



**SPECIAL COURT FOR SIERRA LEONE**

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**TRIAL CHAMBER II**

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

**Registrar:** Robin Vincent

**Date:** 2 March 2005

**PROSECUTOR**                                      **Against**                                      **Alex Tamba Brima**  
**Brima Bazy Kamara**  
**Santigie Borbor Kanu**  
**(Case No.SCSL-04-16-PT)**

**DECISION ON THE DEFENCE MOTION FOR  
DEFECTS IN THE FORM OF THE INDICTMENT**

Office of the Prosecutor:  
Luc Côté  
Lesley Taylor  
Boi-Tia Stevens

Defence Counsel for Alex Tamba Brima:  
Kevin Metzger  
Glenna Thompson  
Kojo Graham

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

Defence Counsel for Santigie Borbor Kanu:  
Geert-Jan Alexander Knoops  
Cary Knoops  
Abibola E. Manley-Spaine

NEIL GIBSON  
10:31

**TRIAL CHAMBER II** (“Trial Chamber”) of the Special Court for Sierra Leone (“Special Court”), composed of Judge Teresa Doherty, presiding, Judge Richard Lussick and Judge Julia Sebutinde;

**BEING SEISED** of the Defence Motion for Defects in the Form of the Indictment (“the Motion”), filed on 1 March 2005 by the Accused Brima pursuant to Rule 72 of the Rules of Procedure and Evidence (“the Rules”);

**NOTING** that the Motion is a preliminary motion as defined by Rule 72(B) (ii) of the Rules;

**NOTING** that Rule 72(A) provides:

“Preliminary motions by either party shall be brought within 21 days following disclosure by the Prosecutor to the Defence of all the material envisaged by Rule 66(A)(i).”

**NOTING** that Rule 50(B) provides:

“If the amended indictment includes new charges and the accused has already made his initial appearance in accordance with Rule 61:

- i. A further appearance shall be held as soon as practicable to enable the accused to enter a plea on the new charges;
- ii. Within seven days from such appearance, the Prosecutor shall disclose all materials envisaged in Rule 66(A)(i) pertaining to the new charges;
- iii. The accused shall have a further period of ten days from the date of such disclosure by the Prosecutor in which to file preliminary motions pursuant to Rule 72 and relating to the new charges.”

**NOTING** that the Motion was filed on 1 March 2005;

**NOTING** that the disclosure referred to in Rule 72(A) for the initial Indictment dated 7 March 2003 was made by the Registrar on behalf of the Prosecution on 3 June 2003<sup>1</sup>;

**NOTING** that in respect of the Amended Consolidated Indictment Judge Boutet ordered on 17 May 2004 that the time limit of ten days for filing preliminary motions to run from that date;<sup>2</sup>

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<sup>1</sup> Letter of the Registrar to former Defence Counsel Terrence Terry, Service of Disclosure Materials in accordance with the ruling of Judge Bankole Thompson the Prosecution Motion for Immediate Protective Measures for Witnesses and Victims and for Non Public Disclosure, Prosecutor v. Alex Tamba Brima, SCSL-2003-06-PT, dated 31 May 2003; acknowledgment of receipt of disclosed material by Defence Counsel Terrence Terry signed on 3 June 2003.

FINDING accordingly that the Motion was clearly brought out of time in contravention of Rules 72(A) and 50(B)(iii);

HEREBY DISMISSES THE MOTION.

Done at Freetown this 2<sup>nd</sup> day of March 2005

Judge Richard Lussick

Judge Teresa Doherty  
Presiding Judge

Judge Julia Sebutinde

[Seal of the Special Court for Sierra Leone]



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<sup>2</sup> Prosecutor v. Brima et al., Transcripts, Further Initial Appearance, 17 May 2004, page 24.