

Case No. SCSL-2004-16-T
THE PROSECUTOR OF
THE SPECIAL COURT
V.
ALEX TAMBA BRIMA
BRIMA BAZZY KAMARA
SANTIGIE BORBOR KANU

THURSDAY, 26 MAY 2005
9.40 A.M.
TRIAL

TRIAL CHAMBER II

Before the Judges:	Teresa Doherty, Presiding Julia Sebutinde Richard Lussick
For Chambers:	Mr Simon Meisenberg
For the Registry:	Ms Maureen Edmonds
For the Prosecution:	Ms Lesley Taylor Ms Melissa Pack Ms Karen Abugaber Ms Maja Dimitrova (Case Manager)
For the Principal Defender:	No appearances
For the accused Alex Tamba Brima:	Ms Glenna Thompson
For the accused Brima Bazy Kamara:	Mr Wilbert Harris Mr Ibrahim Mansaray
For the accused Santigie Borbor Kanu:	Mr Geert-Jan Alexander Knoops

1 [TB260505A - SV]

2 Thursday, 26 May 2005

3 [The accused not present]

4 [Open session]

5 [The witness entered court]

6 [Upon commencing at 9.40 a.m.]

7 MR FOFANAH: May it please Your Honours, our colleague
8 Ms Thompson was within the Chamber but she just left to use the
9 convenience. So I apologise for her absence.

10 PRESIDING JUDGE: Thank you, Mr Fofanah. Good morning,
11 counsel. I must apologise for being late but certain matters
12 necessitated some consideration on my part, and following the
13 certain documents, I consider that we are obliged to postpone
14 this trial until the 8th of June. Counsel are now aware of the
15 motion that has been filed which, in my view, should be decided
16 upon before this case can continue. We are very sorry that this
17 may entail a short delay in the proceedings, but we've concluded
18 that this is the proper course to adopt. Accordingly, the Court
19 will adjourn until Wednesday the 8th of June 2005, subject to any
20 further orders. I apologise.

21 Yes, Ms Taylor.

22 MS TAYLOR: Your Honour, there is just one matter about the
23 resumption on the 8th of June, if I may raise that.

24 PRESIDING JUDGE: Of course.

25 MS TAYLOR: There have been some discussions between my
26 learned friends and the Prosecution about interposing an
27 international witness on the 8th of June. That witness is
28 TF1-150. His name is xxxxxxxx xxxxxxxx. There are no
29 protective measures that are in relation to him. He is giving

1 evidence also in the proceedings before Trial Chamber I in the
2 CDF trial that will be running at that time, so arrangements have
3 been made to bring him to Freetown at that stage.

4 I had asked my learned friends to indicate if there were
5 going to be any legal difficulties that might prevent him being
6 called on that day and if we could deal with them prior to that
7 time. It appears that my learned friends do wish to raise some
8 legal issues. Although we were trying to organise a timetable
9 between ourselves, and with Your Honours' permission we would
10 like to do so in an expedited fashion, and if we can agree on a
11 timetable for written submissions about those materials, we would
12 like the Chamber's permission to do that so that we are in a
13 position to resolve those issues and have that witness called on
14 the 8th of June.

15 PRESIDING JUDGE: I will just consult with my learned
16 colleagues. The first thing that comes to mind is is this a
17 legal issue? I don't know, I haven't read the evidence relating
18 to this witness and therefore I do not know, but is it, for
19 example, a matter dealing with Rule 90? Is it something to do
20 with a legal point?

21 MS TAYLOR: Yes. I do understand that my learned friends
22 wish to raise some issues about the admissibility of the type of
23 evidence that this witness will give. If we can resolve that in
24 advance of the date, the very limited time that he's going to be
25 in the country, it's obviously of benefit to the Chamber and to
26 all parties. So that is what we would like permission from Your
27 Honours to do.

28 PRESIDING JUDGE: I will consult with my learned
29 colleagues.

1 JUDGE LUSSICK: Ms Taylor, are these difficulties that the
2 Defence are foreshadowing about admissibility -- is it the same
3 position in Trial Chamber I or is that --

4 MS TAYLOR: I'm not aware of that at all, Your Honour.
5 Because of the difficulties of having an international witness in
6 the jurisdiction, I simply alerted my learned friends to the fact
7 that he will be in the jurisdiction at that time and if we could
8 resolve anything in advance of calling that witness, it would be
9 prudent to do so. I am not aware that the CDF Defence teams have
10 raised any issues with the Prosecution with respect to that
11 witness.

