JUSTICE BANKOLE THOMPSON FROM THE RUF CASE

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NOTICE OF APPEAL

I. Title and Date of Filing of Appealed Decision

1. Pursuant to Rule 73(B) and 108(C) of the Rules of Procedure and Evidence of the Special Court for Sierra Leone ("the Rules") and the order of Trial Chamber I,[1] the Kallon Defence hereby files a Notice of Appeal from "Decision on Sesay and Gbao Motion for Voluntary Withdrawal or Disqualification of Justice Bankole Thompson from the RUF Case" rendered on 6 December 2007.

II. Summary of Proceedings Relating to Appealed Decision

2. On 2 August 2007, Trial Chamber I rendered judgment in the case of *P v. Fofana and Kondewa* in which it found the two accused guilty of several counts in the indictment.[2]

3. In a Separate Concurring and Partially Dissenting Opinion ("the Opinion") Hon. Justice Bankole Thompson acquitted both the accused on all counts, having found the factual guilt of the accused, but availing them, *propio motu,* of the defence of necessity.

4. On 14 November 2007, the First and Third Accused filed a "Joint Motion for Voluntary Withdrawal or Disqualification of Justice Bankole Thompson from the RUF Case" ("the Motion") based on the comments contained within the Opinion.[3]

5. On 20 November 2007, the Second Accused filed a statement in support of the Motion,[4] to which the Prosecution responded on 22 November 2007.[5]

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[1] *P v. Sesay et al.*, SCSL-04-15-T, Decision on Leave to Appeal Decision on Sesay and Gbao Motion for Voluntary Withdrawal or Disqualification of Justice Bankole Thompson from the RUF Case, 6 Dec. 07.
[2] *P v. Fofana and Kondewa,* SCSL-04-16-T, Judgment, 2 Aug. 07.
[3] *P v. Sesay et al.*, SCSL-04-15-T, Sesay and Gbao Joint Motion for the Voluntary Withdrawal or Disqualification of Justice Bankole Thompson from the RUF Case, 14 Nov. 07.
[4] *P v. Sesay et al.*, SCSL-04-15-T, Kallon Statement in Suuport of the Sesay and Gbao Joint Motion for the Voluntary Withdrawal or Disqualification of Justice Bankole Thompson from the RUF Case Filed on the 14th Day of November 2007, 20 Nov. 07.

6. On 20 November 2007, the Prosecution filed a response to the Motion[6] and on 21 November the First and Second Accused filed their reply jointly,[7] with an addendum filed thereto on 23 November 2007.[8]

7. On 6 December 2007, Hon. Justice Benjamin Mutanga Itoe, presiding, and Hon. Justice Pierre Boutet, sitting as Trial Chamber I, rendered their decision on the Motion ("the Decision") in which it dismissed the Motion in its entirety.[9] On the same day, after hearing oral submissions of the parties, leave was granted to appeal the Decision.[10]

III. Grounds of Appeal

8. Ground one: the Trial Chamber erred in fact in its evaluation of the gravity of the comments of Justice Thompson

9. Ground two: the Trial Chamber erred in law by applying the standard of review of the ICTR and ICTY to the extent it is inconsistent with the standard of the SCSL

10. Ground three: the Trial Chamber erred in law in its interpretation of the standard as requiring a certain degree of bias rather than as an evidential standard.

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[5] *P v. Sesay et al.*, SCSL-04-15-T, Prosecution Response to the Kallon Statement in Suuport of the Sesay and Gbao Joint Motion for the Voluntary Withdrawal or Disqualification of Justice Bankole Thompson from the RUF Case and Corrigendum, 22 Nov. 07.

[6] *P v. Sesay et al.*, SCSL-04-15-T, Prosecution Response to Sesay and Gbao Joint Motion for the Voluntary Withdrawal or Disqualification of Justice Bankole Thompson from the RUF Case, 20 Nov. 07.

