



Case No. SCSL-2004-14-T
THE PROSECUTOR OF
THE SPECIAL COURT
V.
SAM HINGA NORMAN
MOINI NA FOFANA
ALLIEU KONDEWA

THURSDAY, 14 JULY 2005
2.23 P.M.
TRIAL

TRIAL CHAMBER I

Before the Judges:	Pierre Boutet, Presiding Bankole Thompson Benjamin Mutanga Itoe
For Chambers:	Ms Sharelle Aitichison Ms Roza Salibekova
For the Registry:	Ms Maureen Edmonds
For the Prosecution:	Mr Joseph Kamara Mr Mohamed Bangura Mr Mohamed Stevens (intern) Ms Suzanne Mattler (intern) Ms Marco Bundi (intern)
For the Principal Defender:	No appearances
For the accused Sam Hinga Norman:	Dr Bu-Buakei Jabbi Mr Ibrahim Yillah Mr Kingsley Belle (legal assistant) Ms Joni Canada (intern)
For the accused Moini na Fofana:	Mr Arrow Bockarie Ms Cora Trus-Frost (intern)
For the accused Allieu Kondewa:	Mr Yada Williams Mr Ansu Lansana

1 [CDF14JUL05A - AD]

2 Thursday, 14 July 2005

3 [Open session]

4 [The accused Kondewa present]

14:23:27 5 [Upon commencing at 2.23 p.m.]

6 PRESIDING JUDGE: Good afternoon, counsel. We are meeting
7 this afternoon to deliver the decision on the Prosecution request
8 to admit into evidence certain documents pursuant to Rule 92bis
9 and 89(C).

14:23:47 10 The decision will not be a full decision but an abbreviated
11 version. I will read the introduction and the order that is
12 being granted and the majority of the decision will be filed very
13 shortly. That is how we intend to proceed, and to the decision,
14 I will then look to an annex to that decision. You will
15 understand what I mean shortly.

14:24:08 16 [Ruling]

17 Trial Chamber I, of the Special Court for Sierra Leone,
18 composed of Hon. Justice Pierre Boutet, Presiding Judge, Hon.
19 Justice Bankole Thompson and Hon. Justice Benjamin Mutanga Itoe;
14:12:45 20 seized of the Prosecution's consequential request to admit into
21 evidence certain documents pursuant to Rule 92bis and 89(C),
22 filed on the 24th of June 2005, whereby the Prosecution requests
23 that the identified portions of the documents presented in three
24 bundles and attached in Annex-A-I to the motion, be admitted into
14:13:47 25 evidence under Rules 92bis and 89(C) of the Rules of Procedure
26 and Evidence for the Special Court for Sierra Leone.

27 Noting the Prosecution's submissions presented in the chart
28 attached in Annex-A-II to their motion; noting the joint Defence
29 objections to the Prosecution's consequential request to admit

1 into evidence certain documents pursuant to Rules 92bis and
2 89(C), filed on the 29th of June 2005, objecting to admission of
3 all documents in three bundles except document 54 from the second
4 bundle; noting the Defence objections presented in the chart
14:14:49 5 attached in Annex A to their response; noting the Prosecution
6 reply to joint Defence objections to consequential request to
7 admit into evidence certain documents pursuant to Rule 92bis and
8 89(C) filed on the 4th of July 2005; noting oral submissions of
9 the parties during the Court proceedings on the 6th of July 2005;
14:15:56 10 mindful of the Chamber's decision on Prosecution's motion for
11 judicial notice and admission of evidence delivered on the 2nd of
12 June 2004; considering the Appeals Chamber's decision and the
13 Fofana decision on appeal against decision on Prosecution's
14 motion for judicial notice and admission of evidence delivered on
14:16:57 15 the 16th of May 2005; and pursuant to Rules 89(C) and 92bis of
16 the Rules, the Chamber grants the motion in the following manner:
17 The motion in respect of the identified portions of the
18 documents enumerated in annex to this decision, which embodies
19 some of the documents contained in the first, second and third
14:17:38 20 bundles of Annex-A-I of the motion and denies the motion in
21 respect of all other portions of document or documents contained
22 in the aforesaid Annex-A-I of the motion and not listed in the
23 annex to this decision; orders the Prosecution to file with the
24 Court Management the final version of Document 54 called "Sierra
14:18:17 25 Leone Conflict Mapping Program" produced by No Peace Without
26 Justice, namely, this identified admitted portions as enumerated
27 to this decision as they directly correspond to the final version
28 of this report; orders the Registry to allocate exhibit numbers
29 to these identified admitted portions of the document as listed

1 in annex to this decision, done in Freetown, Sierra Leone, this
2 14th day of July 2005.

