

482)

SCSL-04-16-T
(18109 - 18113)

18109

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

TRIAL CHAMBER II

Before: Hon. Justice Richard Lussick, Presiding
Hon. Justice Teresa Doherty
Hon. Justice Julia Sebutinde

Registrar: Mr. Lovemore G. Munlo SC

Date filed: 1 May 2006

THE PROSECUTOR

Against

**ALEX TAMBA BRIMA
BRIMA BAZZY KAMARA
SANTIGIE BORBOR KANU**

Case No. SCSL – 2004 – 16 – T

PUBLIC

**PROSECUTION MOTION TO BRING FORWARD THE NEXT SCHEDULED STATUS
CONFERENCE**

Office of the Prosecutor

Mr. Christopher Staker
Mr. Karim Agha

Defence Counsel for Brima

Mr. Kojo Graham
Ms. Glenna Thompson

Defence Counsel for Kamara

Mr. Andrew Daniels
Mr. Pa Momo Fofanah

Defence Counsel for Kanu

Mr. Geert-Jan Alexander Knoops
Ms. Carry J. Knoops
Ms. A.E. Manly-Spain

SPECIAL COURT FOR SIERRA LEONE
RECEIVED
COURT REGISTRAR
1 MAY 2006
NAME: Geoff Walker
SIGN: [Signature]
TIME: 14.45

1. The Trial Chamber's order of 26 April 2006 (the "**26 April 2006 Order**"),¹ made pursuant to Rule 73ter of the Rules of Procedure of Evidence, requires the Defence to file certain materials by 10 May 2006. Paragraph 2 of that Order provides that a status conference shall be held on 17 May 2006 to consider compliance by the Defence with that order. The Prosecution now moves the Trial Chamber for an order that this status conference be brought forward, to the morning of Friday 12 May 2006.
2. The reasons for seeking that the status conference be brought forward are as follows:
 - (a) Following the filing by the Defence of the materials referred to in the 26 April 2006 Order, the Prosecution will require a reasonable amount of time to prepare for its testing of the Defence evidence during the Defence case. At the status conference held on 4 April 2006,² in a notice filed on 6 April 2006,³ and at the Pre-Defence Conference held on 26 April 2006,⁴ the Prosecution indicated that it would require 30 days prior to the commencement of the Defence case for these preparations. As the Prosecution noted, the reason why it proposed 5 June 2006 as the date of commencement of the Defence case, which was perhaps later than the Trial Chamber had hoped for, was to enable the Prosecution to be given such a period for its preparations after the filing by the Defence of its materials.
 - (b) The 26 April 2006 Order requires the Defence to file its materials on 10 May 2006. This means that the Prosecution has 26 days from the date of filing until the date of commencement of the Defence case to undertake these preparations.
 - (c) If for any reason the materials filed by the Defence on 10 May 2006 do not fully comply with the 26 April 2006 Order, it will be necessary for the Trial Chamber to order what measures need to be taken by the Defence to meet its obligations. The

¹ *Prosecutor v. Brima et al.*, SCSL-01-16-T-478, 'Order for Disclosure Pursuant to Rule 73ter and the Start of the Defence Case', 26 April 2006.

² *Prosecutor v. Brima et al.*, SCSL-01-16-T, Transcript, 4 April 2006, p. 20.

³ *Prosecutor v. Brima et al.*, SCSL-01-16-T-474, 'Public Notice of Orders to be Sought Pursuant to Rule 73ter, 6 April 2006, para. 5.

⁴ *Prosecutor v. Brima et al.*, SCSL-01-16-T, Transcript, 26 April 2006, p. 2 (line 26) to p. 3 (line 16).

be correspondingly reduced by the amount of time that passes before the Trial Chamber rules that there has been non-compliance and orders remedial measures, and the amount of time that it takes the Defence to undertake those remedial measures. It is therefore respectfully submitted that the Defence's compliance with the 26 April 2006 Order should be considered as soon as possible after the 10 May 2006 deadline for compliance, so that any remedial action that may be required in the event of non-compliance can be completed without delay.

