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SPECIAL COURT FOR SIERRA LEONE

IN THE APPEALS CHAMBER

Before: Justice Renate Winter, Pre-Hearing Judge

Registrar: Herman von Hebel

Date: 4 May 2009

PROSECUTOR **Against** **ISSA HASSAN SESAY**
MORRIS KALLON
AUGUSTINE GBAO
(Case No.SCSL-04-15-A)

**DECISION ON "KALLON DEFENCE MOTION FOR EXTENSION OF TIME TO FILE
APPEAL BRIEF AND EXTENSION OF PAGE LIMIT"**

Office of the Prosecutor:

Joseph Kamara
Vincent Wagana
Reginald Fynn
Elisabeth Baumgartner
Nina Jørgensen
Regine Gachoud

Defence Counsel Issa Hassan Sesay:

Wayne Jordash
Sareta Ashraph

Defence Counsel for Morris Kallon:

Charles Taku
Kennedy Ogeto

Court Appointed Counsel for Augustine Gbao:

John Cammegh
Scott Martin

SPECIAL COURT FOR SIERRA LEONE	
RECEIVED	
COURT MANAGEMENT	
04 MAY 2009	
NAME	ALHASSAN FIDWAT
SIEN	
TIME	15:30

I, RENATE WINTER, Pre-Hearing Judge in this case;

SEIZED of the “Kallon Defence Motion for Extension of Time to File Appeal Brief and Extension of Page Limit”, dated 30 April 2009 (“Motion”), wherein the Kallon Defence requests (i) an extension of time of eight weeks for filing of the Kallon Defence’s appeal brief, and (ii) an extension of the page limit for said brief to 400 pages;¹

NOTING the “Urgent Prosecution Response to Kallon Defence Motion for Extension of Time to File Appeal Brief and Extension of Page Limit”, dated 1 May 2009 (“Response”),² wherein the Prosecution submits that (i) the Motion fails to establish good cause for extensions of the magnitude requested,³ (ii) it does not oppose an extension of time by one week and an extension of the page limit to 200 pages, provided that such extensions are granted to all Parties and that corresponding extensions are granted for the response briefs,⁴ and (iii) it requests an immediate ruling on the deadlines not only for the appeal briefs, but also for the response and reply briefs;⁵

NOTING the “Reply to the Prosecution Response to Kallon Defence Motion for Extension of Time and Page Limit”, dated 4 May 2009 (“Reply”), wherein the Kallon Defence opposes the Prosecution’s request for an extension of time for the filing of the response briefs as being premature and misconceived;⁶

NOTING the Kallon Defence’s submission that (i) the size and complexity of the impugned Trial Judgment⁷ and the Kallon Defence’s grounds of appeal, in particular those related to joint criminal enterprise, (ii) the fact that Defence Counsel was not part of the Defence team for the entire trial and was not appointed until after the rendering of the Sentencing Judgment,⁸ (iii) the need to allow the Accused adequate time to understand and consider the Trial Judgment, and (iv) the fact that the Prosecution will not be prejudiced by the extension, constitute good cause for an extension of time;⁹

NOTING the Kallon Defence’s submissions that (i) given the magnitude of this case and the factual and legal issues to be dealt with, the Kallon Defence will be unable to adequately develop all of its thirty-one grounds of appeal within the prescribed limit of 100 pages, and (ii) given the

¹ Motion, para. 11.

² As corrected by Corrigendum to Urgent Prosecution Response to Kallon Defence Motion for Extension of Time to File Appeal Brief and Extension of Page Limit, 4 May 2009.

³ Response, para. 3.

⁴ Response, paras 9-11, 16.

⁵ Response, para. 18.

⁶ Reply, paras 19, 20.

⁷ *Prosecutor v. Issa Hassan Sesay, Morris Kallon and Augustine Gbao*, SCSL-04-15-T, Judgement, 2 March 2009.