[7] *P v. Sesay et al.*, SCSL-04-15-T, Sesay and Gbao Joint Reply to Prosecution Response to Sesay and Gbao Joint Motion for the Voluntary Withdrawal or Disqualification of Justice Bankole Thompson from the RUF Case, 21 Nov. 07.

[8] *P v. Sesay et al.*, SCSL-04-15-T, Addenedum to Sesay and Gbao Joint Reply to Prosecution Response to Sesay and Gbao Joint Motion for the Voluntary Withdrawal or Disqualification of Justice Bankole Thompson from the RUF Case, 23 Nov. 07.

[9] *P v. Sesay et al.*, SCSL-04-15-T, Decision on Sesay and Gbao Motion for the Voluntary Withdrawal or Disqualification of Justice Bankole Thompson from the RUF Case, 6 Dec. 07.

[10] *P v. Sesay et al.*, SCSL-04-15-T, Decision on Leave to Appeal Decision on Sesay and Gbao Motion for Voluntary Withdrawal or Disqualification of Hon. Justice Bankole Thompson from the RUF Case, 6 Dec. 07.

11. Ground four: the Trial Chamber erred in Law and fact by finding that "some indicia of an appearance of bias" does not satisfy the test whether "one can apprehend bias"

12. Ground Five the Trial Chamber erred in law in placing undue reliance on the assurances of the Honourable Justice Thompson

13. Ground Six the Trial Chamber erred in Law and fact by finding that in his Dissenting opinion the Honourable Justice Thompson made no comments or expressed views or opinions with respect to the accused themselves of their alleged criminality.

IV. Relief Sought

14. The Appellant prays the Appeals Chamber:

a. set aside the Decision and grant Motion; and

b. order the permanent removal of Justice Bankole Thompson from the RUF trial.

c. Pending the hearing and final determination of the Appeal herein there be a stay of execution of the Trial Chamber's decision and Hon Justice Bankole Thompson be barred from sitting in the RUF Trial.

SUBMISSIONS

GROUND 1: THE TRIAL CHAMBER ERRED IN FACT IN ITS EVALUATION OF THE GRAVITY OF THE COMMENTS OF JUSTICE THOMPSON

15. The Appellant submits that the Trial Chamber grossly understated the perceived significance of the words of Justice Thompson.

The Trial Chamber Erred in Finding that Connotations of the Opinion Rose only to the Level of 'Some Indicia of an Appearance of Bias'

16. The Trial Chamber refers to excerpts of the Opinion in the following way:

> "Hon. Justice Thompson speaks of 'tyranny, anarchy and rebellion', 'a rebellion against the legitimate government of a State,' an 'intensely conflictual situation...dominated by utter chaos, fear, alarm and despondency', and the 'immediate threat of harm purportedly feared, to wit, fear, utter chaos, widespread violence of immense dimensions resulting form the coup and intense discomfiture, locally and nationally.'"[11]

17. The Trial Chamber held that: "[a]fter careful consideration, the Chamber finds that some indicia of bias have been established having regard to all the circumstances by the language used in the Seperate Opinion when it is understood and viewed in the context of the ongoing RUF proceedings."[12] It is submitted that this is a gross understatement of the gravity of the comments which amount to an error of fact.

The Trial Chamber Erred in Finding that the Comments of Justice Thompson did not Imply Criminality

18. The Trial Chamber arrived at the inevitable conclusion that the AFRC and RUF were the object of comments rendered by Justice Thompson in the Opinion.

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[11] The Decision, at para 71.
[12] The Decision, at para 84.

Reading conjunctively with the rest of the Opinion, the Trial Chamber found:

> "it is reasonable to conclude that [Justice Thompson] is actually referring to both the AFRC and RUF when speaking in terms of tyranny, anarchy and rebellion, the intensely conflictual situation and the fear, utter chaos, widespread violence of immense dimensions that he has identified."[13]

19. The Appellant submits that the Trial Chamber, seized of that finding, erred in holding that the language did not "necessarily imply criminality."[14] It is submitted that as a matter of technical linguistics the observations of the Learned Judge, such as "widespread violence of immense dimensions," read in conunction with "tyranny", necessarily do imply criminality on the part of the objects of such observations. Furthermore, on the plain meaning of the observations, as contextualised by the rest of the Opinion and other supporting information, the "independent bystander" who is properly informed could reach no other conclusion than that the observations connote illegality and criminality.