3 I will read the annex and ask you to take notes if you
4 want. This annex will be available as soon as we have adjourned.
14:27:55 5 You will have copies of the annex, so if you want to take notes,
6 that's fine. If you just want to listen, I will go as it is
7 written in the annex that is forming part of this decision,
8 starting with first bundle, second bundle, and so on.

9 First annex is the first bundle. I will refer to the
14:28:13 10 title, the date, the source and the admitted portion. That is
11 the way I will proceed. Title is No. 11 in the submitted
12 documents. It is the third report of the Secretary-General on
13 the situation in Sierra Leone of the 05/02/98, United Nations
14 Security Council resolution. The admitted portions are paragraph
14:28:38 15 10, paragraph 11 ending with "Armament or distribution of the CDU
16 forces" and paragraph 25.

17 The second document is the "Fifth Report of the
18 Secretary-General On the Situation In Sierra Leone" of 09/06/98,
19 UN Security Council resolution, admitted portions paragraphs 23
14:29:00 20 and 38.

21 Document No. 14, "First Progress Report of the
22 Secretary-General on the United Nations Observer Mission in
23 Sierra Leone", of 12/08/98, again, a UN Security Council
24 resolution. Admitted portions, paragraphs 16, 43 and 59.

14:29:25 25 The next document is document No. 15, "Second Progress
26 Report of the Secretary-General on the United Nations Observer
27 Mission in Sierra Leone", of 16/10/98, UN Security Council
28 resolution. Admitted portion is paragraph 23.

29 Document No. 16 is the "Third Progress of the

1 Secretary-General of the United Nations Observer Mission in
2 Sierra Leone", 16/12/98, UN Security Council resolution. The
3 admitted portion is paragraph 39.

4 The next document is document No. 18 which is called "Sixth
14:30:09 5 Progress Report of the Secretary-General of the United Nations
6 Observer Mission in Sierra Leone", of 04/06/99, UN Security
7 Council resolution. Admitted portions, paragraph 34, ending "to
8 have lost their lives". In other words, it is not the whole
9 paragraph, but only the paragraph ending with these words.

14:30:34 10 Paragraph 36 of the said resolution is also admitted.

11 The next document is described as "Sierra Leone, Monthly
12 Report", of 31/07/99, a UNICEF document. The admitted portion is
13 page 3, paragraph 1, starting from "On the 28th of June the Civil
14 Defence Force", and ending with "as part of its relief and
14:31:10 15 rehabilitation program". Again, so it is clear, we admit on page
16 3, paragraph 1 with the limitations I have just described. That
17 ends the admitted portion of the first bundle. These are all the
18 documents that have been submitted.

19 Looking at the second bundle now, the document referred as
14:31:43 20 No. 42, titled "Sierra Leone Sowing Terror. Atrocities Against
21 Civilians in Sierra Leone", volume 10, No. 3(A) of July 1998.
22 The source was Human Rights Watch. Admitted portions are: Page
23 24, paragraphs 1, 2, 3, ending with "and their civilian
24 supporters"; page 25, paragraph 2, starting from "recruitment of
14:32:22 25 child soldiers" and ending with "in the eastern Kailahun District
26 alone numbered 3,000"; paragraph 3, starting from "the situation
27 for child combatants" and ending with "ECOMOG, UN agencies and
28 relevant NGOs"; paragraph 4, starting from "national and
29 international human rights" and ending with "all Sierran Leonean

1 society"; paragraph 5, starting from "many former combatants" and
2 ending with paragraph 1 page 26, "the success of this program
3 would play a crucial role in preventing future human rights
4 abuses". This is what is being admitted as far as this Human
14:33:31 5 Rights Watch report is concerned.

6 Document No. 57, "Mazurana and Carlson, From Combat to
7 Community: Women and Girls of Sierra Leone", dated January 2004.
8 The source is the women Waging Peace, Policy Commission. The
9 admitted portion is page 11, paragraphs 1 to 6 and 8. Paragraph
14:33:49 10 7, we admitted the part starting "As the war progressed" and
11 ending with "and logistical support" and from "the CDF did not
12 feature prominently" up to and ending with "over the president's
13 hold on authority". We admit pages 12 and 13. That is it for
14 document No. 57.

