

(6137-6140)

IN THE SPECIAL COURT OF SIERRA LEONE**TRIAL CHAMBER II**

Before: The Trial Chamber
Judge Teresa Doherty, Presiding Judge
Judge Richard Brunt Lussick
Judge Julia Sebuntinde

Registrar: Mr Robin Vincent

Date Filed: 16th February, 2005

THE PROSECUTOR

Against

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

**KAMARA – REQUEST FOR AN ORDER NOT TO DISCLOSE
PHOTOGRAPHY, VIDEO AND AUDIO RECORDING OF THE TRIAL TO THE
PUBLIC AND/OR THIRD PARTIES**

Case No. SCSL 2004-16-PT

Office of the Prosecutor
Luc Cote, Chief of Prosecutions
Lesley Taylor

Defence Counsel for Brima Bazy Kamara
Wilbert Harris
Mohamed Pa-Momo Fofanah

Counsel for Co-accused
Kevin Metzger, Glenna Thompson and Kojo Graham for **Alex Tamba Brima**
Geert-Jan Knoops, Carry Knoops and A.E. Manly-Spain for **Santigie Borbor Kanu**

SPECIAL COURT FOR SIERRA LEONE	
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COURT MANAGEMENT	
16 FEB 2005	
NAME	NEIL GIBSON
SIGN	<i>Neil Gibson</i>
TIME	14:06

I. INTRODUCTION:

1. Relying on the rights reserved to accused persons on trial before the Special Court for Sierra Leone (“the Court”) as contained in Article 17 of the Statute of the Court, together with the requirement that “[a] Judge or a Chamber may, on its own motion, or at the request of either party...order appropriate measures to safeguard the privacy and security of victims and witnesses, *provided that the measures are consistent with the rights of the accused*” (emphasis added) pursuant to Rule 75(A) of the Rules of Procedure and Evidence of the Court as amended (“the Rules”), Mr. Brima Bazy Kamara also known as Ibrahim Bazy Kamara or Alhaji Ibrahim Kamara (“the accused”) hereby makes this application entitled “Kamara – Request for an Order Not to Disclose Photography, Video and Audio Recordings of the Trial to the Public and/or Third Parties” before this Trial Chamber.

II. THE APPLICATION:

2. This application is filed in support of previous applications made to this Trial Chamber by Counsel for Mr. Kanu and Mr. Brima respectively on the “Request for an Order Not to Disclose Photography, Video and Audio Recordings of the Trial to the Public and/or Third Parties” dated 11 February, 2005 respectively.
3. This application underscores the fears expressed by the Defence Teams of both Mr. Kanu and Mr. Brima that the disclosure of the image of the accused in the trials before this Trial Chamber to the public and/or third parties will severely affect, and consequently jeopardize, the case for the accused. It is also agreed that disclosure of images of the accused at the trial would influence the perceptions and judgements formed by witnesses testifying before this Trial Chamber, particularly those who may never have personally seen, known or have difficulty in recalling the images of the respective accused persons. This contention by the accused is crucial to the fairness principle espoused by the Court, considering that the Prosecution’s case theory as

stated in its Pre-Trial Brief¹ goes in part to show that the identity of the respective accused persons shall greatly assist in proving its case against them. It is therefore contended that determining the identity of the accused via image disclosures at the trial prior to the testimony of a given witness will undermine the accused's right to fair trial².

4. This application also notes that current protective measures sought and granted the Prosecution safeguarding the privacy and security of witnesses and victims³ in the Prosecution's Witnesses and Victims Section are designed to help the Prosecution conduct a fair and efficient trial against the accused. It is argued that granting similar protection to the accused will not only accord with fair trial standards, but will strengthen the 'presumption of innocence' principle contained in the Statute of the Court⁴.
5. It is further noted that Rule 81(D) of the Rules, as re-echoed in paragraph 5 of the "Kanu - Request for an Order Not to Disclose Photography, Video and Audio Recordings of the Trial to the Public and/or Third Parties" of 11 February, 2005, provides that "Photography, video-recording or audio-recording of the trial, otherwise than by the Registry, *may be authorized at the discretion of the Trial Chamber*". (Emphasis added).
6. The Defence therefore requests this Trial Chamber to order that the Registry refrains from publishing or disclosing photographs, video and audio records of the accused to the public (including the media) and/or other third persons, and ensures that reasonable steps are taken to prevent witnesses of the Prosecution from accessing photographs, video and audio records of the accused prior to testifying before this Trial Chamber.

¹ See Prosecution's Pre-Trial Brief Pursuant to Order for Filing Pre-Trial Briefs (under Rules 54 and 73bis) of February 13, 2004.

² Again, reference is made here to article 17(2) of the Statute of the Special Court for Sierra Leone as well as to Rule 75(A) of the Rules of Procedure and Evidence of the said Court.

³ See, for example, Trial Chamber I's "Decision on Prosecution Motion for Modification of Protective Measures for Witnesses" dated 5 July, 2004, SCSL-2004-15-T.


7. The Defence also requests that third persons be prohibited from taking photographs, video and audio recordings of the accused during trial proceedings.


III. RELIEF SOUGHT:

8. Pursuant to the foregoing, the Defence, on behalf of the accused, respectfully prays for the following orders from this honourable Trial Chamber:
- a) That the Registry refrains from publishing or disclosing photographs, video and audio records of the accused to the public (including the media) and/or other third persons respectively, and ensures that reasonable steps are taken to prevent witnesses of the Prosecution from accessing photographs, video and audio records of the accused prior to testifying before this Trial Chamber.
 - b) That third persons be prohibited from taking photographs, video and audio recordings of the accused during trial proceedings.

Respectfully Submitted,

Done on this 16th Day of February, 2005


 PP. Wilbert Harris -
 Lead Counsel.


 Mohamed Pa-Momo Fofanah -
 Co-Counsel.

⁴ Id., article 17(3) of the Statute of the Special Court for Sierra Leone.