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SCSL-2003-06-PT-05
(1126-1131)
IN THE SPECIAL COURT FOR SIERRA LEONE
Freetown - Sierra Leone

Before: Judge Bankole Thompson,
Designated Judge

Registrar: Robin Vincent

Date filed: 7 July 2003

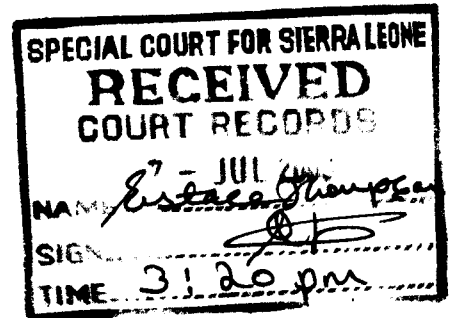
THE PROSECUTOR

Against

ALEX TAMBA BRIMA

also known as (aka) TAMBA ALEX BRIMA Aka GULLIT

Case No. SCSL-2003-06-PT



SUBMISSION OF THE GOVERNMENT OF THE REPUBLIC OF SIERRA LEONE
IN RESPONSE TO MOTION FOR BAIL OR FOR PROVISIONAL RELEASE

Office of the Prosecutor:

Mr. Luc Côté
Mr. Nicholas Browne-Marke
Mr. Boi-Tia Stevens

Defence:

Mr. Terrence Michael Terry

**Office of the Attorney-General and Minister of
Justice of the Republic of Sierra Leone:**

Mr. Lahai M. Farma
Mr. Joseph G. Kobba
Mr. Pascal Turlan

**SUBMISSION OF THE GOVERNMENT OF THE REPUBLIC OF SIERRA LEONE
IN RESPONSE TO DEFENCE MOTION FOR BAIL OR FOR PROVISIONAL
RELEASE**

This Submission is filed before the Special Court for Sierra Leone (the “**Court**”) by the Office of the Attorney-General and Minister of Justice on behalf of the Government of the Republic of Sierra Leone (the “**State**”) pursuant to Rule 65(B) of the Rules of Procedure and Evidence (the “**Rules**”).

I. INTRODUCTION

1. The State of Sierra Leone, the Host Country of the Court and the State to which the Accused seeks to be released, hereby supports that the Defence Motion does not meet the burden of satisfying the Court that the Accused will appear for trial and will not pose any danger to any victim, witness or other person, and that this Motion should be denied.

II. BACKGROUND

2. On 7 March 2003, the Designated Judge approved the indictment against Alex Tamba BRIMA also known as (aka) Tamba Alex BRIMA Aka GULLIT (the “**Accused**”). On 10 March 2003, the Accused was transferred from the custody of Sierra Leone Police to Special Court Officials and detained at the Special Court Detention Facility in Bonthe, pursuant to a purported order by way of a *Warrant of Arrest and Order for Transfer and Detention* based on the approved Indictment and granted by the Designated Judge on 7 March 2003. On 15 March 2003, the Designated Judge ordered the detention on remand of the Accused until further order of the Court. The Accused has remained in detention until present and his trial is presently pending before the Trial Chamber of the Court. The Accused is charged with Crimes against Humanity, Violations of Article 3 Common to the Geneva Conventions and of Additional

Protocol II and Other Serious Violations of International Humanitarian Law, in Violation of Articles 2, 3 and 4 of the Statute of the Special Court for Sierra Leone.

- 3. On 28 May 2003, the Defence Counsel of the Accused filed a Motion for Bail or for Provisional Release of the Accused.