GROUND 2: THE TRIAL CHAMBER ERRED IN LAW IN APPLYING THE STANDARD FOR DISQUALIFICATION OF THE ICTR AND ICTY

Trial Chamber Correctly Cited the Law of the Special Court

20. The Appellant submits that the Trial Chamber erred in applying the jurisprudence of the *ad hoc* tribunals with precedence over the law of the Special Court.

21. The Trial Chamber correctly observed that the scope of Rule 15, governing the procedure for disqualification of Judges, is broader than the corresponding rules of the ICTR and ICTY.[15] Rule 15 states, *inter alia*:

> "(A) A Judge may not sit at a trial or appeal in any case in which his impartiality might reasonably be doubted on any ground."[16]

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[13] The Decision, at para 75.
[14] The Decision, at para 77; see also para 92
[15] The Decision, at para 45.
[16] Rule 15 of the Rules. Contrast that with Rule 15(A) of the Rules of Procedure and Evidence of the ICTR which states *inter alia*::"A Judge may not sit in any case in which he has a personal interest or concerning which he has or has had any association which might affect his impartiality."

22. In its interpretation of the scope of Rule 15, the Trial Chamber had benefit of the jurisprudence of this Appeals Chamber. Thus the Trial Chamber cited:

> "The test for the reasonable apprehension of bias that has been formulated by the Appeals Chamber of the Special Court...is as follows: 'The crucial and decisive question is whether an independent bystander so to speak, or the reasonable man, reading those passages will have a legitimate reason to fear that [the Judge] lacks impartiality. In other words, whether one can apprehend bias.' "[17]

23. This represents the law of the Special Court in the area of disqualification of a judge on the ground of bias.

The Trial Chamber Applying the Law of the ICTR and ICTY

24. To the extent that it is complementary, international jurisprudence may serve as an interpretative guide for the law of Special Court. It has persuasive authority only, whereas the Rules, the Statute and decisions of the Appeals Chamber of the Special Court are binding on the Trial Chamber. This distinction is particularly pertinent where the ICTR and the ICTY operate under a regime of rules which is inconsistent with the law governing the Special Court.

25. The Appellant submits that the law governing the disqualification of judges is such an area, as correctly observed by the Trial Chamber at paragraph 45:

> "The jurisprudence of the ad hoc Tribunals has elaborated a test for the appearance of bias which is similarly broad in scope even though their corresponding Rule is not as broad as our Rule 15."[18]

26. However, having made such recognition, it is submitted that the Trial Chamber failed to take it into consideration when formulating the legal basis according to which it determined whether the presumption of impartiality was rebutted in the case of Justice Thompson. Relying on *Celebici, inter alia*, the Trial Chamber found that there is a "high threshold to reach in order to rebut [the] presumption

[17] The Decision, at para 54.
[18] The Decision, at para 45.

[of judicial impartiality]."[19]

27. Furthermore, the Trial Chamber cites a decision of the ICTR Bureau and finds it "to be an appropriate procedure to be adopted in [its] analysis of the allegations of bias."[20] In so doing, the Trial Chamber mistakenly applies a stricter test or procedure than is allowed under Rule 15 by requiring that the Opinion "reasonably be perceived as creating an appearance of bias with regard to the RUF Accused" to sustain a claim of bias.[21]

28. It is submitted that the jurisprudence of the Special Court is inconsistent with these findings, inasmuch as the Appeals Chamber has held that grounds for disqualification may be established where "one can apprehend bias,"[22] which is a much less strictly defined test. In such a case the decision of the Special Court should have prevailed.

29. The Appellant submits that the Trial Chamber erred in law by applying the standard of the ICTY and ICTR instead of the standard set by this Appeals Chamber, that the two standards are different and that this error was material to the outcome of the Decision.

