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SCSL-04-16-A
(019-027)

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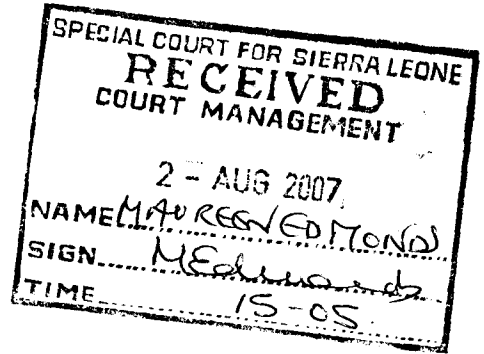
SPECIAL COURT FOR SIERRA LEONE

IN THE APPEALS CHAMBER

BEFORE: Hon. Justice George Gelaga King, Presiding
Hon. Justice Emmanuel Ayoola
Hon. Justice A. Raja N. Fernando
Hon. Justice Renate Winter
Hon. Justice Geoffrey Robertson, QC

Registrar: Mr. Herman von Hebel

Date Filed: 2 August 2007



THE PROSECUTOR **Against** **ALEX TAMBA BRIMA**
BRIMA BAZZY KAMARA
SANTIGIE BORBOR KANU

Case No. SCSL-2004-16-A

KAMARA DEFENCE NOTICE OF APPEAL

Office of the Prosecutor
Dr. Christopher Staker

Defence Counsel for Alex Tamba Brima
Kojo Graham

Defence Counsel for Brima Bazy Kamara
Andrew K. Daniels
Cecil Osho-Williams

Defence Counsel for Santigie Borbor Kanu
Agibola E. Manly-Spain

A. INTRODUCTION

1. Pursuant to Article 20 (Appellate proceedings) of the Statute¹ and Rule 108 of the Rules of Procedure and Evidence² the Kamara Defence hereby files a Notice of Appeal against the Judgement³ and Sentence⁴ of Trial Chamber II pronounced on 20 June 2007 and rendered on 19 July 2007 in the case of Prosecutor against Alex Tamba Brima, Brima Bazzy Kamara (hereafter referred to as 'Kamara') and Santigie Borbor Kanu case no. SCSL 04-16-T

B. UNDERLYING JUDGMENT

2. The Trial Chamber unanimously found Kamara guilty in paragraph 2117 of the Judgement of the following crimes pursuant to Article 6(1) of the Statute:

Count 3: Extermination, a crime against Humanity, punishable under Article 2(b) Statute;

Count 4: Murder, a crime against Humanity, pursuant to Article 2(a) of the Statute;

Count 5: Violence to life, health and physical or mental well-being of persons, in particular murder, a violation of Article 3 common to the Geneva Conventions and of Additional Protocol II, pursuant to Article 3(a) of the Statute;

Count 9: Outrages upon personal dignity, a violation of Article 3 common to the Geneva Conventions and of Additional Protocol II, pursuant to Article 3(e) of the Statute;

¹ Statute of the Special Court for Sierra Leone

² Rules of Procedure and Evidence of the Special Court for Sierra Leone

³ *Prosecutor v. Brima, Kamara, Kanu* Case No. SCSL-04-16-613, Judgment 20 June 2007 ("Trial Judgment").

⁴ *Prosecutor v. Brima, Kamara, Kanu* Case No. SCSL-04-16-624, Sentence 19 July 2007 ("Sentencing Judgment").

Count 10: Violence to life, health and physical or mental well-being of persons, as mutilation, a violation of Article 3 common to the Geneva Conventions and of Additional Protocol II, pursuant to Article 3(a) of the Statute;

Count 12: Conscripting children under age of 15 years into an armed group and/or using them to participate actively in hostilities, and other serious violation of international humanitarian law, pursuant to Article 4(c) of the Statute;

Count 13: Enslavement, a crime against Humanity, pursuant to Article 2(c) of the Statute;

The Trial Chamber also unanimously found Kamara guilty of the following crimes pursuant to Article 6(3) of the Statute.

Count 1: Acts of Terrorism, a violation of Article 3 common to the Geneva Conventions and of Additional Protocol II, pursuant to Article 3(d) of the Statute;

Count 2: Collective Punishments, a violation of Article 3 common to the Geneva Conventions and of Additional Protocol II, pursuant to Article 3(b) of the Statute;

Count 6: Rape, a crime against Humanity, pursuant to Article 2(g) of the Statute;

Count 14: Pillage, a violation of Article 3 common to the Geneva Conventions and of Additional Protocol II, pursuant to Article 3(a) of the Statute;

C. SENTENCING JUDGMENT

3. In its Sentencing Judgment rendered on 19 July 2007 the Trial Chamber found Kamara particularly responsible⁵ under Article 6(1) for

- a. ordering the murder of five civilians in Karina, Bombali District;

⁵ Sentencing Judgment paras 70 and 71.