14:34:26 15 Document No. 58, "Sierra Leone Conflict Mapping Program,
16 Draft Copy for Review", dated 9th March 2004. The source is No
17 Peace Without Justice. The admitted portions are as follows:
18 Pages 298, 299, 309, and on page 323, the last two paragraphs
19 starting from "The Kamajors - 1996" and ending with paragraph 1
14:34:59 20 on page 324 where it says "the men must willingly contribute
21 condiments to the Kamajors". We admit page 393. Page 425,
22 starting from "b. Bonthe District" until the end. Page 464, page
23 465, from the beginning until the last three lines, ending with
24 "most of the actions were concentrated to the north of the
14:35:33 25 District. Page 466, last paragraph starting from "2. Factual
26 analysis", until the end of 467. We also admit pages 477 and
27 478.

28 Document No. 68, the CDF Calendar 2001. There is no date.
29 Source is Sierra Leone Action Movement. We admit the entire

1 document; that is, the pages that appear on this document
2 00000837 to 0862. That concludes the admitted portions as far as
3 bundle No. 2 is concerned.

14:36:39 4 Looking at the third bundle, we have admitted portions in
5 seven documents, and the documents are as follows: The first
6 document is "Declaration of Commitment to Release Child
7 Combatant", referred to as Document No. 160 of 22 March 2000.
8 There is no known source for that. We admit the entire document
9 of two pages.

14:36:59 10 The next document, "Sierra Leone Humanitarian Situation
11 Report", 168, reference number of 15 June 1998 at web site
12 www.reliefweb.int. We admit paragraph 13.

13 Document No. 172, "Sierra Leone Humanitarian Situation", of
14 7 August 2000, the same web site. We admitted page 2, paragraph
14:37:31 15 3, starting from "the region was generally calm", and ending with
16 "in Sorogbema Pujehun District". On page 11, we admit paragraph
17 5, starting from "We've also documented many cases", and ending
18 with "the report said". At page 12, we admit paragraph 3,
19 starting from "CDF: There are continuing reports", and up to and
14:38:01 20 ending with "RUF rebels by the CDF".

21 The next document, "Sierra Leone - Childhood - a Casualty
22 of Conflict", dated 31 August 2000, Amnesty International. We
23 admit page 3, paragraph 3 starting from "children have fought
24 with", and ending with "the government of President Kabbah". We
14:38:36 25 admit page 9, starting from paragraph 5, "Child combatants
26 recruited by the CDF", and ending with paragraph 1 on page 10,
27 "to show that the CDF were effective". Admit page 22, paragraph
28 4, starting from "Since May 2000 combatants", and ending with
29 "the AFRC and the CDF".

1 Document No. 207, "World Report 1999: Sierra Leone Human
2 Rights Development", no date -- presumably referring to events in
3 1998. Human Rights Watch is the source. Admit page 1, last
4 paragraph starting from "Civilian Defence Forces (CDFs)", and
14:39:27 5 ending with paragraph 1 on page 2, "or other payment at
6 roadblocks"; and page 2, paragraph 2, starting from "there were
7 also many child soldiers", and ending with "at least until July".

8 Finally, the last document, No. 222, is "Children - SL
9 Militia Admits Recruiting Child Soldiers", of 29 June 1998. The
14:39:59 10 source is Inter Press Service, Lansana Fofana. We admit the
11 entire document of two pages.

12 These are the documents that we have ruled are admissible
13 under 92bis and 89(C). So that concludes the decision as to
14 these documents. As I said, shortly after we have closed this
14:40:24 15 session, we will at least have the annex of the documents
16 available to all of you. So at least you can follow more
17 precisely which documents and which portions of these documents
18 have been admitted.

19 Now, we turn to you, Mr Prosecutor, because when we last
14:40:45 20 adjourned to look into these documents and to make a decision as
21 to these requests for the admission of all of these documents,
22 not yourself, but your colleague, suggested to the Court that you
23 might indicate today whether you were closing your case or not.
24 What is your position today?

14:41:14 25 MR KAMARA: Yes, Your Honour, we will get to that, and it
26 will be subject to the order of the Court. But that function has
27 been referred to my learned friend, Mr Bangura.

28 MR BANGURA: May it please Your Honours, subject to the
29 order that Your Lordships will make as regards filing the

1 admitted documents --

2 PRESIDING JUDGE: We will not make the order, we have made
3 the order.

14:42:00

4 JUDGE ITOE: Court Management has been instructed to give
5 numbers to those documents which have been admitted.

6 MR BANGURA: Thank you, Your Honour. The Prosecution at
7 this stage will close its case. I wish to thank Your Lordships
8 for your attention and my colleagues on the other side for their
9 patience.