GROUND 3: THE TRIAL CHAMBER ERRED IN LAW IN FINDING THAT THE STANDARD FOR DISQUALIFICATION REQUIRES A CERTAIN DEGREE OF BIAS

The Standard According to which an Appearance of Bias Must be 'Firmly Established' is Evidentiary

30. At paragraph 87 the Trial Chamber cites the recent jurisprudence from the Media

[19] The Decision, at para 86. This threshold argument ultimately proved to be determinative of decision reached, as is apparent by the fact that the Trial Chamber found "some indicia of an appearance of bias," but, nonetheless, went on to dismiss the motion.
[20] The Decision, at para 62 and 63.
[21] *Id.*
[22] Particularly considering the broadly-termed Rule 15, upon which the decision of the Appeals Chamber in this case was premised.

case in support of their finding that there is "high threshold" to meet when establishing disqualification on the ground of bias. According to the unofficial translation, the Appeals Chamber in that case held that "solid and sufficient evidentiary proof" is required in order to rebut the presumption of judicial impartiality.[23] On analysing the jurisprudence, it is clear that the Appeals Chamber was speaking of an evidentiary standard, which must necessarily be high to avoid mistake, such as would compromise the integrity of the judicial system.

31. The Appellant agrees that the evidence used to substantiate a claim of bias must be of particularly high credibility and, therefore, that evidence of low probative value does not meet the high empirical standards required to establish bias. As the *Celebici* case states:

> "It would be as much a threat to the interests of the impartial and fair administration of justice if judges were to disqualify themselves on the basis of unfounded and unsupported allegations."[24]

The Trial Chamber Misinterpreted the Standard for Disqualification as Requiring a Certain Degree of Bias

32. The Appellant submits that the Trial Chamber erroneously interpreted the finding that bias be "firmly established" as a requirement that a certain degree of apprehension of bias be demonstrated. The Trial Chamber states that "some indicia of an appearance of bias have been established."[25] In its context the Appellant takes "established" to mean "firmly established." Therefore, the Trial Chamber's interpretation of the Opinion demonstrates that it has satisifed itself that the *standard* of proof has been met. The diminutive wording of "some indicia" addresses the quantity, amount or degree of that bias, firmly established. It is submitted that any bias howsoever small, renders a judge impartial and that the Trial Chamber's inquiry into the degree of bias established is superfluous.

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[23] The Decision, at para 87. Likewise the jurisprudence holding that the appearance must be "firmly established" is an evidentiary standard which requires that the appearance of bias must proven through the presentation of solid evidence.
[24] The Decision, at para 88; quoting....
[25] The Decision, at para 84.

33. The defence submits that to suggest that there is a level of bias that may be acceptabe on the part of a judge in any criminal proceedings is an absurdity and a serious assault on the motion of a fair trial.

34. The Appellant contends that the jurisprudence which establishes a "high threshold" for establishing bias, seeks to protect the integrity of judges from frivolous challenges, premised on unreliable evidence. It does not seek to compromise the paramount rights of the accused in any way. Any bias, however small, actually held or reasonably perceived to be held, serves to compromise both the rights guaranteed by the Statute[26] and the mantra, "justice must not only be done but also be seen to be done."[27] Accordingly, Article 13 guarantees that "judges shall be...persons of impartiality,"[28] there is no provision for leniency that would permit judges to only exhibit only in the a reasonable level of impartiality. Partiality and impartiality are dichotomous and once it has been demonstrated, through the presentation of evidence of a high probative value, that a judge is partial, to any extent whatsoever, that judge no longer can claim to be impartial. Contemplating the compromising effect of judicial bias on the rights of the accused, the Florida Court of Appeal held as follows:

> "It is the established law of this State that every litigant, including the State in criminal cases, is entitled to nothing less than the cold neutrality of an impartial judge. It is the duty of the court to scrupulously guard this right of the litigant and to refrain from attempting to exercise jurisdiction in any manner where his qualification to do so is seriously brought into question. The exercise of any other policy tends to discredit and place the judiciary in a compromising attitude which is bad for the administration of justice."[29]

