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SCSL - 2003 - 10 - PT - 020
(204-298)

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SPECIAL COURT FOR SIERRA LEONE

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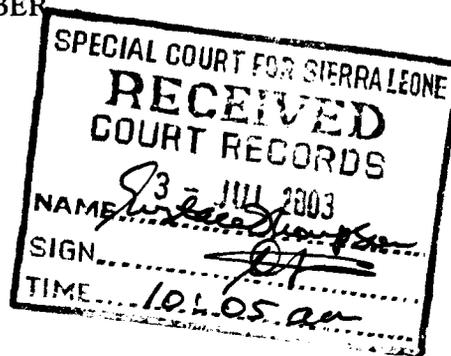
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THE TRIAL CHAMBER

Before: Judge Pierre Boutet
Designated Judge

Registrar: Robin Vincent

Date: the 2nd day of July 2003



The Prosecutor Against: Brima Bazzy Kamara aka Ibrahim Bazzy
Kamara aka Alhaji Ibrahim Kamara
(Case No. SCSL-2003-10-PT)

**INTERIM ORDER FOR THE TRANSMISSION OF THE DISCLOSURE
MATERIALS TO THE REGISTRAR**

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

Defence Counsel:
Ken Fleming, Q.C.

Defence Office:
Claire Carlton-Hanciles, Defence Associate
Ibrahim Yillah, Defence Associate
Haddijatu Kah-Jallow, Defence Associate
Sam Scratch, Defence Intern

THE SPECIAL COURT FOR SIERRA LEONE (“the Court”)

SITTING as Judge Pierre Boutet, Designated pursuant to Rule 28 of the Rules of Procedure and Evidence (“the Rules”);

CONSIDERING the Extremely Urgent Prosecution Motion to Allow Disclosure to the Registry and to Keep Disclosed Material Under Seal until Appropriate Protective Measures are in Place of the 11th day of June 2003 (“the First Prosecution Motion for Disclosure”);

BEING SEIZED of the Extremely Urgent Prosecution Motion for Interim Orders to Allow Disclosure to the Registry and to Keep Disclosed Material Under Seal until Appropriate Protective Measures are in Place of the 1st day of July 2003 (“the Second Prosecution Motion for Disclosure”);

WHEREAS the Defence Office did not file any response to “the First Prosecution Motion for Disclosure”;

CONSIDERING the Prosecution Motion for Immediate Protective Measures for Witnesses and Victims and for Non-Public Disclosure of 11th 2003, seeking an order for the implementation of several protective measures for witnesses and victims and for the protection of the confidentiality of all non-public materials disclosed to the Defence;

CONSIDERING that the Initial Appearance of the Accused took place on the 4th day of June 2003;

CONSIDERING the Registrar’s Practice Direction on Disclosure by the Prosecutor;

CONSIDERING the Statute of the Special Court, and in particular Articles 16 and 17 thereof, and Rules 7, 53, 54, 66, 68, 69, and 75 of the Rules;

SUBMISSIONS OF THE PROSECUTION

1. The Prosecution submits that “the First Prosecution Motion for Disclosure” shall be superseded by the filing of the instant Motion;
2. Pursuant to Rule 66 (A) (i), the Prosecution identifies the 4th day of July 2003 as the expiration date of its disclosure obligations towards the Defence;
3. Pending deliberation and appropriate ruling on the Prosecution Motion for Immediate Protective Measures for Witnesses and Victims and for Non-Public Disclosure, the Prosecution fears that disclosure of materials to the Defence would jeopardize the

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safety and privacy of victims and witnesses. As interim measures, the Prosecution consequently requests:

- (a) an Order allowing the Prosecution to transmit the disclosure materials pursuant to Rule 66 (A)(i) to the Registry;
- (b) an Order to the Registry to keep the disclosed material under seal until orders for appropriate measures for witnesses, victims and non-public materials have been rendered;

AFTER HAVING DELIBERATED

Introduction

4. Rule 66 (A) (i) provides that, within 30 days of the Initial Appearance of an accused, the Prosecutor shall disclose to the Defence copies of the statements of all witnesses whom he intends to call to testify and all evidence to be presented at Trial pursuant to Rule 92 bis.

