

Annotated Leading Cases of International Criminal Tribunals

Special Court for Sierra Leone 2006-2007

André Klip and Steven Freeland (eds.)
Anzinga Low (assistant editor)



TABLE OF CONTENTS

Table of Contents	5
Preface	9
Part I Preliminary Matters	
1. Indictment	
Decision on Prosecution application for leave to amend the indictment, <i>Prosecutor v. Sesay, Kallon, and Gbao</i> , Case No. SCSL-04-15-T, T. Ch. I, 31 July 2006	11
Partially Dissenting Opinion of Honourable Justice Benjamin Mutanga Itoe	21
Commentary Olga Martin-Ortega and Rosa-Ana Alija-Fernández	26
Part II Procedural Matters	
2. Witnesses	
Decision on Prosecution Appeal against Decision on Oral Application for Witness TF1-150 to Testify without being Compelled to Answer Questions on Grounds of Confidentiality, <i>Prosecutor v. Brima, Kamara and Kanu</i> , Case No. SCSL-2004-16-AR73, A. Ch., 26 May 2006	35
Separate and Concurring Opinion of Honourable Justice Geoffrey Robertson, QC	45
Decision on joint Defence application for protective measures for Defence witnesses appearing from 4 September 2006 onwards, <i>Prosecutor v. Brima, Kamara and Kanu</i> , Case No. SCSL-04-16-T, T. Ch. II, 13 September 2006	59
Dissenting Opinion of Justice Doherty	61
Decision on confidential prosecution motion for immediate protective measures for witnesses and for non-public disclosure with four annexes, one of which filed ex-parte, <i>Prosecutor v. Taylor</i> , Case No. SCSL-03-I-PT, T. Ch. II, 22 January 2007	63
Partially Dissenting Opinion of Justice Doherty	66
Written Reasons on Majority Decision on Oral Objection Taken by Counsel for the Third Accused, Augustine Gbao, to the Admissibility of Portions of the Evidence of Witness TF1-371, <i>Prosecutor v. Sesay, Kallon and Gbao</i> , Case No. SCSL-04-15-T, T. Ch. I, 2 August 2006	67
Separate and Concurring Written Reasons of Honourable Justice Bankole Thompson	73
Dissenting Written Reasons of Honourable Justice Pierre Boutet	79
Decision on Prosecution motion regarding the objection to the admissibility of portions of evidence of Witness TF1-371, <i>Prosecutor v. Sesay, Kallon and Gbao</i> , Case No. SCSL-04-15-T, A. Ch., 13 December 2007	85
Decision on the impermissibility of eliciting evidence involving the Second Accused through cross-examination of witness called by the Third Accused, <i>Prosecutor v. Norman, Fofana and Kondewa</i> , Case No. SCSL-04-14-T, T. Ch. I, 10 November 2006	93

