

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

THURSDAY, 27 JULY 2006
9.21 A.M.
TRIAL

TRIAL CHAMBER II

Before the Judges: Richard Lussick, Presiding
 Teresa Doherty
 Julia Sebutinde

For Chambers: Mr Simon Meisenberg

For the Registry: Mr Thomas George

For the Prosecution: Mr Karim Agha
 Ms Maja Dimitrova (Case Manager)

For the Principal Defender: No appearance

For the accused Alex Tamba Mr Kojo Graham
Brima: Ms Glenna Thompson

For the accused Brima Bazy Mr Andrew William Kodwo Daniels
Kamara:

For the accused Santigie Borbor Mr Ajibola E Manly-Spain
Kanu:

1 [AFRC27JUL06A-RK]

2 Thursday, 27 July 2006

3 [The accused present]

4 [Upon commencing at 9.21 a.m.]

09:23:05 5 PRESIDING JUDGE: Yes, what is the situation?

6 MR DANIELS: Good morning, Your Honours.

7 PRESIDING JUDGE: Good morning.

8 MR DANIELS: Yesterday, we took a cue from the Bench and we

9 were in regular contact with the WVS. We can confirm that the

09:23:24 10 witness 079 arrived this morning at the safe house, and when I

11 last spoke to a WVS person, we were told that he is being taken

12 to see a doctor, and at 8.42 this morning my learned colleague

13 also sent an email requesting for any update through the WVS. We

14 have had no response as we talk to you. We do not know whether

09:23:57 15 perchance there has been some direct communication with WVS and

16 the Bench but -- and then also for the investigators and WVS who

17 have gone to Kono, I understand that they are coming down this

18 evening with two witnesses, most definitely, and they are

19 possibly working on a third. This is the information I have to
09:24:26 20 give to the Court at this time.

21 PRESIDING JUDGE: Well, I'm left in some doubt as to what
22 is going to happen to these witness that WVS brings down. Is the
23 WVS going to hang on to them while they give them some
24 pre-evidence briefing or are they going to be ready by tomorrow
09:24:46 25 or what is the situation?

26 MR DANIELS: Your Honours, as regards the witness who is
27 already in town, I believe that the WVS do normally have some
28 kind of preparation that they do with the witness and I would
29 also think that the counsel who will be conducting the particular

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1 witness 079 would at least like to have some initial interaction
2 with him. I don't know whether -- but we haven't heard from WVS
3 as to his medical condition in any event but as regards the other
4 witnesses who are coming down, we still do not know what time
09:25:28 5 they will arrive, but, as we earlier on suggested, perhaps Monday
6 would be a fair day to present our witnesses from Kono. But this
7 is only our suggestion.

8 PRESIDING JUDGE: Anything you want to say, Mr Agha?

9 MR AGHA: Only, Your Honours, that if Mr Daniels could
09:25:58 10 kindly provide to us the pseudonym of the two witnesses who will
11 be arriving, so that we can make our preparations for those two
12 rather than perhaps two who won't be arriving. That's all the
13 Prosecution would like to ask of the Defence. I'm sure that can
14 be arranged.

09:26:20 15 JUDGE DOHERTY: Mr Daniels, a point of clarification: Do
16 you not know whether witness 079 will be ready this afternoon or
17 tomorrow? This is not clear to me.

18 MR DANIELS: We have no indication. At the last we

19 communicated with WVS he was being taken to a doctor and that
09:26:39 20 they would get back to us. As we stand here, we have had no
21 further communication.

22 PRESIDING JUDGE: Well, I suggest you make some inquiries
23 with WVS this morning.

24 MR GRAHAM: Yes, Your Honours. Good morning. We sent --
09:27:04 25 my learned friend Ms Thompson sent an email at 8.42 to WVS and we
26 are going to follow up immediately, but, Your Honours, I rose
27 basically because of the request made by my learned friend,
28 Mr Agha, in respect of the two witnesses who we are sure are
29 coming in from Kono. Your Honours, the pseudonyms of the

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1 witnesses are DAB-025 and I think the third witness that they are
2 working on is also DAB-023. There is a third witness, if I may
3 confirm just for a second.