12 MR KNOOPS: Your Honour, if I may just briefly, with Your
13 Honour's permission, give a very short explanation what the
14 intention of the Defence is with respect to witness 150. It's
15 our view that it could be expeditious for the hearing of witness
16 150, with respect to which witness we don't have any objection
17 that this witness is called on the 8th of June, but what we seek
18 to do is that we file our objections to certain evidence on which
19 this witness relies.

20 He has filed a report on primary and secondary sources and
21 filed that timely in advance to the Prosecution so that all these
22 matters could perhaps be responded to before the 8th so that Your
23 Honours can make the decision on the 8th of June so we --
24 actually instead of waiting until the 8th of June and coming up
25 with certain objections, we thought it could be helpful to do
26 that in time before that. We have, as Defence, no objection when
27 Your Honours rule on this orally on the 8th of June and I
28 promised my learned colleagues to send our draft written
29 submission or motion today just in order to make things more

1 easier for Your Honours.

2 So what you actually will see is that we will put our
3 submissions in writing as far as the objection concerns with
4 respect to this witness. But, as such, I can announce that the
5 objections only will relate to certain portions of the evidence
6 which witness 150 is intended to tender and we have, as such, no
7 objection that this person to a certain extent appears in court,
8 only we deem it fit that this witness could perhaps not testify
9 on certain issues relating to that report.

10 PRESIDING JUDGE: So there is a report that goes with this
11 witness; is that the situation?

12 MR KNOOPS: Yes.

13 PRESIDING JUDGE: When you say an expedited, have you got a
14 time frame agreed? Ms Taylor, you were on your feet and our
15 legal officer has just handed us a copy of an email and I note
16 some dates.

17 MS TAYLOR: Yes, those were the dates.

18 PRESIDING JUDGE: That's a proposal.

19 MS TAYLOR: That's a proposal by the Prosecution. I don't
20 know whether the Defence are in a position to say whether they
21 agree with that or not. We have been trying to resolve this
22 between ourselves, obviously, and if the Defence have no
23 objection to that, or if they propose something slightly
24 different -- it was simply to give Your Honours time to deal with
25 the issues.

26 PRESIDING JUDGE: I just have in mind that if an oral
27 decision is to be given before we need a little time to look at
28 submissions.

29 MS TAYLOR: Yes. And certainly the last date, under this

1 proposal, any reply would be filed by Thursday the 2nd of June.
2 That would give almost a week before the calling of the witness.

3 JUDGE LUSSICK: How does that time frame suit you,
4 Mr Knoops?

5 MR KNOOPS: Your Honour, we have no objections against the
6 time frame. In fact, I just conferred with my learned friends
7 here and we are perfectly fine with the time frame.

8 PRESIDING JUDGE: So it would appear that what you require
9 now is a formal order under the Rules for an expedited hearing?

10 MS TAYLOR: Yes, in accordance with the dates as proposed
11 by the parties.

12 PRESIDING JUDGE: Very well. This would appear to be an
13 order by consent.

14 MS TAYLOR: Yes, Your Honour.

15 PRESIDING JUDGE: Very well. By consent then we will
16 direct that there be an expedited motion and I will read the
17 times which have been agreed by consent to form part of the order
18 which is that the motion will be filed by 4.00 p.m. on Friday
19 May 27th, the response to be filed by 4.00 p.m. on Tuesday the
20 31st of May and a reply to be filed by 4.00 p.m. on Thursday the
21 2nd of June. In the light of that ruling -- that appears to be
22 the only application before us at the moment?

23 MS TAYLOR: Yes, Your Honour.

24 PRESIDING JUDGE: In that case we will adjourn to the 8th
25 of June for hearing. However, before doing that I will remind
26 the witness of his oath and the obligations. Mr Witness, you are
27 aware and heard that we will be adjourning the Court until the
28 8th. You understand that. Between now and the time that all
29 your evidence has been heard by the Court you are not to discuss

1 your evidence with any other person. Do you understand what I
2 said?

3 THE WITNESS: Yes, My Lord.

4 MR KNOOPS: Your Honour, may I address Your Honours briefly
5 with my last comment. On the 8th of June I'm not here because I
6 have an obligation at the ICTY in The Hague, but Mr Spain will
7 represent, on my behalf, Mr Kanu. So that Your Honours know I
8 will come as soon as possible to Sierra Leone again but on the
9 8th of June Mr Spain will take over the lead in the case of
10 Mr Kanu. Thank you.

11 PRESIDING JUDGE: Thank you, Mr Knoops.

12 Mr Court Attendant, please adjourn court.

13 [Whereupon the hearing adjourned at 9.55 a.m.,
14 to be reconvened on Wednesday, the 8th day of
15 June 2005 at 9.15 a.m.]

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