

078

1495

SCSL - 2003 - 06 - PT

(1495 - 1499)

SPECIAL COURT FOR SIERRA LEONE

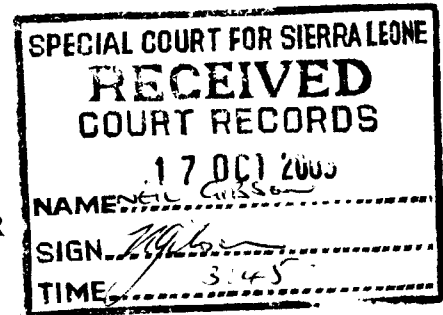
OFFICE OF THE PROSECUTOR

FREETOWN - SIERRA LEONE

Before: Judge Bankole Thompson
Judge Benjamin Itoe
Judge Pierre Boutet

Registrar: Mr. Robin Vincent

Date filed: 17 October 2003



THE PROSECUTOR

Against

ALEX TAMBA BRIMA also known as TAMBA ALEX BRIMA
also known as GULLIT

CASE NO. SCSL - 2003 - 06 - PT

**PROSECUTION REPLY TO DEFENCE RESPONSE TO
PROSECUTION MOTION FOR JOINDER**

Office of the Prosecutor:
Luc Côté, Chief of Prosecutions
Robert Petit, Senior Trial Counsel
Boi-Tia Stevens, Assistant Trial Counsel

Defence Counsel:
Terence Michael Terry

SPECIAL COURT FOR SIERRA LEONE
OFFICE OF THE PROSECUTOR
FREETOWN – SIERRA LEONE

THE PROSECUTOR

Against

ALEX TAMBA BRIMA also known as TAMBA ALEX BRIMA
also known as GULLIT

CASE NO. SCSL – 2003 – 06 – PT

PROSECUTION REPLY TO DEFENCE RESPONSE TO PROSECUTION
MOTION FOR JOINDER

INTRODUCTION

1. The Prosecution submits this reply to “Defence Response to Prosecution Motion for Joinder” (the Defence Response) filed on 15 October 2003 on behalf of Alex Tamba Brima (the Accused). In the Defence Response, the Defence argues for the dismissal of Prosecution Motion for Joinder (the Motion) on the bases that:
 - A. the Motion was not accompanied by the indictments of the other persons sought to be joined with the Accused and
 - B. that the common transaction test for joinder as stipulated in Rule 48(B) of the Special Court’s Rules of Procedure and Evidence (the Rules) is not met.

PROCEDURAL ISSUE

- 2. The Prosecution notes that the Defence Response hardly qualifies as a pleading as it does not contain any reasoned legal arguments. In lieu of legal arguments, Defence Counsel offers for consideration to the Chamber his conclusions and affirmations without any support or argument. As an example, Defence Counsel refers to only two cases cited in the Prosecution’s Motion and dismisses their relevance without any explanation or support for its argument that those cases are distinguishable from the instant case¹.
- 3. The Prosecution submits that proffering what is tantamount to Counsel’s personal opinions without legal arguments is not acceptable practice before any court, be it national or international, as it contributes nothing to the deliberations and decisions to be made on important matters.

ARGUMENT

A. The Indictments

- 4. The Prosecution submits that the attachment of indictments to a motion for joinder is not necessary to reach a decision on the motion. The indictments to which the Defence Reply makes reference are duly filed with the Registry of the Special Court and are accessible to the judges who will decide the joinder motion. The Defence Reply clearly fails to appreciate the acceptable practice in international tribunals and the function of the Registry to make available to judges and interested parties copies of documents filed with the Registry². The indictments are also accessible to the public through the internet.

¹ See pages 3-4 of the Defense Response.

² See for example, Article 3 of Practice Direction on Filing Documents before the Special Court for Sierra Leone.

5. The Defence Reply should therefore be dismissed as the non-attachment of the indictments of the other accused persons does not in any way affect the merits of the Motion, nor is it any way relevant to reaching a decision on the Motion.

B. Common Transaction and the Interest of Justice

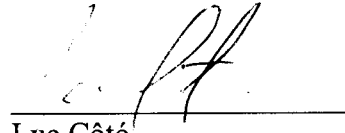
6. The Defence presents no substantive argument in support of its contention that the Prosecution did not meet the common transaction test provided for in Rule 48(B), other than conclusive remarks to that effect.
7. The Prosecution is therefore forced to reiterate its arguments made in the Motion. The Prosecution submits that the Motion meets the common transaction test for joinder under Rule 48(B) of the Rules as the accused persons are all charged with the same crimes based on the same incidents, and more particularly the accused persons are all charged with participating in a joint criminal enterprise to gain effective control of the territory and population of Sierra Leone. Contrary to the assertion of the Defence, the time period and location of the crimes alleged against each accused person are the same.
8. The Prosecution further submits that as the case against each accused person is essentially the same and almost all the witnesses to be called are common to all accused persons, a joinder is in the interest of justice. In sum, a joint trial would promote judicial integrity by ensuring consistency in verdicts, avoid duplication of the evidence, promote judicial economy and protect the welfare of witnesses.

CONCLUSION

For the foregoing reasons, the Prosecution requests that the Defence Reply be dismissed in its entirety and the Prosecution's motion for joinder be granted.

Done in Freetown, 17 October 2003.

For the Prosecution,



Luc Côté
Chief of Prosecutions



Robert Petit
Senior Trial Counsel