



Case No. SCSL-2003-09 PD
THE PROSECUTOR OF
THE SPECIAL COURT
V.
AUGUSTINE GBAO

FRIDAY, 21 MARCH 2003
10.00 A.M

CONTINUED INITIAL APPEARANCE

Before the Judge:

Benjamin Mutanga Itoe

For the Prosecution:

Ms Brenda Hollis
Mr Nicholas Browne-Marke

1 [GBA021MAR03]

2 Friday, 21 March 2003

3 [Open Session]

4 [Continued Initial Appearance]

5 [Upon commencing at 10.00 a.m.]

6 JUDGE ITOE: I would like to explain to you, if you
7 understand English, fine; if you don't, you are entitled to an
8 interpreter, who would translate from English to the language you
9 best understand. Do understand me?

10 THE ACCUSED GBAO: Yes, sir.

11 JUDGE ITOE: No, no, no. You wait. Do you understand me?

12 THE ACCUSED GBAO: Yes, sir.

13 JUDGE ITOE: What do you decide to do?

14 THE ACCUSED GBAO: Because of the legal language, I may --
15 because of the legal terms, I would like an --

16 JUDGE ITOE: Wait. I'm not --

17 THE ACCUSED GBAO: Because of the legal terms, I would like
18 an interpreter.

19 JUDGE ITOE: You'd like an interpreter?

20 THE ACCUSED GBAO: Yes, My Lord.

21 JUDGE ITOE: Right. Is there one in court? Yes, let him
22 come forward. Let him come forward first. I'm sure it's the
23 usual Krio. Mr Gbao, in what language would you like it to be
24 interpreted?

25 THE ACCUSED GBAO: I would like it in Krio, My Lord.

26 JUDGE ITOE: In?

27 THE ACCUSED GBAO: In Krio.

28 JUDGE ITOE: Krio?

29 THE ACCUSED GBAO: Yes, My Lord.

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1 JUDGE ITOE: K-R-I-O, not C-R-E-O-L-E? Any appearance?

2 MRS HOLLIS: Your Honour, for the Prosecution, Brenda J
3 Hollis and Nicholas Browne-Marke.

4 JUDGE ITOE: For the Defence?

5 MR YILLAH: Your Honour, we served on the Registry a waiver
6 of right to counsel, duly signed by the suspect appearing before
7 your Honour, My Lord. My Lord, in the circumstances, we do not
8 have locus to appear for the suspect at this stage.

9 JUDGE ITOE: Okay. Now, tell him that he has waived his
10 rights to be defended, for his interests to be catered for by the
11 defence counsel, the duty defence counsel, and that he has signed
12 -- he signed it, he signed that waiver.

13 [The interpreter speaks to the accused]

14 THE ACCUSED GBAO: Yes.

15 JUDGE ITOE: Yes.

16 THE ACCUSED GBAO: Yes.

17 JUDGE ITOE: Wait, wait. Now that he has filed a waiver
18 for defence, for his defence, what does he intend to do? You
19 tell him that he has the right, under the law, to be represented
20 by counsel at all times, unless he wants to defend himself on his
21 own.

22 THE INTERPRETER: I will seek my own lawyer, find my own
23 lawyer.

24 JUDGE ITOE: I want to get it very clearly. Is he saying
25 that he does not -- he would not, at any stage, want Legal Aid
26 and that he would get a lawyer for himself?

27 THE INTERPRETER: Given the circumstances of the case, I
28 would like to have my own lawyer, with whom I would discuss and
29 analyse the issues involved, and if he says he would want to have

1 another lawyer to assist him, then I would have no problems.

2 JUDGE ITOE: Tell him that his matter is coming up here for
3 the first time before the Special Court and, before now, he was
4 kept in custody elsewhere. He was kept in custody elsewhere.

5 Now the Special Court, following the law, has asked that
6 you be transferred to the Special Court, custody of the Special
7 Court for trial. That is why he is here. There is no charge for
8 him yet, no indictment so far, and the only question I want to
9 ask him is -- I mean, I want to tell him he has certain rights
10 under the law and these rights will be communicated to you in a
11 formal document. Now, have you an idea of this -- your lawyer,
12 who you want? Have you an idea of his name or are you still
13 looking round for him?

14 THE INTERPRETER: I have one that I want to represent me,
15 Mr Okaya.

16 JUDGE ITOE: Is Mr Okaya at the Sierra Leonean Bar? Is he
17 at the Sierra Leonean Bar? Ask him, Mr Okaya is from what -- of
18 what nationality, ask him. Tell him -- tell him this: That for
19 anybody to defend before in this court, he must have at least a
20 seven-year-old experience and must be a member of the Bar of
21 whichever country. So this Mr Okaya is what nationality?

22 THE INTERPRETER: He is a Nigerian, and I believe he has
23 the potentials.

24 JUDGE ITOE: Now, tell him that, under the Rules of this
25 Court, now that he has been brought into custody here, we will
26 keep him -- he will be kept in this Court and he will be expected
27 to remain in custody, in detention, for 30 days. Initially, for
28 30 days. Now, this is to enable the investigators to wrap up, to
29 go ahead and to conclude the investigations against him and,

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1 eventually, for the Prosecutor to file an indictment.

2 Now, if after the 30 days -- after the expiry -- at the
3 expiry of the 30 days the indictment does not come, there can be
4 a further application for him to be kept for another 30 days.
5 There can also be a further extension of this to 90 days. If, at
6 the expiry of the 90 days, no indictment is filed then he will
7 apply for his release. Ask him whether he understands.

8 THE INTERPRETER: Well understood.

9 JUDGE ITOE: For now, since you have indicated that there
10 is Mr Okaya, who is going to represent you, the Registry will get
11 in touch with you to know how to locate Mr Okaya, let Mr Okaya
12 report to the Registry of the Special Court, the Registrar of the
13 Special Court, and he will be given all the rights, under the law
14 to defend you, and for all your rights to be preserved.

15 I would like to say here you are not obliged to make any
16 statement to anybody whilst you are in detention. If you want to
17 talk to your lawyer, your lawyer, if he is qualified under our
18 Rules, you will talk to him, and if you have any revelations to
19 make, you can make them to him, for the purposes of the conduct
20 of the pre-trial. Does he have anything -- any comment to make
21 on what I have said?

22 THE INTERPRETER: So far I don't have anything to say. I
23 will only try to get in touch with Mr Okaya. I think I saw
24 somebody around.

25 JUDGE ITOE: Is there anybody like Mr Okaya in this Court?
26 In the audience, is there a certain Mr Okaya in this Court?

27 UNIDENTIFIED SPEAKER: [Indiscernible].

28 JUDGE ITOE: Anyway, he has indicated his interest and I
29 think the Registry has taken note of the designated counsel and

1 everything will be done to provide access between him and his
2 counsel.

3 THE INTERPRETER: Okay.

4 JUDGE ITOE: So this Court orders that, pending the
5 investigations preparatory to pre-trial proceedings, and pending
6 the filing of the indictment, you are remanded in custody for 30
7 days. The accused is remanded in custody for 30 days, pending
8 the conclusion of the investigations and the filing of an
9 indictment.

10 The Registrar of this Court is ordered to facilitate
11 communications between the accused and his counsel throughout and
12 before the pre-trial proceedings. Tell him that the date and so
13 on and so forth, he will be informed of the calendar of his
14 proceedings and his eventual trial, when it comes. Yes, you can
15 take him away. The court will now rise and resume in camera.

16 [Whereupon the initial appearance proceedings
17 adjourned at 2.00 p.m.]

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