III. ARGUMENT

- 4. The State submits that the determination of the validity of the Indictment or the Order of the Designated Judge is irrelevant to the issue of granting of bail to the Accused. In any event, the State further submits that it has no obligations in stating a case in respect of the determination of the validity or otherwise of the Order of the Designated Judge dated 7 March 2003.
- 5. Further, the State submits that the issue of granting of bail, is entirely or solely based on the criteria as set out or provided for under Rule 65 of the Rules. While it is up to the prosecution to prove that bail should not be granted, the State submits that the practical consequences of the granting of bail would entail practical consequences for the State that hereby need to be addressed. The State submits that unless the practical consequences outlined below were to be addressed satisfactorily, bail should not be granted.
- 6. Therefore, the State supports that its submission should be limited to the practical consequences relating to provisional release.
- 7. In light of the above, the State further submits that it cannot guarantee the satisfaction of the Court that the Accused will appear for trial and, if released, will not pose a danger to any victim, witness or other person, nor can it guarantee that, if released, the Accused will not flee the country or seek to enter into contact with any person who may appear at its trial. The State further supports that the release of the Accused in

Sierra Leone would entail striking consequences for the security situation within Sierra Leone. Finally, the State submits that, should the order be made that the Accused be under house arrest in the custody of Sierra Leone, it cannot guarantee the ability of the Sierra Leone authorities to provide such a service.

- 8. In the premises above, it is submitted that the State opposes the granting of bail to the Accused on the following grounds.

The Accused will appear for trial

- 9. That the Accused may likely flee the country if he is granted bail and the State cannot guarantee that it can prevent him from fleeing, nor can it guarantee the satisfaction of the Court that the Accused will appear for trial.

- 10. The State acknowledges that the Court must rely on its cooperation for the surveillance of the Accused, would he be released on bail. While the State reiterates its commitment to assisting the Court and fully cooperating with it in accordance with its obligations under the Agreement establishing the Special Court, its current lack of police and military capacities do not allow it to guarantee the adequate and effective surveillance of the Accused, nor to prevent him from fleeing to another country or to such places where he could hide, and therefore, the State cannot accept the responsibility for his attendance and presence at his trial.

If released, the Accused will not pose a danger to any victim, witness or other person

- 11. That the State cannot support the guarantee that the Accused, if released, cannot pose a danger to any victim, witness or other person.

- 12. The lack of presence of the police forces or other security forces of the State in remote areas of the country and generally in the whole of the territory, do not allow to ensure

that the Accused would not be in a position to harass or otherwise pose a danger to potential victims, witnesses or any other person who might appear before the Court.

13. In light of the above conditions, that the State cannot also guarantee that the Accused will not enter into contact with, interfere with, intimidate or prevent witnesses from attending trial or to give evidence.

The security situation in Sierra Leone

14. That, in addition, the State submits that the security situation in Sierra Leone does not allow it to guarantee the proper conditions for the State to accept responsibility in relation to providing services such as house arrest or any other practical matters relating to the Accused, including housing, protection or any condition for release that may be set by the Court. Should the order be made that the Accused be under house arrest in the custody of Sierra Leone, the State cannot guarantee the ability of the Sierra Leone authorities to provide such a service.
15. The State further submits that the offences the Accused is charged with are serious and grave, the cost and practicability of taking adequate precautions to trace absconding accused persons is enormous and the State lacks capacity, resources and mechanism to do so.
16. Further, that the State being both the Host Country of the Court and the State to which the Accused seeks to be released, the release of the Accused within the country would pose unbearable danger and/or be a security threat. The Accused was a suspect of a treason offence prior to his indictment by the Court. The release of the Accused in Sierra Leone would entail striking consequences for the security situation within Sierra Leone.

IV. CONCLUSION

17. By reason of the aforesaid the State supports that the Bail Application should be dismissed.

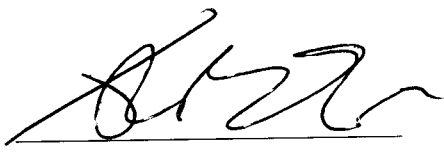
Done in Freetown on this 7th day of July 2003.

For the Attorney-General and Minister of Justice,



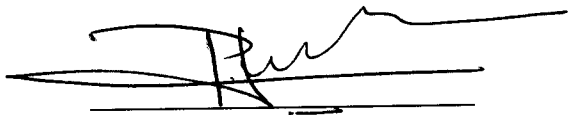
Mr. Lahai M. FARMA

Senior State Counsel



Mr. Joseph G. KOBBA

Senior State Counsel



Mr. Pascal TURLAN

Focal Point for the Special Court