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SCSL-2003-06-PT-042

(1066-1077)

**SPECIAL COURT FOR SIERRA LEONE
FREETOWN - SIERRA LEONE**

Before: Judge Bankole Thompson,
Designated Judge

Registrar: Robin Vincent

Date Filed: 9th June 2003

THE PROSECUTOR

Against

ALEX TAMBA BRIMA

also known as (aka) TAMBA ALEX BRIMA aka GULLIT

CASE NO. SCSL-2003-06-PT

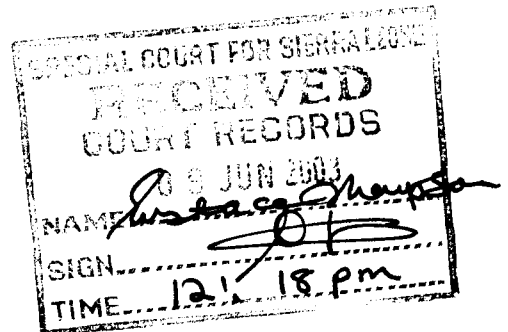
**DEFENCE REPLY TO PROSECUTION RESPONSE TO DEFENCE MOTION
FOR LEAVE TO ISSUE WRIT OF HABEAS CORPUS AD SUBJICIENDUM
AND FOR AN ORDER FOR THE WRIT OF HABEAS CORPUS AD
SUBJICIENDUM**

Office of the Prosecutor:

Defence Counsel:

The Prosecutor,
Luc Côté,
Nicholas Browne-Marke
Boi-Tia Stevens
Brenda J. Hollis, Senior Trial Counsel
The Director of Prisons of the Republic of Sierra Leone
The Officer in Charge - Special Court Detention Facility
Centre in Bonthe.
The Hon. Attorney General and Minister of Justice of the
Republic of Sierra Leone

Terence Michael Terry



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Argument in Reply to Prosecution response to Defence motion for leave to issue Writ of Habeas Corpus ad subjiciendum and for an order for the Writ of Habeas Corpus ad subjiciendum

In reply to the response of the Prosecution, the Defence submits at the outset that as a matter of law the Constitution of the Republic of Sierra Leone is the Supreme Law of the land and pre-emanates and therefore any body OR Court created by virtue of any powers vested in that 1991 Constitution of Sierra Leone is subject to that Constitution. Consequently any provisions in any enactment OR any enactment itself which are inconsistent with any provisions of the 1991 Constitution could in a proper case be declared null and void. Defence further submits that in this context the submission by the Prosecution that the Special Court is not bound by any national law is with respect fallacious at best and does not accord with the true position at law having regard to the supreme law of the land namely the 1991 Constitution of the Republic of Sierra Leone.

Defence submits that the Special Court for Sierra Leone was established following a Security Council Resolution (1315 of August 14th 2000) in which the Secretary General was requested to negotiate an agreement with the Government of Sierra Leone to create an independent Special Court. The agreement was concluded to establish the court on January 6th, 2002 with the Statute of the Special Court annexed thereto. The agreement was adopted into the laws of Sierra Leone by the passing of the Special Court Agreement (Ratification) Act 2002. Defence further submits that since the court was not established under Chapter VII of the UN Charter, the provision of this chapter – cannot be relied upon – as a response to a challenge to the legality of the establishment of the court OR of any of its provisions for that matter; and the same is true as regards certain provisions of the said Statute which are clearly inconsistent with certain provisions of the 1991 Constitution of the Republic of Sierra Leone.