35. The European Court of Human Rights also supports the view that the "**Independence**" of a tribunal requires the existence of "...guarantees against outside pressures and the question of whether the body represents an appearance

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[26] Such as the accused's right to a fari trial, see Art. 17(2) of the Statute.
[27] The Decision, see para 52
[28] Art. 13(1) of the Statute.
[29] *State v. Steele,* 348 So.2d 398, 401 (Fla. App. 1977).

of independence..."[30] *and that* "**Impartiality**" requires determination of whether there exist "...guarantees sufficient to exclude **any legitimate doubt**..." as to impartiality [31] *The court has Further emphasised that* "...Any [tribunal] in respect of whom there is **legitimate reason to fear** a lack of impartiality **must** withdraw..." [32] and that "...It is sufficient to find that the impartiality of the tribunal which had to determine the merits of the charge was **capable of appearing open to doubt**.."[33] *The Court has stressed that* "...What is at stake is the confidence in which the courts must inspire in the public in a democratic society..." [34]

36. The Appeals Chamber of the ICTR has also demonstrated the seriousness of issues related to bias by disqualifying 2 judges merely because they acquiesced in the continuation of a Trial together with a judge in respect of whom an appearance of bais had been established [35]

GROUND 4: THE TRIAL CHAMBER ERRED IN FACT IN FINDING THAT 'SOME INDICIA OF AN APPEARANCE OF BIAS' DID NOT SATISFY THE TEST OF BIAS

37. In interpreting the standard to be applied in a motion for disqualification, the Trial Chamber cited the jurisprudence of this Appeals Chamber, that "the crucial and decisive question is...whether one can apprehend bias." On its evaluation of the words contained in the Opinion, the Trial Chamber found, *inter alia*, that "some indicia of an appearance of bias have been established."[36] On both the plain and

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[30] *Findlay v UK (1996) 24 EHRR 221*

[31] See *Piersack v Belgium (1983) 5 EHRR 169 at para 30; De Cubber v Belgium (1984) 7 EHRR 236 at para 24; Hauschild v Denmark (1990) 12 EHRR 266 at para 46 & 48*

[32] Piersack v Belgium (ibid) ,De Cubber V Belgium (1 bid) at Paragraph 26 , Hauschild v Denmark (ibid) at paragraph 48

[33] Piersack Supra at paragraph 31, De Cubber Supra at paragraphs 27 and 30, Hauschild Supra at paragraph 52

[34] Piersack Supra at Para 30a, De Cubber Supra at Para 26 and Hauschild Supra at para 48.

[35] Karamera et al v prosecutor reasons for decision on interlocutory appeals regarding the continuation of proceedings with a substitute judge and on Nzirorera'a motion for leave to consider new material- Appeals Chamber decision of 22 oct 2004

[36] The Decision, at para 84

literal meanings of these observations, the Trial Chamber finds the test of this Appeals Chamber to be abundantly satisified. It is submitted that the Trial Chamber erred in failing to find the test for appearance of bias satisfied, on the basis of its factual and legal findings.

The Trial Chamber Correctly Identified the Test for Bias According to this Appeals Chamber

38. At paragraph 60 of the Decision, the Trial Chamber makes the following finding regarding the standard of review:

> "In our opinion, the issue before us is whether the language, the opinions and findings contained in the Separate Opinion create an appearance of bias."[37]

39. At paragraph 63 of the Decision the Trial Chamber premised its evaluation of the statements contained in the Opinion on the following analysis:

> "[whether] the Separate Opinion could reasonably be perceived as creating an appearance of bias with regard to the RUF Accused."[38]

40. Most notably, the Trial Chamber describes and endorses the test for the "reasonable apprehension of bias" formulated by the Appeals Chamber of the Special Court:

> "The crucial and decisive question is whether an independent bystander so to speak, or the reasonable man, reading those passages will have a legitimate reason to fear that [the Judge] lacks impartiality. In other words, whether one can apprehend bias."[39] [Emphasis added]