- b. planning the abduction and use of child soldiers in Bombali District and the Western Area;
 - c. planning the commission of outrages upon personal dignity in the form of sexual slavery in Bombali District and the Western Area;
 - d. planning the enslavement of civilians in Bombali and Western Area;
 - e. aiding and abetting the murder/extermination of civilians at Fourah Bay, Freetown, Western Area;
 - f. aiding and abetting the mutilation of civilians in Freetown, Western Area.
4. Kamara was further found liable under Article 6(3) for crimes committed by his subordinates at Tombodu, Kono District and throughout Bombali District, the Western Area and Port Lokko District.
5. In its Sentencing Judgment rendered on 19th July 2007 the Trial Chamber sentenced Kamara to **A SINGLE TERM OF IMPRISONMENT OF FORTY FIVE YEARS** for all the Counts on which he was found **GUILTY** with credit given him for any period during which he was detained in custody pending trial⁶.

D. GROUNDS OF APPEAL

1. FIRST GROUND OF APPEAL

6. The Trial Chamber erred in law and or fact in paragraphs 1915 and 2117 of the Judgement in finding Kamara responsible/guilty under Article 6(1) for **ordering** the murder of five civilians in Karina in the Bombali District pursuant to **Counts 3, 4 and 5** of the Indictment thereby invalidating the Trial Judgment and leading to a miscarriage of justice.

⁶ Sentencing Judgement (“Disposition”) page 36

2. SECOND GROUND OF APPEAL

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7. The Trial Chamber erred in law and or fact in paragraphs 1278, 1919, 1970 and 2117 of the Judgement in finding Kamara responsible/guilty under Article 6(1) for **planning** the abduction and use of child soldiers in Bombali District and the Western Area pursuant to **Count 12** of the Indictment thereby invalidating the Trial Judgment and leading to a miscarriage of justice.

3. THIRD GROUND OF APPEAL

8. The Trial Chamber erred in law and or fact in paragraphs 1919, 1970 and 2117 of the Judgement in finding Kamara responsible/guilty under Article 6(1) for **planning** the commission of outrages upon personal dignity in the form of sexual slavery in Bombali District and the Western Area pursuant to **Count 9** of the Indictment thereby invalidating the Trial Judgment and leading to a miscarriage of justice.

4. FORTH GROUND OF APPEAL

9. The Trial Chamber erred in law and or fact in paragraphs 1919, 1970 and 2117 of the Judgement in finding Kamara responsible/guilty under Article 6(1) for **planning** the enslavement of civilians in Bombali District and the Western Area pursuant to **Count 13** of the Indictment thereby invalidating the Trial Judgment and leading to a miscarriage of justice.

5. FIFTH GROUND OF APPEAL

10. The Trial Chamber erred in law and or fact in paragraphs 1939, 1940, 1941 and 2117 of the Judgement in finding Kamara responsible/guilty under Article 6(1) for **aiding and abetting** the murder/extermination of civilians at Fourah Bay, Freetown, and the Western Area pursuant to **Counts 3, 4, and 5** of the Indictment thereby invalidating the Trial Judgment and leading to a miscarriage of justice.

6. SIXTH GROUND OF APPEAL

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11. The Trial Chamber erred in law and or fact in paragraphs 1939, 1940, 1941 and 2117 of the Judgement in finding Kamara responsible/guilty under Article 6(1) for **aiding and abetting** the mutilation of civilians in Freetown, Western Area pursuant to **Count 10** of the Indictment thereby invalidating the Trial Judgment and leading to a miscarriage of justice.

7. SEVENTH GROUND OF APPEAL

12. The Trial Chamber erred in law and or fact in paragraphs 1884, 1893 (Kono), 1928 (Bombali), 1950 (Western Area), 1969 (Port Loko) and 2117 of the Judgement in finding Kamara criminally responsible/guilty under Article 6(3) for crimes **committed** by his subordinates at Tombodu, Kono District and throughout Bombali District and the Western Area and Port Loko District pursuant to **Counts 1, 2, 3, 4, 5, 6, 9, 10, 12, 13, and 14** of the Indictment thereby invalidating the Trial Judgment and leading to a miscarriage of justice.