14:42:21

10 PRESIDING JUDGE: Thank you very much, Mr Bangura. As this
11 has sort of pushed back the time lines we had discussed some time
12 ago, I would like to ask first the Defence, because they are the
13 ones that are making the next application, I understand it -- you
14 have had some time in between when we last talked and this

14:42:46

15 decision today to at least start working on this submission. If
16 you have any, again I would like to clearly mention that the fact
17 that we are talking about that is not necessarily an invitation
18 for you to make one. But, should you wish to make one, we had
19 indicated last time a time line of three weeks. As the time has
20 gone by now, is two weeks sufficient for Defence counsel to make
21 any such request? First accused, Mr Jabbi or Mr Williams?
22 Whoever.

14:43:11

23 DR JABBI: We would want the Court to still stick to the
24 three-week period that is in the rules.

14:43:48

25 PRESIDING JUDGE: There is no rule on that. We just
26 indicated last time that we would give three weeks.

27 DR JABBI: Of course we have had some time since then but
28 also the ruling that has been given today and the documents that
29 have to be considered, maybe the three-week time frame would seem

1 to be reasonable. Thank you.

2 PRESIDING JUDGE: Mr Bockarie, you were asking for only two
3 days the first time. You will not ask for more than two days
4 this time.

14:44:27 5 MR BOCKARIE: Your Honour, we have been guided by your
6 order of 2 June 2005. I seek to toe the line of my learned
7 colleague Dr Jabbi, that three weeks is sufficient to for us to
8 adequately prepare our motion.

9 PRESIDING JUDGE: Mr Williams?

14:44:48 10 MR WILLIAMS: I would implore Your Lordships to still grant
11 us the three weeks that Your Lordships had indicated earlier.

12 PRESIDING JUDGE: Thank you. What about the Prosecution?

13 MR KAMARA: Your Honour, we would have wished that,
14 considering the time that has already been spent, two weeks would
14:45:08 15 have been a fair and reasonable time to work on this motion
16 acquittal. We would still suggest two weeks will be enough for
17 us and we invite our colleagues on the other side to hop up and
18 work a little more and see if we can do two weeks.

19 In that case, if Their Lordships are so decided to grant us
14:45:26 20 the two-week period, we will request that we be allowed to file
21 in the course of the recess. A two-week period might well fall
22 within the recess period. That specific order will be given to
23 allow us to file within that period. The Prosecution is ready to
24 work during that period and we will be willing to file within
14:45:49 25 that time.

26 [Trial Chamber confers]

27 PRESIDING JUDGE: We will adjourn shortly to consider and
28 we will come back with a decision on that. Thank you.

29 [Break taken at 2.43 p.m.]

1 [On resuming at 2.56 p.m.]

2 PRESIDING JUDGE: After consultation on this issue of the
3 time line and after giving due consideration to the submissions
4 and representation made, we will accede to the request by the
14:56:13 5 Defence to give them three weeks. Even though it will eat up a
6 bit on the recess, I don't think it will affect the Court's
7 working schedule subsequent to that. Therefore, the Defence
8 shall produce any certification that they may have at the latest
9 by Thursday the 4th of August. As the Prosecution has indicated
14:56:48 10 that two weeks will be sufficient, we are acceding to your
11 request for two weeks. Any response you may have shall be filed
12 at the latest by Thursday the 18th of August. The Court is also
13 asking the Registry to make exception for the filing. Even
14 though this is the recess, they should accept filing of that
14:57:16 15 document during the recess and they should make the necessary
16 arrangement to receive that filing during that period of time.
17 As I said, at latest by the 18th of August 2005. Obviously, when
18 we say received, and make sure that the appropriate service of
19 that document is effected on the accused as well, or their
14:57:42 20 counsel.

21 That concludes this matter at this particular time. We
22 thank you very much. As we will not see you for quite a while,
23 we wish you a good recess and see you later. Thank you.

24 MR KAMARA: I am sorry, Your Honour. The date for the oral
14:58:01 25 argument is still fixed on the 16th?

26 PRESIDING JUDGE: Yes, no change.

27 [Whereupon the hearing adjourned at 2.58 p.m.,
28 to be reconvened on Friday, the 16th of
29 September 2005]