The submission by the prosecution that the Writ of Habeas Corpus is inapplicable to the instant case flies in the face of the letter and spirit of the Constitution of Sierra Leone Act No. 6 of 1991 wherein the necessary powers were exercised to create the Special Court for Sierra Leone namely the Special Court, Agreement (Ratification) Act No 9, 2002 and which consequently gave flesh and blood to its existence. Furthermore Defence submits that that submission of the prosecution taken to its logical conclusion that the remedy of Habeas Corpus is inapplicable ignores the important fact that the Supreme Court of Sierra Leone by virtue of the provisions of Section 125 of the said 1991 Constitution of the Republic of Sierra Leone has supervisory jurisdiction over all other Courts in Sierra Leone and over any adjudicating authority (emphasis mine). For ease of reference Defence now reproduce in extenso what Section 125 of the 1991 Constitution says. It states thus:

“The Supreme Court shall have supervisory jurisdiction over all other Courts in Sierra Leone and over any adjudicating authority; and in exercise of its supervisory jurisdiction shall have power to issue such directions, orders or writs including writs of habeas corpus, orders of certiorari, mandamus and prohibition as it may consider appropriate for the purposes of enforcing or securing the enforcement of its supervisory powers”.

Defence Counsel submits that the Special Court for Sierra Leone clearly falls under all other Courts in Sierra Leone and to that extent it falls under the supervisory jurisdiction of the Supreme Court of Sierra Leone to which habeas corpus can apply. Afortiori if the Supreme Court has supervisory jurisdiction and powers to issue orders OR writs of habeas corpus, the

High Court of Sierra Leone and for that matter the Special Court for Sierra Leone except the Court of Appeal can grant an order OR writ of habeas corpus accordingly. Counsel for the defence further submits that even assuming without conceding that it can be argued that the Special Court for Sierra Leone does not fall within the definition of other Courts, what cannot be denied is that the Special Court for Sierra Leone is undoubtedly an adjudicating authority as contemplated under Section 125 of the 1991 Constitution of the Republic of Sierra Leone to which orders OR writs of habeas corpus is applicable under the supervisory jurisdiction of the Supreme Court of Sierra Leone under Section 125 of the said 1991 Constitution of Sierra Leone. To that extent therefore Defence submits that certain Constitutional questions to be referred to later in this reply now arise for interpretation and determination by the Supreme Court of Sierra Leone, and accordingly the Special Court should stay its proceedings until the constitutional questions are finally determined by the Supreme Court of Sierra Leone.

In the light of the foregoing, Defence submits that its Motion should be allowed as the remedy of habeas corpus is applicable having regard to the powers of the Supreme Court of Sierra Leone as afore-mentioned and afortiori the Writ of habeas corpus is applicable to all other courts be it the Special Court for Sierra Leone or otherwise and to any adjudicating authority for that matter as contemplated under Section 125 of the Constitution of Sierra Leone 1991. Indeed the Special Court for Sierra Leone can hardly deny that it is an adjudicating authority.

Defence further submits that in the ad hoc Tribunals systems there are no specific provisions for Habeas Corpus Motions or for compensation for unlawful arrest or detention. See in this respect Wladimiroff. However, the Defence further submits that the practice of Chambers has shown that the Judges are willing to admit such Motions, irrespective of the lack of express provisions, in accordance with International Human Rights Law. vide Appeals Chamber Judgment, Barayagwiza (ICTR-97-19-AR72), 3 November 1999, para. 88, and Trial Chamber decision on petition for a Writ of Habeas Corpus on behalf of Radoslav Brdjanin, Brdjamin and Talic (IT-99-36PT), 8 December 1999 paras. 3 and 7.

The position canvassed under paragraph 4 at Page 2 of the response of the Prosecution with respect is at best confusedly worded, unintelligible and consequently failed to address the thrust of the Defence position in their said response in that connection. The Defence in reply will simply say that the accused being a citizen of Sierra Leone can properly seek to rely on the habeas corpus Acts of 1640 and 1816, having regard to the provisions of Sections 17 and 170 of the 1991 Constitution of Sierra Leone, and Section 74 of the Courts Act 1965 of Sierra Leone where necessary, and particularly in this instant case where he alleges that he has been unlawfully detained based on the orders of Judge Bankole Thompson of the of the 7th of March, 2003.

It is therefore with respect a fallacy to argue that the Special Court for Sierra Leone is not bound by any national law-if by national law the prosecution means Sierra Leone Law.

In reply to paragraph 5 at page 3 of the reponse of the Prosecution, Defence will repeat its arguments in the preceding paragraphs in its reply contained herein.

