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SCSL-2004-15-T  
(7301-7303)

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**SPECIAL COURT FOR SIERRA LEONE**

**JOMO KENYATTA ROAD • FREETOWN • SIERRA LEONE**

**PHONE: +1 212 963 9915 Extension: 178 7000 or +39 0831 257000 or +232 22 295995  
FAX: Extension: 178 7001 or +39 0831 257001 Extension: 174 6996 or +232 22 295996**

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**IN THE APPEALS CHAMBER**

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

**Registrar:** Robin Vincent

**Date:** 28 July 2004

**PROSECUTOR**                      **Against**                      **Issa Hassan Sesay**  
**Morris Kallon**  
**Augustine Gbao**  
**(Case No.SCSL-04-15-PT)**

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**SESAY - DECISION ON CONFIDENTIAL MOTION SEEKING DISCLOSURE OF  
DOCUMENTATION RELATING TO THE MOTION ON THE RECRUITMENT OF CHILD  
SOLDIERS**

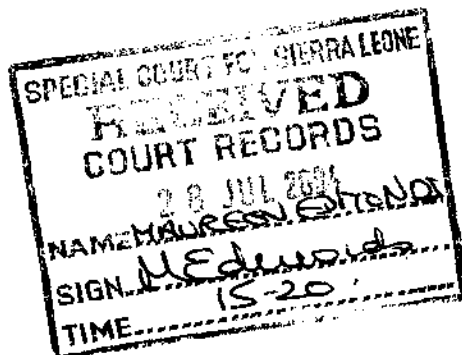
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**Office of the Prosecutor:**

Luc Côté  
Robert Petit  
Paul Flynn  
Abdul Tejan-Cole  
Leslie Taylor  
Boi-Tia Stevens  
Christopher Santora  
Sharan Parmar  
Sigall Horovitz  
Xavier Cormier-Lassonde

**Defence Counsel for Issa Hassan Sesay:**

Timothy Clayson  
Wayne Jordash  
Serry Kamal  
Sareta Ashraph



THE APPEALS CHAMBER OF THE SPECIAL COURT FOR SIERRA LEONE ("Special Court");

SEIZED of the Motion Seeking Disclosure of Documentation Relating to the Motion on the Recruitment of Child Soldiers, filed confidentially on 28 May 2004 ("Defence Motion");

NOTING the Prosecution Response filed confidentially on 4 June 2004;

NOTING the Defence Reply filed confidentially on 8 June 2004;

NOTING that on 25 March 2004, the Defence in *Prosecutor v Norman* (Case No. SCSL-2004-14-PT) filed a Motion to Recuse Judge Winter from Deliberating in the Preliminary Motion on the Recruitment of Child Soldiers ("Recusal Motion");

NOTING that on 14 May 2004, Justice Winter responded to the Recusal Motion ("Justice Winter's Response to Recusal Motion"). This Response was initially filed publicly but was subsequently made confidential at the request of Justice Winter as Acting President as some of its contents were not considered to be in the public interest;

NOTING that on 19 May 2004, Justice Robertson filed a confidential Note to the Court and the Parties on the Motion to Recuse Justice Winter. This Note was properly filed confidentially as it made reference to internal Chambers memoranda and deliberations;

NOTING that on 26 May 2004, Justice Winter filed a confidential letter to the Presiding Judge, Justice Gelaga King;

NOTING that on 26 May 2004, Justice Robertson filed a confidential letter to the Presiding Judge, Justice Gelaga King;

CONSIDERING that all the Documents to which the Defence refers were properly filed confidentially;

CONSIDERING HOWEVER, that it may be in the public interest to reveal the contents of the letters to the Presiding Judge of 26 May 2004 having the document numbers 98 and 99 on the Court Records file;

STATING that the contents of the letters are as follows:

- Justice Winter states: "I, Justice Renate Winter, withdraw paragraphs 7 to 22 of my Response to the Motion to Recuse Myself from Deliberating on the Preliminary Motion on the Recruitment of Child Soldiers dated 14<sup>th</sup> May, 2004. I understand that Justice Robertson has recused himself voluntarily. This document is to be filed confidentially".
- Justice Robertson states: "I am glad that Justice Winter has withdrawn paragraphs 7 to 22 of her observations. Although there is no basis for any objection to my sitting on the motion to recuse Justice Winter, it still seems to me for the reason I gave in my own note to the court and parties about this matter, that it would be appropriate for me to withdraw from determination of it. With your permission, I will do so."<sup>1</sup>

CONSIDERING that any further disclosure of documents filed confidentially is not warranted, that transparency has been provided, and that the contents of the two letters render the Defence Motion moot;

HEREBY rejects the Defence request for full disclosure of all remaining documentation connected to the Recusal Motion.

Done at Freetown this 28<sup>th</sup> day of July 2004

*Justice Ayoola*

Justice Ayoola  
Presiding

*Justice King*      *Justice Winter*

Justice King      Justice Winter

*Justice Fernando*

Justice Fernando



<sup>1</sup> The letter contains a header stating: "THIS DOCUMENT SHOULD BE FILED CONFIDENTIALLY".