Decision on confidential motion to call evidence in rebuttal, <i>Prosecutor v. Brima, Kamara and Kanu</i> , Case No. SCSL-04-16-T. T. Ch. II, 14 November 2006	101
Decision on Prosecution motion to allow witnesses to give testimony by video-link, <i>Prosecutor v. Taylor</i> , Case No. SCSL-03-I-PT, T. Ch. II, 30 March 2007	123
Commentary Michael Moesenthin	130
3. Subpoena of President Kabbah	
Decision on Motions by Moinina Fofana and Sam Hinga Norman for the Issuance of a Subpoena ad Testificandum to H.E. Alhaji Dr. Ahmad Tejan Kabbah, President of the Republic of Sierra Leone, Prosecutor v. Norman, Fofana and Kondewa, Case No. SCSL-04-14-T, T. Ch. I, 13 June 2006	143
Separate Concurring Opinion of Honorable Justice Benjamin Mutanga Itoe	160
Dissenting Opinion of Honorable Justice Bankole Thompson	189
Decision on interlocutory appeals against Trial Chamber decision refusing to subpoena the President of Sierra Leone, <i>Prosecutor v. Norman, Fofana and Kondewa</i> , Case No. SCSL-2004-14-T, A. Ch., 11 September 2006	199
Dissenting Opinion of Honorable Justice Robertson	210
Commentary Maria Pichou	227
4. Transfer of the Taylor trial to The Hague	
Decision on Urgent Defence Motion against Change of Venue, <i>Prosecutor v. Taylor</i> , Case No. SCSL-2003-01-R72, A. Ch., 29 May 2006	243
Order Changing Venue of proceedings, <i>Prosecutor v. Taylor</i> , Case No. SCSL-03-1-PT, Pres., 19 June 2006	247
Endorsement Pursuant to Rule 64, <i>Prosecutor v. Taylor</i> , Case No. SCSL-03-1-PT, Pres., 19 June 2006	251
Decision on Defence oral application for orders pertaining to the transfer of the accused to The Hague, <i>Prosecutor v. Taylor</i> , Case No. SCSL-03-1-PT, T. Ch. II, 23 June 2006	255
Decision on urgent and public Defence motion requesting removal of camera from conference room, <i>Prosecutor v. Taylor</i> , Case No. SCSL-03-1-PT, T. Ch. II, 30 November 2006	259
Joint decision on Defence motions on adequate facilities and adequate time for the preparation of Mr. Taylor's defence, <i>Prosecutor v. Taylor</i> , Case No. SCSL-03-1-PT, T. Ch. II, 23 January 2007	263
Decision of the President on urgent and public Defence motion requesting cessation of video surveillance of legal consultations, <i>Prosecutor v. Taylor</i> , Case No. SCSL-03-1-PT, Pres., 21 February 2007	269
Decision of the President on Defence motion for reconsideration of order changing venue of proceedings, <i>Prosecutor v. Taylor</i> , Case No. SCSL-03-1-PT, Pres., 12 March 2007	277
Decision of the President on public Defence motion requesting review of the Memorandum of Understanding between the International Criminal Court and the Special Court for Sierra Leone dated 13 April 2006 & modification of Mr. Charles Taylor's conditions of detention, <i>Prosecutor v. Taylor</i> , Case No. SCSL-03-1-PT, Pres., 19 March 2007.	281

Commentary Anne Pieter van der Mei	285
5. Aspects of a Fair Trial	
Written reasons for the decision on request for the Gbao opening statement to be given at the beginning of the presentation of evidence for the Third Accused, <i>Prosecutor v. Sesay, Kallon and Gbao</i> , Case No. SCSL-04-15-T, T. Ch. 1, 3 July 2007.	289
Partially Dissenting Opinion of Justice Pierre Boutet	294
Decision on Sesay and Gbao motion for voluntary withdrawal or disqualification of Hon. Justice Bankole Thompson from the RUF case, <i>Prosecutor v. Sesay, Kallon and Gbao</i> , Case No. SCSL-04-15-T, T. Ch. I, 6 December 2007	297
Commentary Joseph Williams Davids	314
Part III Judgements	
6. Judgements	
Judgement, Prosecutor v. Brima, Kamara and Kanu, Case No. SCSL-04-16-T, T. Ch. II, 20 June 2007	319
Separate Concurring Opinion of the Honorable Justice Julia Schutinde	690
Partly Dissenting Opinion of Justice Doherty.	695
Commentary Katarina Škrbec	728
Sentencing Judgment, <i>Prosecutor v. Brima, Kamara and Kanu</i> , Case No. SCSL-04-16-T. T. Ch. II, 19 July 2007	739
Commentary Amy Dibella	763
Judgement, Prosecutor v. Fofana and Kondewa, Case No. SCSL-04-14-T, T. Ch. I, 2 August 2007	767
Separate and Partially Dissenting Opinion of Honorable Justice Benjamin Mutanga Itoe	948
Dissenting Opinion of Honorable Justice Benjamin Mutanga Itoe	969
Separate and Concurring Opinion of Honorable Justice Pierre Boutet	976
Separate Concurring and Partially Dissenting Opinion of Justice Bankole Thompson	977
Commentary Gentian Zyberi	1036
Judgement on the Sentencing of Moinina Fofana and Allieu Kondewa, <i>Prosecutor v. Fofana and Kondewa</i> , Case No. SCSL-04-14-T, T. Ch. I, 9 October 2007	1047
Dissenting Opinion of Honorable Justice Bankole Thompson	1069
Commentary Hakan Friman	1076
Contributors and Editors	1083