

1269)

SCSL-04-15-A
(270-273)

270



SPECIAL COURT FOR SIERRA LEONE

IN THE APPEALS CHAMBER

Before: Justice Renate Winter, Pre-Hearing Judge

Registrar: Herman von Hebel

Date: 7 May 2009

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

DECISION ON “SESAY DEFENCE URGENT APPLICATION FOR EXTENSION OF TIME TO FILE APPEAL BRIEF AND EXTENSION OF PAGE LIMIT”

Office of the Prosecutor:

Joseph Kamara
Vincent Wagona
Reginald Fynn
Elisabeth Baumgartner
Nina Jørgensen
Régine 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
07 MAY 2009
NAME ALHASSAN FORDA H
SIGN [Signature]
TIME 12:40

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

SEIZED of the “Sesay Defence Urgent Application for Extension of Time to File Appeal Brief and Extension of Page Limit”, dated 5 May 2009 (“Motion”), wherein the Sesay Defence requests that (i) the Parties be granted two weeks beyond the presently allotted time to file their respective appeal briefs,¹ and (ii) that the Sesay Defence be granted an extension of the page limit for its appeal brief to 300 pages;²

NOTING the “Prosecution Response to Sesay Defence Urgent Application for Extension of Time to File Appeal Brief and Extension of Page Limit”, dated 6 May 2009 (“Response”), wherein the Prosecution opposes the Motion, primarily because it fails to advance grounds for extensions not already considered in the “Decision on ‘Kallon Defence Motion for Extension of Time to File Appeal Brief and Extension of Page Limit’”, dated 4 May 2009 (“Decision of 4 May 2009”);³

NOTING the “Defence Reply to Prosecution Response to Application for Extension of Time to File Appeal Brief and Extension of Page Limit”, dated 7 May 2009 (“Reply”);

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;

RECALLING the Decision of 4 May 2009, wherein the Parties, including the Sesay Defence, were granted an extension of ten days to file their appeal briefs, an extension of seven days to file their response briefs and an extension of the page limits for their appeal and response briefs of 50 pages for each of those briefs;

RECALLING the “Corrigendum to ‘Decision on Kallon Defence Motion for Extension of Time to File Appeal Brief and Extension of Page Limit’”, dated 6 May 2009 which ordered that the response briefs are due on 24 June 2009;

NOTING the Sesay Defence’s submission that factors not considered in the Decision of 4 May 2009 establish good cause for an additional extension of time and exceptional circumstances

¹ Motion, para. 7.

² Motion, paras 12, 17.

³ Response, paras 4-6, 10.

warranting an additional extension of the page limits, namely, (i) the large number of alleged legal and factual errors by the Trial Chamber;⁴ (ii) the Sesay Defence's grounds of appeal largely challenge assessments of fact and require detailed analysis;⁵ (iii) the Sesay Defence team relies only on three people with sufficient familiarity with the case for drafting;⁶ (iv) the Sesay Defence raises 46 grounds of appeal, which is more than the number of grounds raised by the other Parties in this case, and more than those raised in previous cases where comparatively greater extensions of time and page limits were granted; and (v) on 26 April 2007, an independent arbitrator appointed by the Registry concluded that the Sesay case was sufficiently serious, complex or sizeable to amount to exceptional circumstances as to warrant the provision of additional resources under the special consideration clause in the Legal Service Contract;⁷

RECALLING that the Decision of 4 May 2009 granted extensions of time and of page limits to the Parties, considering, *inter alia*, the length and complexity of the Trial Judgment, the issues raised in the Kallon Defence's grounds of appeal, the fact that the Defence Counsel are familiar with the case as they have already served as counsel during a large part of the trial, and the need to ensure all Parties equal opportunity for appellate submissions;⁸

CONSIDERING that the aforementioned considerations, including the issues raised in the Parties' respective grounds of appeal, apply to all Parties;

CONSIDERING that, because the conclusion of the independent arbitrator was made in respect of whether additional resources were to be afforded to the Sesay Defence for its work during the trial phase of the case,⁹ and given that the defence work at trial differs significantly from the defence work on appeal, the independent arbitrator's conclusion is not instructive for present purposes;

FINDING that, in remaining parts, the grounds advanced in support of the Motion were already fully considered in the Decision of 4 May 2009 and therefore no further extensions are warranted;

FOR THE ABOVE REASONS,

REJECT the Motion in its entirety.

⁴ Motion, para. 8.

⁵ Motion, para. 9.


⁶ Motion, para. 10.

⁷ Motion, paras 11, 13-15; Reply, para. 4.

⁸ Decision of 4 May 2009, pp. 2, 3.

⁹ See *Prosecutor v. Sesay et al.*, SCSL-04-15-T, Decision on the Sesay Defence Team's Application for Judicial Review of the Registrar's Refusal to Provide Additional Funds for an Additional Counsel as Part of the Implementation of the Arbitration Agreement of the 26th of April 2007, 12 February 2008.

Done this 7th day of May 2009 at Freetown, Sierra Leone.



Justice Renate Winter,
Pre-Hearing Judge

