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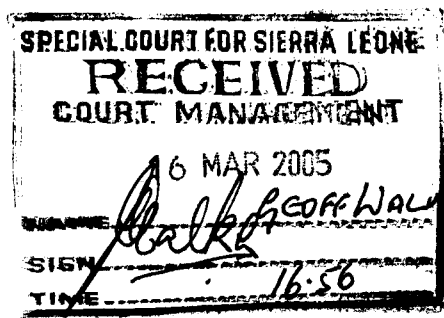
THE SPECIAL COURT FOR SIERRA LEONE Case No. SCSL-2004-16-T

BEFORE:

Judge Teresa Doherty, Presiding
Judge Julia Sebutinde
Judge Richard Lissack

Registrar: Mr Robin Vincent

Date Filed: 16 March 2005



The Prosecutor

-v-

ALEX TAMBA BRIMA also known as TAMBA ALEX BRIMA also known as GULLIT

BRIMA BAZZY KAMARA also known as IBRAHIM BAZZY KAMARA also known as ALHAJI IBRAHIM KAMARA

And

SANTIGIE BORBOR KANU ALSO KNOWN AS 55 also known as FIVE - FIVE also known as SANTIGIE KHANU also known as SANTIGIE BOBSON KANU also known as BORBOR SANTIGIE KANU

CASE NO. SCSL-2004-16-PT

BRIMA – REPLY TO PROSECUTION RESPONSE TO RENEWED DEFENCE MOTION FOR DEFECTS IN THE FORM OF THE INDICTMENT AND APPLICATION FOR EXTENSION OF TIME (IF APPLICABLE)

Office of the Prosecutor

Defence Counsel

Luc Coté
Lesley Taylor

Kevin Metzger
Glenna Thompson
Kojo Graham

BACKGROUND

1. Subsequent to a decision of Trial Chamber II on 3rd March 2005 the Defence, on 4th March, filed a Renewed Motion for Defects in the Form of the Indictment and Application for Extension of Time (If Applicable) (“the renewed motion”).
2. On 7th March 2005 the Prosecution filed its response to the renewed motion.
3. In terms the Prosecutions arguments are that the renewed motion was filed in contravention of Rules 72(A), 50(B)(iii), 72(C) and 72(D). The Prosecution further submits that the renewed motion seeks inappropriate relief and that the articulated grounds are entirely without merit.

ARGUMENT

4. The Defence respectfully submits that the renewed motion was filed within 21 days of the Prosecution’s disclosure of material that it proposed to rely upon pursuant to Rule 66(A)(i). The basis for this submission is that the Prosecution of this Accused is now by virtue of the Further Amended Consolidated Indictment which was filed by the Prosecution on 18th February 2005. Effectively there has been no further “initial appearance” as envisaged by Rule 66(A)(i) and there has been no previous objection lodged by the Defence for Brima as detailed in Rule 72(C). In the circumstances it is respectfully submitted that the Honourable Trial Chamber is not only entitled, but in the interests of a fair trial, practically obliged to consider the merits of the Defence application.
5. In any event, if the Defence application is considered to be out of time by virtue of the application of Rule 50(B)(iii) it is respectfully submitted that the Honourable Trial chamber can properly, upon application of Rule 116, allow the extension of the applicable time limit on the showing of good cause.

The Renewed Motion Seeks Inappropriate Relief

6. It is respectfully submitted that the Prosecution's arguments in this regard do not properly address the Defence submissions. Respectfully the Further Amended Consolidated Indictment is in breach of the Decision of Trial Chamber I in the Issa Hasan Sesay case¹ which required that the then Indictment ought to have been amended by making certain deletions.

The Articulated Grounds of the Renewed Motion are without Merit

7. The Defence reiterated its position as stated in the renewed Motion. It is respectfully submitted that the Defence Motion raises matters of significance and import to the Accused who, in turn, were the Prosecution's submissions to be accepted, faces the erosion of his rights to a fair trial by virtue of the Prosecution's insistence on the strict appliance of time limits.
8. The Defence is content, if required to articulate its submissions orally before the Trial Chamber should this be required.

Conclusion

9. The Defence urges the Honourable Trial Chamber to consider the Merits of this motion, considering the clarification that will be achieved in respect of the offences which the Accused has to face and the economy to judicial time in meeting clearer allegations by allowing the Defence to concentrate on real issues as opposed to wide-ranging general allegations that will of necessity mean a longer trial.

Respectfully submitted

This 16th day of March 2005

Kevin Metzger
Glenna Thompson



¹ Cited in the Renewed motion at paragraph 5.

References

As per Renewed Motion