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SCSL-2003-07-PT-2D-039
(616-618)

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Case No. SCSL - 2003 - 07 - PT

SPECIAL COURT FOR SIERRA LEONE

Before: Judge Thompson, Presiding Judge
Judge Itoe
Judge Boutet

Registrar: Robin Vincent

Date Filed: 9th June 2003

Date Signed: 9th June 2003

THE PROSECUTOR

Against

MORRIS KALLON also known as (aka) BILAI KARIM

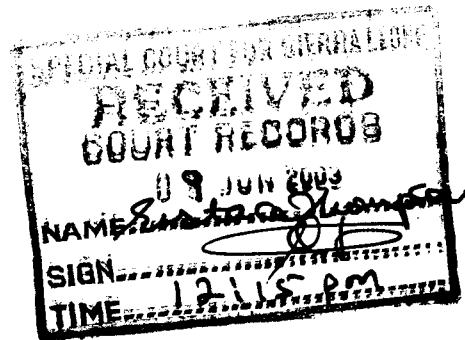
**DEFENCE REPLY TO RESPONSE OF PROSECUTION TO DEFENCE
"APPLICATION FOR EXTENSION OF TIME TO FILE PRELIMINARY
MOTIONS"**

Office of the Prosecutor:

Luc Cote, Chief of Prosecution
Sharon Parmar, Assistant Trial Counsel

Defence Counsel:

James Oury
Steven Powles



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Introduction

The Prosecution filed its Response on 6th June 2003 (“the Response”) to the Defence Application dated 29th May 2003 seeking an extension of time to file preliminary motions. This Reply on the part of the Defence addresses two issues contained in the Response.

1. Reference to ‘Material’ not in the possession of the Defence

In paragraph 5 of the Response (**III Objective considerations**) the Prosecution state

“This objective and spirit of maintaining fair and expeditious proceedings was clearly articulated by the Judges of this Court when they adopted Rule 72,”
[Emphasis Added]

The Defence make reference to these understandings asserted by the Prosecution as ‘Material’, whether oral or written. The Defence is not privy to this Material and is unable to Reply as a consequence.

In the event that this Material is relied upon by the Court in reaching its decision the Defence seek disclosure of this Material in order to be in a position to reply. In the absence of such Material being made available this would place the Defence at an unfair disadvantage in the context of this Reply.

In the event that the Material is disclosed then the Defence additionally requests a limited extension of time of one day from the date of such disclosure to consider whether further submissions are required in the context of this Reply.

2. Preparation of Preliminary Motions – Implied Limitation on Minimum Rights of Accused

The Defence is deeply concerned and invites the Court to reject the submission contained in paragraph 6 of the Response. The submission is dangerously speculative and without any evidential foundation.

The Defence are not in a position to reply to the specific content of the Defence contact with the Accused as such communications are subject to Lawyer-Client Privilege and are privileged.¹

¹ Rule 97 of the Rules

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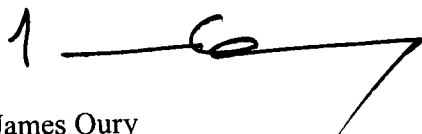
The Prosecution assert that "*the preparation of the preliminary motions as outlined by the Defence do not require such extensive contact with the Accused*" [emphasis added].

Such an argument seeks to undermine a fundamental **minimum right** [emphasis added] of the accused which is to ensure that he is afforded adequate time and facilities for the preparation of his defence.²

The submission also has the impact of eroding the fundamental ethical duties of a Defence counsel to keep the accused fully informed of the proceedings³ and to advise and represent his interests generally.⁴

The Defence submits that the Prosecution submission is an opportunity to highlight the importance of the minimum rights contained in the Statute.

Dated 9th June 2003



James Oury
Steven Powles

Freetown Sierra Leone

² Article 17, 4 b of the Statute of the Special Court for Sierra Leone

³ Article 7 Code of Professional Conduct for Defence Counsel ICTR 8th June 1998 ("Defence Code ICTR") and Article 12 Code of Conduct for Defence Counsel appearing before the International Tribunal ICTY ("Defence Code ICTY")

⁴ Article 4 Defence Code ICTR and Article 8 Defence Code ICTY