5. In addition, Rule 68 (B) provides that, within the same time limit, the Prosecutor shall also disclose to the Defence the existence of any known evidence which tends to suggest the innocence of the accused, mitigate his guilt or affect the credibility of the Prosecutor evidence. The Prosecutor is under a continuing obligation to disclose such exculpatory evidence.

6. For reference herein, all materials envisaged in Rules 66 (A) (i) and 68 (B) will be indicated as "disclosure materials".

On the scheduling of the disclosure obligations

7. The Initial appearance of the Accused has been held on the 4th day of June 2003. The Accused pleaded not guilty on all and each on the counts contained in the Indictment against him and the matter was adjourned *sine die*. The Court considers the Initial Appearance of the Accused as concluded on the same date and deems this day as the beginning date of the Prosecutor's disclosure obligations pursuant to Rule 66 (A) (i) and Rule 68 (B);

8. The Court therefore finds and confirms that the 4th day of July 2003 is the expiration date for the Prosecutor's disclosure obligations pursuant to Rule 66 (A) (i) and Rule 68 (B);

B

On the request to make the disclosure to the Registry

9. The Court notes that in the Practice Direction for Disclosure by the Prosecutor, the Registrar directs that disclosure pursuant to Rule 66 (A) (i) shall be made to the Defence Counsel, identified either as a Counsel engaged by an accused pursuant to Rule 44 or a Counsel assigned to an accused pursuant to Rule 45, and that the Defence Office is not in a position to receive the disclosure materials.

10. Pending assignment of Counsel in accordance with Rule 45, the Registry shall certify the Prosecution fulfilment of the obligations to disclose and the sealing and dating of the disclosure materials until assignment of Counsel is accomplished.

11. The Court endorses the provisions set forth in the Practice Direction for Disclosure by the Prosecutor. With a view to ensure a balance with the appropriate protection of witnesses and victims as well as for the confidentiality of all non-public materials subject to disclosure, the Court nevertheless deems it essential and necessary that disclosures pursuant to Rule 66 (A) (i) and Rule 68 (B) be made;

12. Pending deliberation and ruling on the Prosecution Motion for Immediate Protective Measures for Witnesses and Victims and for Non-Public Disclosure, it is therefore necessary to guarantee that the fulfilment of the Prosecution's obligations to disclose shall encompass appropriate interim measures for the protection of witnesses and victims as well as for the confidentiality of all non-public materials subject to disclosure;

13. Considering the aforementioned and relying on a common practical procedure previously adopted by the Court the Prosecution may comply with its disclosure obligations pursuant to Rule 66 (A) (i) and Rule 68 (B) by transmitting the disclosure materials to the Registry. The Registrar shall keep the disclosure materials under seal until orders for appropriate protective measures for witnesses, victims and non-public materials have been issued;

FOR THESE REASONS THE SPECIAL COURT

HEREBY ORDERS the Prosecutor to transmit, or on before the 4th day of July 2003, the disclosure materials to the Registrar;

INSTRUCTS the Registry to certify receipt of the disclosure materials from the Prosecutor. The Registry shall seal and date the disclosure materials and liaise with the Prosecution to provide for their proper custody.

When a decision on the Prosecution Motion for Immediate Protective Measures for Witnesses and Victims and for Non-Public Disclosure has been rendered and, if needed,

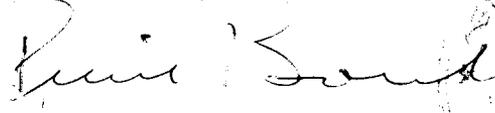
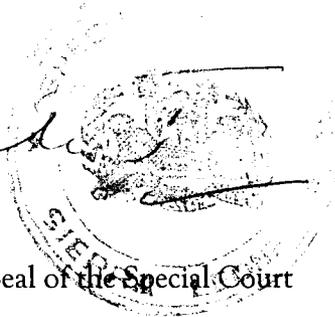
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ordered measures will have been put in place, the Registrar shall then make available the disclosure materials to the Defence Counsel and the disclosure shall then take effect. The Registry shall consult with the Prosecution and the Defence Office for this purpose.

The "First Prosecution Motion for Disclosure" shall therefore be considered moot and superseded;

Done in Freetown, Sierra Leone this 2nd day of July 2003.

Judge Pierre Boutet
Designated Judge

Seal of the Special Court