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SCSL-2003-05-PT
(1720-1721)

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SPECIAL COURT FOR SIERRA LEONE

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Case No. SCSL-2003-05
The Prosecutor v. Issa Sesay

DECISION

THE PRINCIPAL DEFENDER,

CONSIDERING the Statute of the Special Court for Sierra Leone and in particular Article 17 thereof;

CONSIDERING the Rules of Procedure and Evidence as adopted by the Plenary meeting of the Special Court for Sierra Leone on 7 March 2003, and modified on 1 August 2003 and 30 October 2003, and in particular Rules 45 thereof;

CONSIDERING the Directive on the Assignment of Counsel as adopted by the Registrar of the Special Court for Sierra Leone on 1 October 2003, and in particular article 24 thereof;

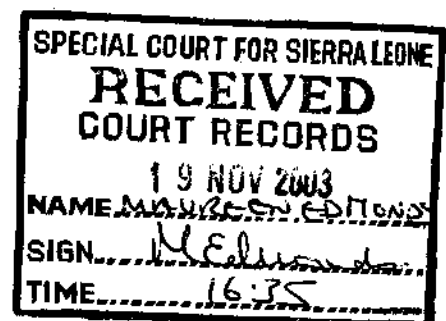
CONSIDERING the request of Mr. Issa Sesay for the withdrawal of the assignment of his Provisionally Assigned Counsel, Mr. William Hartzog, such request made in writing on 11 November 2003 and further discussed with Mr. Sesay in meetings held that day, on 13 and 18 November 2003, indicating to the A/Principal Defender the reasons for this request;

CONSIDERING that an opportunity was provided to the Provisionally Assigned Counsel to reply to the request made by Mr. Sesay and to further confer with Mr. Sesay in view of resolving their different, such opportunity resulting in a reply being presented by Mr. Hartzog to the A/Principal Defender, on 17 November, and meetings taking place, between Mr. Sesay, Mr Hartzog as well as other members of the Defence Team, over the few days prior to 18 November, and that Mr. Hartzog does not oppose the request of Mr. Sesay;

CONSIDERING that the Principal Defender may, in the interests of justice, assign a Counsel to represent the accused;

CONSIDERING that the accused may not have sufficient means at the present time to retain Counsel on his own;

CONSIDERING the right to choice of Counsel by the Accused;



CONSIDERING that the Principal Defender may, in exceptional circumstances, at the request of the Suspect or Accused, or his Assigned Counsel, withdraw the assignment of Counsel, as prescribed in article 24 of the Directive;

CONSIDERING that, if the request by the Accused was rejected, the Provisionally Assigned Counsel could continue to represent Mr. Sesay to the conclusion of the trial and that the conflict between the Accused and Counsel would likely persist;

CONSIDERING that such a conflict, arising at this stage of the proceedings and persisting throughout the remainder of the proceedings would result in serious prejudice to the Accused rights, as provided under article 17 of the Statute; and

HAVING DETERMINED that in this particular case and at that particular stage of the proceedings, such anticipated prejudice constitutes "exceptional circumstances", as envisaged under article 24 of the Directive.

DIRECTS that the assignment of Mr. William Hartzog as Provisionally Assigned Counsel to the accused be withdrawn, effective from the date of this decision;

FURTHER DIRECTS that Duty Counsel of the Defence Office shall provide legal assistance to Mr. Sesay, as provide under article 25 of the Directive, until such time as a new Counsel is assigned to the Accused; and

FURTHER DIRECTS that Mr. William Hartzog delivers, within 15 days of this decision, all original documents in the file to the Counsel who succeed him or to the Defence Office.

Dated at Freetown this 19 day of November, 2003.



Sylvain Roy
(Acting) Principal Defender