In reply to paragraph 6 at Page 3 of the Prosecution's reponse, Defence agrees with Prosecution's position that the Special Court for Sierra Leone has its own statutes and rules of Procedure and Evidence which apply to its proceedings – and whereas it further agrees with the

Prosecution that the Statute and Rules of Procedure and Evidence (the "Rules") of the Special Court do not expressly make provision for a "Writ of Habeas Corpus", that does not mean that on a true reading of the provisions of the Habeas Corpus Acts of 1640 and 1816 the provisions of sections 17, 170 and 125 of the 1991 Constitution of the Republic of Sierra Leone, and having regard to the unlawful detention of the accused Tamba Alex Brima, he is left with no remedies under the laws of the land of his country in which he is detained at the Special Court detention facility in Bonthe in clear contravention of his fundamental rights guaranteed under the said 1991 Constitution of the Republic of Sierra Leone. As matter of law, the position canvassed by the defence clearly in its respectful view raise a number of Constitutional questions which according to the provisions of section 124 of the said 1991 Constitution of the Republic of Sierra Leone only the Supreme Court of Sierra Leone is empowered to interpret and render its decision accordingly. The questions defence submits which now arise for the interpretation and determination by the Supreme Court having regard particularly to the various submissions of both the Prosecution and Defence are 5 in all and they are as follows:-

CONSTITUTIONAL QUESTIONS

- (1) In the light of the fact that the Rules of Procedure and Evidence of the Special Court for Sierra Leone do not contain any provisions regarding the procedure for an application for Habeas Corpus to a Single Judge OR the Trial Chamber, does that fact alone without more expressly and/OR necessary implication deprive OR oust the jurisdiction of the Special Court for Sierra Leone to entertain an application for leave to issue Writ of Habeas Corpus ad Subjiciendum, and for an Order for Writ of Habeas Corpus to a citizen of the Republic of Sierra Leone namely Tamba Alex Brima who alleges that he has and continues to be unlawfully detained, having regard particularly to the provisions of Section 170(i) and Section 125 of the 1991 Constitution, the provisions of Section 74 of the Courts Act of Sierra Leone Act No. 31 of 1965, and the Habeas Corpus Acts of 1640 and 1816 respectively.
- (2) Is it right to say that the Habeas Corpus Acts of 1640 and 1816 are part of the laws of Sierra Leone by virtue of Section 170(i) of the 1991 Constitution? If the answer to that question is in the affirmative, is it not then open to any citizen of the Republic of Sierra Leone and particularly the Applicant herein Tamba Alex Brima in this instant case to seek the remedy by way of leave to issue Writ of Habeas Corpus ad Subjiciendum and the order for Writ of Habeas Corpus ad Subjiciendum in this instant case?
- (3) Is it not equally true to say that any refusal by the Special Court for Sierra Leone to entertain an Habeas Corpus application by the accused herein will be tantamount to a violation of the rights of the said accused under the provisions of Sections 17(3) of the 1991 Constitution either expressly OR by necessary implication?
- (4) Having regard to Section 171 (i) of the 1991 Constitution can it be said that the Special Court for Sierra Leone is a Court within the interpretation provisions of the 1991 Constitution of the Republic of Sierra Leone? If the answer to that question is in the affirmative, is it not true to say that the Supervisory Jurisdiction of the Supreme Court to grant Writ of Habeas Corpus under section 125 of the 1991 Constitution of Sierra Leone arise and equally applies to the Special Court for Sierra Leone under the provisions of section 125 of the said 991 Constitution of the Republic of Sierra Leone?

- (5) Assuming without conceding that the Special Court for Sierra Leone is not a Court within the meaning of the Interpretation Provisions of the 1991 Constitution and the Interpretation Act of Sierra Leone (Act) No. 8 of 1971 as amended, can it be said that the Special Court for Sierra Leone is an Adjudicating authority within the letter and spirit of Section 125 of the 1991 Constitution of Sierra Leone to render it subject to the provisions of the same Section 125 of the 1991 Constitution of the Republic of Sierra Leone to warrant the grant or issue of Orders OR Writs of Habeas Corpus ad Subjiciendum by orders from it qua an adjudicating body OR as contemplated under the supervisory jurisdiction of the said section 125 of the Constitution of Sierra Leone.

