

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

BEFORE:

Judge Teresa Doherty, Presiding
Judge Julia Sebutinde
Judge Richard Lissack

Registrar: Mr Robin Vincent

Date Filed: 4th 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 – RESPONSE TO PROSECUTION’S LETTER OF 4TH MARCH 2005 IN
RESPONSE TO REQUEST FOR DISCLOSURE

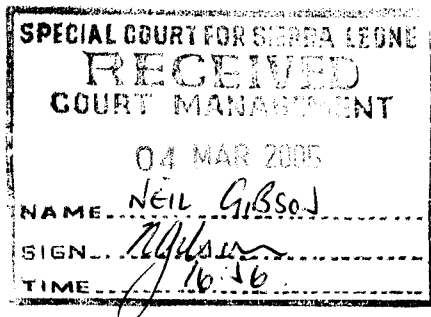
Office of the Prosecutor

Luc Coté
Robert Petit

Defence Counsel

Kevin Metzger
Glenna Thompson
Kojo Graham

SCSL-04-16-PT



1. The Defence for Tamba Brima has received a letter from the Prosecution in response to its request for disclosure of certain documents filed on the 2nd March 2005 and files this motion in response.
2. The Defence notes that the witness named is actually TFI – 081 and all references to TFI -081 relate to the witness referred to in the document previously filed.
3. The Defence renews its request for the following:
 - a. Original medical reports of those treated by FAWE.
 - b. The reason or reasons for the project coming to an end in March 2000.
 - c. Details of all funds expended with specific regard to this particular project.
 - d. All source materials used to compile his report.

Legal Basis

4. The witness has clearly used a report as a basis for his statement. He makes his statement as an expert witness and the Defence are entitled to view all the material or materials from which he compiled his statistics. Disclosure of these is necessary to determine the consistency or otherwise of any of the prosecution's own witnesses who may have been patients of the programme run by FAWE (For example witness TFI- 023). Clearly the witness's own version of events is as told to him and recorded by him in his notes without which the bulk of his statement could not have been made.
5. The Defence submits that as an Expert Witness the Defence is entitled to view all working papers that were used to compile his report. This is in view of the fact that the witness' statement is primarily about injuries which took place at a time and place which may not have been within his personal knowledge.
6. The statistics relied upon in his report must have been obtained from original records, presumably kept by FAWE. It is submitted that the Defence is entitled to disclosure of the same in order to ascertain, at the very least, how the said statistics were obtained ie whether from notes taken by medical personnel directly from the particular complainant or from clinical observation.
7. With reference to the Prosecution's letter of 4th March 2005 (appended hereto)¹, it is respectfully submitted that the advice referred to fails to take into account the rights of the accused in particular, failing to place him in a position to know the case he has to meet fully. The fact that, if deemed relevant, the Defence are entitled to pursue this matter in cross examination is proof enough in our submission that the relevant records upon which the statement is based ought properly to be disclosed in order to ensure a fair trial for the accused.

¹ Page 2, paragraphs 2 and 3

Reliefs sought

8. The Defence therefore seeks disclosure the following:
 - a. Original medical reports of those treated by FAWE.
 - b. The reason or reasons for the project coming to an end in March 2000.
 - c. Details of all funds expended with specific regard to this particular project.
 - d. All source materials used to compile his report.
 - e. That this matter be expedited
 - f. That there be an oral hearing of this application

9. This request is made pursuant to Rule 66 (A) iii of the Rules of Evidence and Procedure for the Special Court for Sierra Leone.

Respectfully submitted

This 4th day of March 2005

Kevin Metzger
Glenna Thompson