8. EIGHTH GROUND OF APPEAL

13. The Trial Chamber erred in law and or fact in paragraphs 356 to 371 of the Judgement in failing to consider in sufficient detail the question of the credibility of witnesses TF1 -334, TF1- 153, TF1-184 and George Johnson as being likely to be affected by ulterior motives thereby invalidating the Trial Judgment and leading to a miscarriage of justice.

9. NINTH GROUND OF APPEAL (SENTENCE)

14. The Trial Chamber erred in law and or fact in paragraph 80 of the Sentencing Judgement in finding that there were no mitigating circumstances to warrant a corresponding reduction in sentence for Kamara.

10. TENTH GROUND OF APPEAL (SENTENCE)

15. The Trial Chamber erred in law on page 36 of the Sentencing Judgement in imposing a sentence that is excessive and disproportionate in all the circumstances of the case against Kamara.

11. ELEVENTH GROUND OF APPEAL (SENTENCE)

16. The Trial Chamber erred in law in paragraphs 14, 15 and 16 of the Sentencing Judgement in giving undue prominence to retribution and deterrence as the main sentencing purposes in international criminal justice in the determination of the sentence for Kamara.

12. TWELFTH GROUND OF APPEAL (SENTENCE)

17. The Trial Chamber erred in law in paragraph 13 of the Sentencing Judgement in failing to give due consideration to the true intention of the preamble of the United Nations Security Council Resolution 1315 (2000) in the determination of the sentence for Kamara.

13. THIRTEENTH GROUND OF APPEAL (SENTENCE)

18. The Trial Chamber erred in law in paragraph 14 of the Sentencing Judgement in failing to give due prominence to reconciliation as a main sentencing purpose in international criminal justice

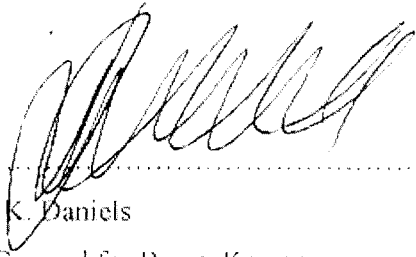
E. RELIEF(S) SOUGHT

For the foregoing reasons, the Kamara Defence respectfully prays the Honorable Appeal Chamber to find the Appeal admissible and;

- (1) Revise the Judgment and enter a plea of **NOT GUILTY** in respect of **Counts 3, 4, and 5** of the Indictment to reflect the fact that Kamara was not responsible under Article 6(1) for **ordering** the murder of five civilians in Karina in the Bombali District.

- (2) Revise the Judgment and enter a plea of **NOT GUILTY** in respect of **Count 12** of the Indictment to reflect the fact that Kamara was not responsible under Article 6(1) for **planning** the abduction and use of child soldiers in Bombali District and the Western Area.
- (3) Revise the Judgment and enter a plea of **NOT GUILTY** in respect of **Count 9** of the Indictment to reflect the fact that Kamara not responsible under Article 6(1) for **planning** the commission of outrages upon personal dignity in the form of sexual slavery in Bombali District and the Western Area.
- (4) Revise the Judgment and enter a plea of **NOT GUILTY** in respect of **Count 13** of the Indictment to reflect the fact that Kamara was not responsible under Article 6(1) for **planning** the enslavement of civilians in Bombali District and the Western Area.
- (5) Revise the Judgment and enter a plea of **NOT GUILTY** in respect of **Counts 3, 4, and 5** of the Indictment to reflect the fact that Kamara was not responsible under Article 6(1) for **aiding and abetting** the murder/extermination of civilians at Fourah Bay, Freetown, and Western Area.
- (6) Revise the Judgment and enter a plea of **NOT GUILTY** in respect of **Count 10** of the Indictment to reflect the fact that Kamara was not responsible under Article 6(1) for **aiding and abetting** the mutilation of civilians in Freetown, Western Area.
- (7) Revise the Judgment and enter a plea of **NOT GUILTY** in respect of **Counts 1, 2, 3, 4, 5, 6, 9, 10, 12, 13, and 14** of the Indictment to reflect the fact that Kamara was not responsible under Article 6(3) for crimes **committed** by his subordinates at Tomboodu, Kono District and throughout Bombali District and the Western Area and Port Loko District by virtue of Kamara's alleged exercise of leadership and effective control.
- (8) Decrease the sentence imposed on Kamara from **FORTY FIVE YEARS** to **NOT MORE THAN FIFTEEN FIVE** years of imprisonment to reflect the true nature and extent of his criminal culpability.

Signed: Counsel for the Appellant Kamara



A handwritten signature in black ink, appearing to read 'A. W. K. Daniels', is written over a horizontal dotted line.

A. W. K. Daniels

Lead Counsel for Bazy Kamara