If indeed these above five (5) Constitutional questions do arise for the interpretation by the Supreme Court of Sierra Leone, then Rule 99 of the Supreme Court Rules of Sierra Leone – Public Notice No. 1 of 1982 provides that a case must be stated in the Court from which the questions arise. See the case of The State v. Adel Osman and others to be found in 1988 Law Reports of the Commonwealth (Const.) at Page 212.

Counsel for the Defence further submits that once the Special Court for Sierra Leone comes to the conclusion that the questions so raised require interpretation by the Supreme Court of Sierra Leone OR on its own motion takes the view that certain Constitutional questions have arisen warranting the interpretation of particular provisions of the 1991 Constitution, then it must stay its proceedings and refer the question of interpretation of those constitutional provisions of the said 1991 Constitution to the only body namely the Supreme Court of Sierra Leone which is charged to perform such a function by way of interpretation.

Defence agrees with the position taken by the Prosecution at Page 3 under paragraph 7 hook, line and sinker. However, reference by it to the observation made by the Trial Chamber of the (International Criminal Tribunal for the former Yugoslavia ICTY) mentioned under 8 Defence submits is inapplicable in this instant case. Whilst it should be given the respect it deserves, Defence further submits that the Prosecution's Motion of the International Criminal Tribunal for Yugoslavia (ICTY) is by no stretch of the imagination *pari materia* to the facts of this instant case and is clearly distinguishable having regard to the powers vested in the relevant provisions of the 1991 Constitution of Sierra Leone itself which latter instrument gave the necessary imprimatur to the Special Court for Sierra Leone. Furthermore by extension of this argument Defence submits that that very 1991 Constitution of the Republic of Sierra Leone under its Supervisory Jurisdiction provides for the issue of Orders OR Writs of Habeas Corpus in appropriate cases as in this instant one to a citizen of Sierra Leone namely the accused Tamba Alex Brima who alleges that he has been and continues to be unlawfully detained pursuant to an enactment created by virtue of the provisions of the 1991 Constitution of the Republic of Sierra Leone in respect of which he now seeks appropriate protection and remedy according to law and to which he is rightly entitled to by way of a determination by the highest Court in Sierra Leone namely the Supreme Court of Sierra Leone.

In reply to paragraph 9 at Page 4 of the response of the Prosecution, the Defence will rely on its previous submissions in the preceding paragraphs of its reply herein.

In reply to paragraph 10 of the Prosecution's response at Page 5, Defence submits that in the light of the several submissions already advanced above, the matters raised under 10 by the Prosecution in its response to Defence Motion are not of moment and at best failed to recognize

the true purport and effect of Section 125 of the provisions of the 1991 Constitution of the Republic of Sierra Leone which Defence sought reliance upon for the purposes of the Orders prayed for on behalf of the accused herein.

In reply to paragraph 11 at Page 5 of the Prosecution's response whilst the defence takes the view that its motion seeking leave to issue Writ of Habeas Corpus Ad Subjiciendum and for an order for the Writ of Habeas Corpus Ad Subjiciendum has merit and ought to be adjudicated upon by the Special Court, it is however not averse for its motion to be additionally and complimentarily dealt with alternatively under the provisions of Rule 72 OR Rule 73 challenging the lawfulness of the accused continued detention, and to that extent the Defence submits that its motion for leave to issue Writ of Habeas Corpus Ad Subjiciendum and for an Order for the Writ of Habeas Corpus Ad Subjiciendum dated the 23rd day of May, 2003 should be allowed on its merits based on the Orders sought and contained in the Defence Motion dated 23rd day of May, 2003.

