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SCSL-04-16-T
(19028 - 19033)

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**SPECIAL COURT FOR
SIERRA LEONE**

Case No. SCSL 2004-16-T

Before: Justice Richard Lussick, Presiding Judge,
Justice Teresa Doherty
Justice Julia Sebutinde

Interim Registrar: Lovemore Munlo, SC

Date Filed: 8 September 2006

THE PROSECUTOR

Against

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

**BRIMA AND KAMARA-DEFENCE RESPONSE TO 'URGENT PROSECUTION
MOTION FOR RELIEF IN RESPECT OF VIOLATIONS OF THE TRIAL
CHAMBER'S ORDER OF 26 APRIL 2006' AND PROSECUTION VIOLATION
OF RULE 46 (C)**

Office of the Prosecutor:

Christopher Staker
Karim Agha

Defence Counsel for Brima

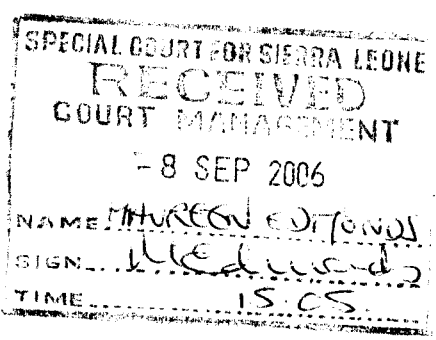
Kojo Graham
Glenna Thompson

Defence Counsel for Kamara

Andrew Daniels
Mohamed Pa-Momo Fofanah

Defence Counsel For Kanu

Geert-Jan Alexander Knoops
Carry Knoops
Abibola E. Manly-Spain



A. INTRODUCTION

1. On 29 August 2006, the Prosecution filed an “Urgent Prosecution Motion for Relief in Respect of Violations of the Trial Chamber's Order of 26 April 2006” (**the Motion**).¹
2. On 1 September 2006 the Kanu Defence Team filed the “Kanu-Defence Response to Urgent Prosecution Motion for Relief in Respect of Violations of the Trial Chamber's Order of 26 April 2006” (**Kanu Response**).²
3. The First and Second Accused hereby file a Response to the Urgent Prosecution Motion for Relief in Respect of Violations of the Trial Chamber's Order of 26 April 2006.

B. Original 49 Witness order

4. The Defence for the First and Second Accused firstly, note that the reason why the Prosecution wanted to have the last 15 witnesses from the original list called first was to enable them have the 21 days notice which they are entitled to in order to prepare for their case.³ Thus, the first 20 witnesses who were to be called from 4 September 2006 onwards were disclosed to the Prosecution 21 days prior to the day they were to testify. Some of the witnesses on the list included the last 15 on the original list. The Defence submits that it fulfilled the requirements with regards to giving the Prosecution 21 day disclosure before calling the witnesses.

¹ *Prosecutor v Brima, Kamara and Kanu*, Urgent Prosecution Motion for Relief in Respect of Violations of the Trial Chamber's Order of 26 April 2006, 29 August 2006, Case No. SCSL-2004-16-T-539.

² *Prosecutor v Brima, Kamara and Kanu*, Kanu-Defence Response to Urgent Prosecution Motion for Relief in Respect of Violations of the Trial Chamber's Order of 26 April 2006, 1 September 2006, Case No. SCSL-2004-16-T-543

³ Transcript 4 August 2006, p5

The Prosecution has not shown how not calling the last 15 witnesses on the original list has affected or will prejudice their case.

5. The Defence for the First and Second Accused submits that the Defence is not under any obligation to show good cause before calling any witness on its witness list or to have the Prosecution determine when a witness should be called to testify. The Defence reminds the Prosecution that it reserves the right to call its witnesses at such time it deems fit in so far as it is within the 21 day disclosure period.

C. Individual Witness Summaries for the First and Second Accused

6. The Defence for the First and Second Accused are aware that summaries for their individual witnesses were not disclosed on the 21st August 2006 as required. As earlier stated in the Joint Defence Disclosure Motion of Individual Witnesses for the First and Second Accused filed on 21 August 2006 at paragraph 12, some of the witnesses are yet to be interviewed in detail or at all, whilst some have been backtracking on their earlier commitment to assist the Defence.⁴
7. Also some of the witnesses expressed their intention to testify but did not give an interview. The witnesses indicated that they would give interviews when they are ready to testify. This is due to the fact that at the time the investigators met with some of the witnesses, it was the farming season and the witnesses were engaged in farming activities and did not want to be interrupted.
8. Besides, the witnesses who are serving soldiers are afraid that the Government of Sierra Leone would dismiss, harass or intimidate them if they testify. Similarly,

⁴ *Prosecutor v Brima, Kamara and Kanu*, Confidential Joint Defence Disclosure of Individual Witnesses for the First and Second Accused Pursuant to the Order of the Trial Chamber Two, 21 August 2006, Case No. SCSL-2004-16-T-530


ex-soldiers of the Sierra Leone Army who wish to testify want guarantees for their safety and security once they become witnesses for the Defence.

9. Notwithstanding the foregoing, the Defence investigators for the First and Second Accused are currently engaged in interviewing and re-interviewing their disclosed individual witnesses. The Defence for the First and Second Accused will ensure that they file their individual witness summaries within 21 days before they testify both in line with the 21 day rule and to ensure that the Prosecution is given enough time to investigate the said witnesses

CONCLUSION

10. The Defence for the First and Second Accused undertake to start filing some of their individual witness summaries by Monday 11 September 2006. The first Accused will be filing 11 individual witness summaries and the Second Accused will be filing 10 individual witness summaries.
11. The Defence for the First and Second Accused humbly submits that they did not mean any disrespect to the Court by not disclosing their individual witness summaries as ordered . The Defence thus undertakes to disclose the summaries of the individual witnesses not later than 21 day before the witnesses are required to testify.
12. The Defence for the First and Second Accused respectfully requests the Honorable Trial Chamber to deny the relief sought in paragraph 18 of the Prosecution Motion especially as it affects the First and Second Accused on the basis that the said relief will not substantially affect or prejudice the Prosecution's case; such relief are curable by the 21 day rule.

Respectfully submitted
On 8 September 2006


PP Andrew Daniels
Lead Counsel-
Kamara Defence

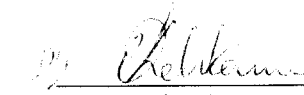

PP Kojo Graham
Lead Counsel-
Brima Defence

Table of Authorities

Prosecutor v Brima, Kamara and Kanu, Urgent Prosecution Motion for Relief in Respect of Violations of the Trial Chamber's Order of 26 April 2006, 29 August 2006, Case No. SCSL-2004-16-T-539.

Prosecutor v Brima, Kamara and Kanu, Kanu-Defence Response to Urgent Prosecution Motion for Relief in Respect of Violations of the Trial Chamber's Order of 26 April 2006, 1 September 2006, Case No. SCSL-2004-16-T-543

Prosecutor v Brima, Kamara and Kanu, Kanu, Transcript 4 August 2006, p 5

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