



RESIDUAL SPECIAL COURT FOR SIERRA LEONE

Before: Justice Jon Moadeh Kamanda, President

Registrar: Ms. Bintá Mansaray

Date: 10 January 2020

PROSECUTOR	Against	AUGUSTINE GBAO (RSCSL-04-15-ES)
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Public

Decision of the President on Application to Determine Eligibility for Consideration for Conditional Early Release

Office of the Prosecutor:
Mr James Johnson

Defence Office
Mr. Ibrahim Sorie Yillah

The Republic of Rwanda

<small>RESIDUAL SPECIAL COURT FOR SIERRA LEONE</small>	
RECEIVED	
COURT MANAGEMENT	
THE HAGUE	
13 JAN 2020	
<small>NAME</small>	Francis Algeba Smart
<small>SIGN</small>	<i>[Signature]</i>
<small>TIME</small>	12:25

JUSTICE JON MOADEH KAMANDA, PRESIDENT OF THE RESIDUAL SPECIAL COURT FOR SIERRA LEONE, (“Residual Special Court”);

NOTING the Statute of the Residual Special Court for Sierra Leone as annexed to the Agreement Between the United Nations and the Government of Sierra Leone on the Establishment of the Residual Special Court for Sierra Leone signed on 11 August 2010, and in particular Articles 23 and 24 thereof pursuant to which there shall only be pardon or commutation of sentence if the President of the Residual Special Court, in consultation with the judges who imposed the sentence where possible, so decides in the interests of justice and the general principles of law;

NOTING the Rules of Procedure and Evidence of the Residual Special for Sierra Leone and in particular Rules 19, 123 and 124 thereof;

NOTING Article 8 of the Amended Agreement Between the Special Court for Sierra Leone and the Government of the Republic of Rwanda on the Enforcement of Sentences of the Special Court for Sierra Leone; **AND** Paragraphs 2 and 3 of the Practice Direction on Conditional Early Release of Persons Convicted by the Special Court for Sierra Leone as revised on 2 December 2016 (“Practice Direction”);

SEIZED of Augustine Gbao’s (“Mr Gbao”) Application for Eligibility for Consideration for Conditional Early Release (“Application”) submitted pursuant to Paragraph 3 (A) of the Practice Direction and as set out in Annex A, Form A(1) (Petition by Convict to Establish Eligibility for Consideration for Conditional Early Release) and Annex B, Form B (Notification by State of Enforcement to Establish Eligibility for Conditional Early Release) of the Practice Direction together with additional supporting documents pursuant to Paragraph 3(A) of the Practice Direction;

RECALLING that on 2 March 2009 the majority of Trial Chamber I of the Special Court for Sierra Leone (“Trial Chamber”) convicted Mr Gbao on 14 Counts and sentenced him to a total term of 25 years of imprisonment on 8 April 2009, with credit given for time already served in custody, and that the sentence was upheld by the Appeals

Chamber of the Special Court for Sierra Leone (“Appeals Chamber”) on 26 October 2009;

RECALLING that on 26 October 2009, the Republic of Rwanda was designated as the State in which Mr Gbao was to serve his sentence;

CONSIDERING that pursuant to Paragraph 2(A) of the Practice Direction upon serving 2/3 of his total sentence a convicted person shall be eligible for consideration for conditional early release provided he meets the requirements set out in paragraphs 2(B) through 2(D);

CONSIDERING that Mr Gbao has served approximately 16 years and 6 months (2/3) of the 25 year sentence imposed on him by 16 December 2019, thus making him eligible for consideration for conditional early release pursuant to Paragraph 2(A) of the Practice Direction if he shall demonstrate in accordance with Paragraph 2 (B) thereof successful completion of any remedial, educational, moral, spiritual or other programme to which he was referred within the Prison, that he is not a danger to the community or to any member of the public, and compliance with the terms and conditions of his imprisonment;

IN ADDITION the convicted person shall provide proof that the following requirements have been met: respect for the fairness of the process by which he was convicted, refraining from incitement against the peace and security of the people of Sierra Leone while incarcerated, and positive contribution to peace and reconciliation in Sierra Leone and the region pursuant to Paragraph 2 (C) of the Practice Direction;

SATISFIED from the Application and accompanying documentation before me as set out in

Annexes I to IV completed by the Rwanda Correctional Services and a certain Dr Xavier K. Butoto,

Declarations pursuant to Paragraphs 2(B)(ii), 2(C)(i), and 2(C)(iii) of the Practice Direction,

Mr Gbao's written public apology dated 23 October 2019 and statement that he will publicly apologize to the victims of his crimes through all the national broadcasting stations both radios and televisions in Sierra Leone, and

Mr Gbao's signed statement of understanding that his release (if granted) will be subject to entering into and complying with a Conditional early Release Agreement, **THAT**

Mr Gbao has fulfilled the requirements set out in Paragraphs 2 (B), (C) and (D) of the Practice Direction;

FOR THE ABOVE REASONS,

GRANTS the Application and **DETERMINES** pursuant to Paragraph 4(A) of the Practice Direction that Mr Gbao is eligible for consideration for conditional early release, and

ORDERS that

1. The Registrar shall in accordance with Paragraph 5(A) of the Practice Direction inform the State of Enforcement and Mr Gbao of the determination of eligibility for consideration for conditional early release;
2. The Registrar shall request Mr Gbao to provide the information required under Paragraph 5(B) of the Practice Direction within 30 days from the date of filing of this Decision;
3. The Registrar shall provide a copy of the reports and information received pursuant to Paragraphs 5(A) to 5(H) of the Practice Direction to the President, Mr Gbao and his Counsel, the Prosecutor and the Principal Defender within 90 days from the date of filing of this Decision;
4. The timelines prescribed under Paragraphs 6(A), 6(B) and 6(C) of the Practice Direction for any additional submissions by Mr Gbao and the Prosecutor shall remain in force.

Done at The Hague, The Netherlands

This 10th day of January 2020



Justice Jon Moadeh Kamanda
President