Defence submits further that it is with respect preposterous to say the least for the Prosecution to have the temerity to canvass as they did under paragraph 12 that the arguments advanced in Defence Motion are not clearly articulated. Furthermore based on the Defence several submissions, the defence submits that it has unequivocally established that the accused herein is entitled to the procedural remedy sought therein in its motion of 23rd May 2003 and that is buttressed by the Defence articulation of the non-compliance by the Prosecution with the conditions precedent contained in the said Rule 47 which did not with respect warrant the approval of the Indictment by Judge Bankole Thompson on the 7th of March, 2003. Defence further submits that the factual matrix relied upon by the defence was that the Indictment ex facie disclosed that the accused to be the person who entered the Sierra Leone Army (SLA) in 1985 and rose to the rank of Staff Sergeant when on the very indictment itself the accused Tamba Alex Brima who was charged on the indictment itself ex facie did not fit that description however conceived at the time of the ex parte application which sought the approval of the indictment before Judge Bankole Thompson on 7th March, 2003. And to that extent the indictment approved against his person by Judge Bankole Thomson was most respectfully unlawful ab initio thereby satisfying both the factual and legal criteria that his detention was and continues to be unlawful.

As regards the response of the Prosecution under paragraph 14 at Page 6 of its response, the Defence submits out of an abundance of caution that the conditions precedent as envisaged by Rule 47(B) of the Rules of Procedure and Evidence of the Special Court for Sierra Leone were not complied with for the simple reason that the "suspect" in the mind of the Prosecution at the time which turned out to be the wrong suspect at the end of the day as disclosed ex facie in the said indictment refers to an accused who entered the Sierra Leone Army (SLA) in 1985 and rose to the rank of Staff Sergeant which does not fit the description of the accused Tamba Alex Brima in this instant case. Consequently on the facts of this instant case, the Prosecution could not have been satisfied in the course of its investigation that it was Tamba Alex Brima who was the suspect that had committed a crime OR crimes within the jurisdiction of the Special Court for Sierra Leone that mandatorily entitled them by the use of the word (shall) to prepare and submit to the Registrar an indictment for approval by the afore-mentioned Judge Bankole Thompson for the simple reason that on the Prosecution's own showing namely the indictment ex facie it disclosed a different accused than the one which they presented as a result of the indictment for its eventual approval by the afore-mentioned Judge Bankole Thompson.

Again under paragraph 15 at Page 6 of the Prosecution's response, the Prosecution has missed the point once again with respect when it stated that whether the accused did or did not commit the crimes with which he is charged is a matter to be determined by the Trial Chamber following the trial. In reply the defence submits that that is not the issue here. The issue for determination the defence submits in reply is not only whether the accused did or did not commit the crimes with which he is charged, but the true crux of the matter at the time of the said *ex parte* application before Judge Bankole Thompson on 7th March 2003 is that with respect the accused ought not to have been charged in the first place based on the Prosecution's own showing *ex facie* on the indictment itself which constituted the most important material before the Trial Judge Bankole Thompson for his approval in circumstances wherein the conditions precedent envisaged under Rule 47(B) already alluded to by the defence and properly articulated by Defence above had neither been satisfied nor strictly complied with within the letter and spirit of the provisions of Rule 47(B) of the Rules of Procedure and Evidence of the Special Court for Sierra Leone. Reference therefore to pre-trial stage matters without more are not of moment, irrelevant and constitute at best a red-herring.

Furthermore Defence submits that whilst it agrees with the Prosecution that it ought to have been satisfied at the time of preparing and submitting the indictment that the accused had committed a crime OR crimes within the jurisdiction of the Special Court for Sierra Leone the point the Defence earlier canvassed and now emphasizes is that on the Prosecution's own showing the indictment itself *ex facie* alluded to one who was neither the proper suspect nor the proper accused within the letter and spirit of Rule 47(B) of the Rules of Procedure and Evidence of the Special Court for Sierra Leone although Defence is minded to submit that the said Rule 47(B) talks about suspect *simpliciter*.

The Defence submits that contrary to what is alleged under paragraph 16 at Page 7 of the Prosecution's response the Defence Motion ought to be granted as a matter of law and also based on the factual matrix of the circumstances of this instant case.