41. Read in conjunction with Rule 15, it follows from that Decision that a case where "impartiality ***might*** reasonably be doubted on any substantial ground" equates to a case where "one can apprehend bias."[40] By reference to that standard the Appeals Chamber disqualified Justice Robertson from this case satisfying itself that the

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[37] The Decision, at para 59.
[38] The Decision, at para 63; see also para 60 ("the issue before us is whether the language, the opinions and the findings contained in the Separate Opinion create an appearance of bias.")
[39] The Decision, at para 54; quoting *P v. Sesay et al.*, SCSL-15-04-T, Decision on Defence Motion Seeking Disqualification of Justice Robertson from the Appeals Chamber, 13 March 04, at para 15.
[40] See Ground 1 on the superior authority of the Appeals Chamber of the Special Court over other jurisprudence.

standard of review in Rule 15 had been met.

The Trial Chamber Correctly Interpreted the Findings in the Opinion

42. At paragraph 72 the Trial Chamber made the following interpretation of the words of Justice Thompson:

> "Having so opined, we are equally of the view however, that the expressions and terms used by Hon. Justice Thompson as outlined by the Defence teams in their submissions and which form the basis for their introducing this Motion, could be perceived or understood as aggressive, offensive and injurious to the interests of the three aggrieved RUF Defendants and could have created, even if the Learned Judge did not intend those consequences, an appearance of bias against their cause and their interests as Accused Persons."[41] [Emphasis added]

43. At paragraph 84, the Trial Chamber found that:

> "some indicia of an appearance of bias have been established having regard to all the circumstances by the language used in the Seperate Opinion when it is established and viewed in the context of the ongoing RUF proceedings."[42] [Emphasis added]

The Trial Chamber Erred in Failing to Find the Test as Satisfied

44. The Appellant submits that, on the plain and literal interpretation, "some indicia of an appearance of bias" meets the standards described by the Trial Chamber test of whether "one can apprehend bias." In other respects, the Trial Chamber's interpretation of the comments of Justice Thompson abundantly satisfy the test for bias employed in the Decision. The Appellant submits that the Trial Chamber erred in failing to find as such.

GROUND 5 THE TRIAL CHAMBER ERRED IN LAW BY FINDING THAT IN HIS SEPARATE CONCURRING AND PARTIALLY DISSENTING OPINION, THE HONORABLE JUSTICE THOMPSON MADE NO COMMENTS OR EXPRESSED VIEWS OR OPINIONS WITH RESPECT TO THE ACCUSED THEMSELVES OF THEIR ALLEGED CRIMINALITY.[43]

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[41] The Decision, at para 72.
[42] The Decision, at para 84.
[43] The Decision paragraph 92

45. The Appellant submits that the mere fact that justice Thompson did not expressly mention the accused themselves is irrelevant to the extent the Trial Chamber found that Justice Thompson's comments could be perceived or understood as being aggressive, offensive, and injurious to the interests of the three RUF Defendants (the decision at Paragraph 96) Moreover, the indictment in this case contains a joint criminal enterprise charge the basis of which is the alleged role of the 3 accused persons in the broader activities of the AFRC/RUF.

46. Indeed, the Trial Chamber concludes that "the enemy or force that the CDF is fighting in the findings in the CDF Judgment includes the RUF, three members of which are the accused in the present case"(the Decision at Paragraph 75).

47. The Appellant therefore submits that notwithstanding the express mention of the accused themselves by the Honourable Judge in his dissenting opinion his comments are nevertheless prejudicial to the 3 accused in this case.

GROUND 6 THE TRIAL CHAMBER ERRED IN LAW IN PLACING RELIANCE ON JUSTICE THOMPSON 'S ASSURANCES

The Chamber partly relied on the apparent assurances by the Hon Justice Thompson that he would issue a Judgment in the RUF case that is exclusively based on whether or not the Prosecution has Proven the guilt of the accused beyond a reasonable doubt.