- (d) The Prosecution does not wish to suggest that it has any reason for believing that the Defence will not fully comply with its obligations under the 26 April 2006 Order in a professional manner. However, given that the Prosecution has only 26 days after 10 May 2006 to undertake its preparations before the Defence case begins, it is in the Prosecution's respectful submission necessary, in order to reduce the potential for delays in these proceedings, to ensure that the issue of compliance with the 26 April 2006 Order is considered as soon as possible after 10 May 2006. The 26 April 2006 Order states that the express purpose of the next status conference is to consider the compliance by the Defence with that order.
- (e) If the status conference were held on the morning of Friday 12 May 2006, this would enable the question of compliance to be considered, and any remedial action to be completed, five days sooner than if the status conference is held on 17 May 2006. Given the limited amount of time that remains before the scheduled commencement of the Defence case, the Prosecution submits that these five days are significant. Holding the status conference on the morning of Friday 12 May 2006 would also give the Bench and the Prosecution the whole of Thursday 11 May 2006 to peruse the materials filed by the Defence on 10 May 2006 in advance of the status conference.

3. The Prosecution notes that a Defence motion for protective measures for Defence witnesses is presently pending before the Trial Chamber.⁵ The Prosecution has responded to that motion.⁶ The Prosecution notes that this Defence motion, if granted, would lead to the 26 April 2006 Order being varied.⁷ For the avoidance of doubt, the Prosecution states its position that unless and until the Trial Chamber otherwise orders prior to 10 May 2006, the Defence remains under the obligation to comply fully with the 26 April 2006 Order, and to file all of the materials specified in that Order by 10 May 2006. The Defence cannot, merely by filing a motion, suspend the operation of an Order of the Trial Chamber in whole or in part.⁸

Done in Freetown,

1 May 2006

For the Prosecution,



Christopher Staker
Deputy Prosecutor



Karim Agha
Senior Trial Attorney

⁵ *Prosecutor v. Brima et al.*, SCSL-01-16-T -476, 'Public Joint Defence Motion for Protective Measures for Defence Witnesses', 25 April 2006.

⁶ *Prosecutor v. Brima et al.*, SCSL-01-16-T- 'Public Prosecution Response to Public Joint Defence Motion for Protective Measures for Defence Witnesses', 1 May 2006.

⁷ *Ibid.*, para. 4.

⁸ See *Prosecutor v. Kabiligi et al.*, Case Nos. ICTR-97-34-I and ICTR-97-30-I, 'Decision on the Prosecutor's Motion to Amend the Indictment', Trial Chamber, 8 October 1999, para. 64.

Index of Authorities

A. ORDERS, DECISIONS AND JUDGMENTS

1. *Prosecutor v. Brima et al.*, SCSL-01-16-T-478, ‘Order for Disclosure Pursuant to Rule 73ter and the Start of the Defence Case’, 26 April 2006.
2. *Prosecutor v. Brima et al.*, SCSL-01-16-T-474, ‘Public Notice of Orders to be Sought Pursuant to Rule 73ter’, 6 April 2006, para. 5.
3. *Prosecutor v. Brima et al.*, SCSL-01-16-T-476, ‘Public Joint Defence Motion for Protective Measures for Defence Witnesses’, 25 April 2006.
4. *Prosecutor v. Brima et al.*, SCSL-01-16-T, ‘Public Prosecution Response to Public Joint Defence Motion for Protective Measures for Defence Witnesses’, 1 May 2006.
5. *Prosecutor v. Kabiligi et al.*, Case Nos. ICTR-97-34-I and ICTR-97-30-I, ‘Decision on the Prosecutor’s Motion to Amend the Indictment’, Trial Chamber, 8 October 1999, para. 64.
[<http://69.94.11.53/ENGLISH/cases/Kabiligi/decisions/dec991008B.htm>]

B. TRIAL TRANSCRIPTS

1. *Prosecutor v. Brima et al.*, SCSL-01-16-T, Transcript, 4 April 2006, p. 20.
2. *Prosecutor v. Brima et al.*, SCSL-01-16-T, Transcript, 26 April 2006, p. 2 (line 26) to p. 3 (line 16).