In reply to paragraph 17 at Page 7 of the response of the Prosecution, the Defence relies on the several above submissions and matters relied upon combined with the submissions made in its Motion proper dated 23rd May 2003 for leave to issue Writ of Habeas Corpus *Ad Subjiciendum* and for an Order for the Writ of Habeas Corpus *Ad Subjiciendum* and that in truth and in fact the Prosecution's conduct without a doubt amounts with respect to 'Prosecution's lawlessness' and clearly the defence allegations of bad faith and Prosecution's lawlessness have merit having regard to the Prosecution's non-compliance with the conditions precedent envisaged under the provisions of Rule 47(B) of the Rules of Procedure and Evidence of the Special Court for Sierra Leone which with respect did not warrant the consequential approval of Judge Bankole Thompson on the 7th of March, 2003.

On the other hand Defence submits with the greatest respect that it is the Prosecution's application under the said Rule 47(B) that was made in bad faith, frivolous and when properly considered amount to Prosecution's lawlessness.

The response of the Prosecution under paragraph 18 at Page 7 of its response begs the issue relating to the position taken by the Defence that the indictment did not on its merits satisfy the litmus test laid down under the said Rule 47(B). For the Prosecution to have submitted as it did that the Defence Motion as submitted similarly in no way establishes how the requirements of that rule were not met again miss the point, for on the true reading of the said Rule 47(E) defence submits that the Judge could not have been mandatorily satisfied that the indictment charged the suspect with a crime OR crimes within the jurisdiction of the Special Court for Sierra Leone if his attention had been drawn to the undisputed fact that the indictment ex facie had no bearing OR nexus to the alleged suspect at the time of the ex parte application. Therefore if the Prosecution in its submission is right so far, the question whether the Judge should have been mandatorily satisfied that the allegations in the Prosecution's case (Summary) would, if proven amount to the crime OR crimes as particularized in the indictment clearly could not and would not arise as the Prosecution's case (Summary) would on those facts before him and based on the indictment ex facie clearly pointed to a suspect OR accused who was not the accused referred to in the indictment as having entered the Sierra Leone Army (SLA) in 1985 and rose to the rank of Staff Sergeant.

Again reference by the Prosecution under paragraph 19 at Page 7 of its response are matters which have been responded to and addressed as a result of the combined effect of the several submissions of the Defence for the reasons adduced therein. Furthermore Defence submits that contrary to what is stated by the Prosecution in its response, it does not seek at this stage to prove the allegations in the indictment but seeks to rely on the showing by the Prosecution on its very indictment ex facie which the Defence submits was neither made in good faith, nor did it make a full and frank disclosure regarding all the materials before Judge Bankole Thompson on the 7th March 2003 and consequently failed to comply with the provisions envisaged in the said Rule 47(B) and furthermore when the totality of the Prosecution's conduct and action in that regard are considered, it tantamounts with respect to Prosecution's lawlessness.

In reply to paragraph 20 at Page 8 of the Prosecution's response the Defence at the risk of being repetitious submits once again that the indictment in this instant case on its face does not meet the requirements of the rules in particular Rule 47(C) of the Rules of Procedure and Evidence of the Special Court for Sierra Leone and to that extent therefore the Defence submits that the Defence Motion has clearly established an ex facie invalidity. Furthermore Defence submits that the averments contained in and the attachments exhibited to the affidavit of Ayo Max-Dixon filed in Support of the Defence Motion of the 23rd May 2003 are in their totality extremely relevant to the determination of the Defence Motion.

In reply to paragraph 21 to be found at Page 9 of the Prosecution's response, the Defence once again reiterates and submits that the purported warrant of arrest of the 7th of March, 2003 did not on its true and proper reading order the arrest of the accused herein, however conceived under the provisions of both Rule 47(H) and Rule 55 of the Rules of Procedure and Evidence of the Special Court for Sierra Leone respectively. That aside, Defence further submits that the Prosecution's admission that the relevant provisions of the said Rules in particular Rule 47(H) and Rule 55 prescribe no wording of a warrant of arrest only goes to lend further support to the Defence firmly held position that the warrant of arrest must be clear in its terms and unequivocal in substance which with respect the order of the 7th March 2003 cannot claim to be either

unequivocal or clear. Defence submits further with respect that on a true reading of the purported warrant of arrest, there is nothing in the body of that Order to suggest even in the remotest terms that such an order for the arrest of the accused is disclosed nor can it with respect be described to amount to a warrant of arrest for the accused herein.