The Appellant submits that having found that the Honourable Judge Thompson's dissenting opinion exhibited " same indicia of an appearance of bias"[44] the assurances of Judge Thompson were rendered irrelevant

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DONE in Freetown on this. 12th... day of..December..., 2007.

For Defendant **KALLON,**

[44] The Decision at Paragraph 84 the assurance by the Honourable Judges Thompson were irrelevant.

pp. _____
Shekou Touray

pp. _____
Charles Taku

pp. _____
Kennedy Ogetto

pp. _____
Lansana Dumbuya

LIST OF AUTHORITIES

A. International Conventions

1. Statute of the Special Court for Sierra Leone

2. Rules of Procedure and Evidence of the Special Court for Sierra Leone

3. Statute of the International Criminal Tribunal for Rwanda

B. Judgments and Decisions

(i) Special Court for Sierra Leone:

1. *P v. Sesay et al.*, SCSL-04-15-T, Decision on Leave to Appeal Decision on Sesay and Gbao Motion for Voluntary Withdrawal or Disqualification of Justice Bankole Thompson from the RUF Case, 6 Dec. 07.

2. *P v. Fofana and Kondewa,* SCSL-04-16-T, Judgment, 2 Aug. 07.

3. *P v. Sesay et al.*, SCSL-04-15-T, Decision on Sesay and Gbao Motion for the Voluntary Withdrawal or Disqualification of Justice Bankole Thompson from the RUF Case, 6 Dec. 07.

4. *P v. Sesay et al.*, SCSL-04-15-T, Decision on Leave to Appeal Decision on Sesay and Gbao Motion for Voluntary Withdrawal or Disqualification of Hon. Justice Bankole Thompson from the RUF Case, 6 Dec. 07.

5. *P v. Sesay et al.*, SCSL-15-04-T, Decision on Defence Motion Seeking Disqualification of Justice Robertson from the Appeals Chamber, 13 March 04, at para 15.

(ii) Other Jurisdictions:

6. *State v. Steele,* 348 So.2d 398, 401 (Fla. App. 1977).

7. Findlay v UK (1996) 24 EHRR 221

8. Piersck v Belgium (1983) 5 EHRR

9. De Cubber v Belgium (1984) 7 EHRR 236

10. Hauschild v Denmark (1990) 12 EHRR 266

C. Motion and Other Filings

1. *P v. Sesay et al.,* SCSL-04-15-T, Sesay and Gbao Joint Motion for the Voluntary Withdrawal or Disqualification of Justice Bankole Thompson from the RUF Case, 14 Nov. 07.

2. *P v. Sesay et al.,* SCSL-04-15-T, Kallon Statement in Suuport of the Sesay and Gbao Joint Motion for the Voluntary Withdrawal or Disqualification of Justice Bankole Thompson from the RUF Case Filed on the 14th Day of November 2007, 20 Nov. 07.

3. *P v. Sesay et al.,* SCSL-04-15-T, Prosecution Response to the Kallon Statement in Suuport of the Sesay and Gbao Joint Motion for the Voluntary Withdrawal or Disqualification of Justice Bankole Thompson from the RUF Case and Corrigendum, 22 Nov. 07.

4. *P v. Sesay et al.,* SCSL-04-15-T, Prosecution Response to Sesay and Gbao Joint

Motion for the Voluntary Withdrawal or Disqualification of Justice Bankole Thompson from the RUF Case, 20 Nov. 07.

5. *P v. Sesay et al.,* SCSL-04-15-T, Sesay and Gbao Joint Reply to Prosecution Response to Sesay and Gbao Joint Motion for the Voluntary Withdrawal or Disqualification of Justice Bankole Thompson from the RUF Case, 21 Nov. 07.

6. *P v. Sesay et al.,* SCSL-04-15-T, Addendum to Sesay and Gbao Joint Reply to Prosecution Response to Sesay and Gbao Joint Motion for the Voluntary Withdrawal or Disqualification of Justice Bankole Thompson from the RUF Case, 23 Nov. 07.