⁸ *Prosecutor v. Issa Hassan Sesay, Morris Kallon and Augustine Gbao*, SCSL-04-15-T, Sentencing Judgement, 8 April 2009.

finality of appeal judgments, it is in the interests of justice that parties be afforded a reasonable page limit to fully and fairly argue the issues raised on appeal;¹⁰

RECALLING that, as the Kallon Defence filed its Notice of Appeal on 28 April 2009,¹¹ and it was served on the Parties on 29 April 2009, pursuant to Rules 7 and 111 of the Rules of Procedure and Evidence (“Rules”) the Kallon Defence’s appeal brief is due on 20 May 2009;

RECALLING that, pursuant to Article 6(E)(i) of the Practice Direction on Filing of Documents before the Special Court for Sierra Leone as amended (“Practice Direction”), the Kallon Defence’s appeal brief shall not exceed 100 pages, or 30,000 words, whichever is greater;

RECALLING that, pursuant to Rule 116 of the Rules, a motion to extend a time limit may be granted upon a showing of good cause;

RECALLING that, pursuant to Article 6(G) of the Practice Direction, an extension of the page limits prescribed in Article 6(E) of the Practice Direction may be granted if the moving Party demonstrates exceptional circumstances that necessitate the oversized filing;

CONSIDERING that in the circumstances of this case the date of assignment of counsel does not constitute good cause for an extension of time, because the Defence Counsel for Kallon were assigned for the appeal in this case on 8 April 2009, the same day the Sentencing Judgment was rendered, and the Defence Counsel, having already served as counsel for Kallon during a large part of the trial, are familiar with the case, and that this is also true of Defence Counsel for Sesay and Gbao;

CONSIDERING, however, that the length and complexity of the Trial Judgment, the need for the Accused to fully understand it and the issues raised by the Kallon Defence’s Notice of Appeal constitute good cause for a brief extension of time, and that, in these circumstances, an extension of 10 days is reasonable;

CONSIDERING that the Kallon Defence’s thirty-one grounds of appeal and the length and complexity of the Trial Judgment constitute exceptional circumstances warranting an extension of the page limit for the Kallon Defence’s appeal brief;

⁹ Motion, para. 5; Reply, paras 5-15.

¹⁰ Motion, paras 7, 8. See also Reply, paras 15, 16.

¹¹ Kallon’s Notice and Grounds of Appeal, 28 April 2009.

CONSIDERING, however, that the request for 400 pages is excessive and that an extension to 150 pages or 45,000 words, whichever is greater, is sufficient for the Kallon Defence to fully address the issues on appeal;

CONSIDERING that the Prosecution requested, albeit in the Response rather than in a motion, that any extension should be granted to all parties in the ease to maintain a synchronous schedule for filing appeals, that any extension to the appeal briefs should lead to a corresponding extension of time for the filing of response briefs, and for an immediate ruling on the deadlines for not only the appeals briefs, but also for the response and reply briefs in order to enable the parties to plan their work;¹²

CONSIDERING that Rule 109 provides that the Pre-Hearing Judge shall ensure that the proceedings are not unduly delayed and shall take any measures related to procedural matters with a view to preparing the case for a fair and expeditious hearing;

CONSIDERING that the need for a fair and expeditious adjudication of this appeal and the need to grant all the Parties equal opportunity for appellate submissions, warrant an immediate and comprehensive ruling on the time and page limits applicable to all the Parties' appeal briefs, response briefs and reply briefs in this case;

FOR THE ABOVE REASONS,

GRANT the Motion in part;

ORDER that:

1. the Parties are granted an extension of ten (10) days to file their appeal briefs, which must thus be submitted no later than 1 June 2009.
2. the Parties are granted an extension of seven (7) days to file their response briefs, which must thus be submitted no later than 24 June 2009.
3. the Parties are not granted any extension of time to file their reply briefs, which must thus be submitted no later than 29 June 2009, the Parties are granted an extension of pages for their appeal briefs and response briefs of fifty (50) pages, so that the appeal and response briefs of the Sesay, Kallon and Gbao Defences must not exceed 150 pages or 45,000 words.

¹² Response, paras 10, 11, 16-18.

whichever is greater, and the appeal and response briefs of the Prosecution must not exceed 220 pages or 65,000 words, whichever is greater,

4. the Parties are not granted any extension of pages for their reply briefs; and

REJECT the remainder of the Motion.

Done this 4th day of May 2009 at Freetown, Sierra Leone.



Justice Renate Winter,
Pre-Hearing Judge

[Seal of the Special Court for Sierra Leone]