In reply to paragraph 22 at page 9 of the response of the Prosecution, the fact that the purported warrant of the 7th of March, 2003 is intituled warrant of arrest and Order for transfer and detention without more and without descending into particulars in the body of the order for the arrest of the accused, Defence submits in reply that the fact that the title refers to warrant of arrest and order for transfer and detention without more does not and cannot amount to any arrest of the person of the accused herein. Defence further submits the fact that the purported warrant of arrest was addressed to the national authority of Sierra Leone and for it to cause to be served on the accused at the time of his alleged arrest does not without more on its true reading makes it a warrant of arrest without the body of the purported order of arrest mentioning that fact. The same reason Defence further submits applies mutatis mutandis to Rule 55(D) of the Rules of Procedure and Evidence of the Special Court for Sierra Leone notwithstanding the use of the definite article "(this)".

Defence further submits that the mentioning by the Prosecution to what it conceives as the cumulative effect of the language used in the warrant of arrest is to effectuate the arrest of the accused begs the issue and is at best an attempt to stretch the argument albeit without merit or any justification whatsoever.

In reply to paragraph 23 at Page 9 of the Prosecution's response, the Defence Counsel submits that the instructions received from the accused was that the purported arrest warrant of the 7th of March, 2003 was never served on him. Furthermore Defence submits that the reliance by the Prosecution on paragraph 8 of the annexed declaration dated 31st May, 2003 of Morie Lengor an investigator in the office of the Prosecutor does not take the case for the Prosecution one step further. That being the case the Defence further submits that there was no full compliance with the requirements of Rule 52(A), (B) and Rule 55 (C) of the Rules of Procedure and Evidence of the Special Court for Sierra Leone.

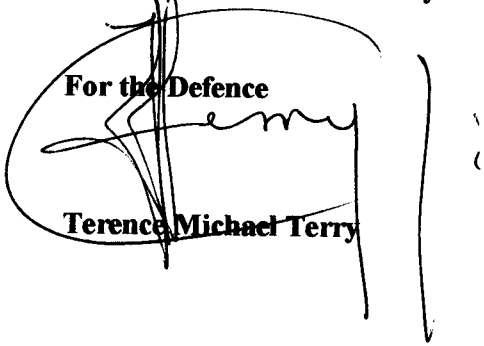
In reply to paragraph 24 at Page 9 of the Prosecution's response the Defence in reply herein reiterates and submits that the right of the accused has been grossly violated having regard to the several submissions canvassed above in this Defence reply, the facts deposed to in the respective affidavits sworn to by the accused on the 23rd day of May, 2003 and that of Ayo Max-Dixon in his affidavit sworn to on the 23rd of May, 2003 and the attached exhibits. Defence further submits that violation of the right of the accused has been established by the Defence Motion to warrant setting aside and/OR vacating the Order of Judge Bankole Thompson of the 7th of March, 2003.

Defence submits that although the respective submissions from both the Prosecution and the Defence have so far been in writing, but that due to the fact that the issues so far canvassed by both sides raise matters of Public and Constitutional importance, the Court in its wisdom should most respectfully and exceptionally proceed to allow both the Prosecution and the Defence to supplement those written submissions where need by oral submissions, subject to time limits to be fixed if it is so graciously inclined.

CONCLUSION

In reply to paragraph 25 at page 10 of the Prosecution's response the Defence most respectfully submits that the Court should therefore grant the Defence Motion of the 23rd May 2003 and the Orders sought therein.

Done in Freetown the 9th day of June 2003

For the Defence

Terence Michael Terry

**SPECIAL COURT FOR SIERRA LEONE
FREETOWN – SIERRA LEONE**

Before: Judge Bankole Thompson,
Designated Judge

Registrar: Robin Vincent

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