4 [Defence counsel conferred]

09:28:50 5 MR GRAHAM: Your Honours, with respect of the third witness
6 coming in from Kono, we had to communicate with our investigator
7 because I believe we realised he is not part of the first 49
8 names. So he is working on the third witness who is part of the
9 49, and I'm sure by the time we come back to this Court to report

09:29:09 10 on the condition of the DAB-079, we would have a confirmation of
11 the third witness. But in respect of the preparation of the
12 witnesses, Your Honours, we have also given instructions to our
13 investigator who is also accompanying WVS to Kono in his own
14 limited way to work with the witnesses whilst they are coming on
09:29:37 15 their way to Freetown in respect of their anticipated testimony.

16 So we are hopeful that we don't need much time in terms of the
17 preparation with those witnesses once they arrive here in
18 Freetown.

19 JUDGE SEBUTINDE: Could I also inquire: What is the
09:29:53 20 position with regards to witnesses for next week?

21 MR GRAHAM: Well, Your Honours, our investigator is not
22 only co-ordinating on these three witnesses who are coming from
23 Kono. He is also working on other witnesses who, as I said, are
24 in the list of the 49 names. We will get further confirmation,
09:30:15 25 as I said, by midday before they leave Kono. We are in touch
26 with them as to exactly how many additional witnesses they would
27 be able to get for us from Kono. We are also still co-ordinating
28 on the Freetown witnesses, as well, in the hopeful -- in the hope
29 that next week we may be able to get at least a couple of them to

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1 come before this Court to testify.

2 PRESIDING JUDGE: Needless to say, it is the responsibility
3 of the Defence to produce witnesses in its case. As far as the
4 WVS goes, as we all know, they do provide support counselling to
09:31:01 5 witnesses, but it is up to the Defence to make it clear to WVS
6 that that support counselling should not interfere with bringing
7 the witnesses to court, and it should be done not in court hours,
8 but in non-court hours. And I would ask the Defence to make that
9 very clear when witnesses come into WVS.

09:31:44 10 [Trial Chamber conferred]

11 PRESIDING JUDGE: Firstly, the Trial Chamber would like to
12 say, with as much emphasis as we can, that we are grossly
13 dissatisfied with the current situation where no witnesses are
14 being produced by the Defence, and the Defence, if it does
09:33:14 15 produce witnesses before the recess, will be producing them
16 apparently in dribs and drabs, one at a time, with a question
17 mark hanging over the whole issue of whether there are going to
18 be any witnesses at all. Now, we have given the Defence what we

19 consider not only ample time, but generous time to prepare their
09:33:38 20 witnesses to give evidence in court in their case, and the Trial
21 Chamber is of the view that the Defence has squandered that time,
22 not made good use of it at all.

23 Now, while we are on that point, I would urge the Defence
24 not to regard next week as being a holiday. We expect you to
09:33:58 25 have some witnesses in court to give evidence next week. We are
26 not going to tolerate any continued failure of the Defence to
27 provide witnesses. We expect the Defence to call witnesses in
28 their case before the recess, and we expect the Defence during
29 the recess to make good use of that time to organise your

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1 witnesses to give evidence in your case.

2 Now, after the recess, if the Trial Chamber is going to

3 continue to experience delays with the Defence calling their

4 evidence, then I think the Defence will have to accept that there

09:34:40 5 may come a point in time when the Trial Chamber will have no

6 option but to declare the Defence case closed. Now, that is

7 something we are cautioning you with at the moment. If you do

8 not show more initiative in gathering your witnesses to give

9 evidence, then we may have to take action in the interests of an

09:35:05 10 expeditious trial.

11 For the present, we will adjourn this case until tomorrow

12 morning. I understand there is a witness who may be ready by

13 tomorrow morning, so we will adjourn the Court until 9.15

14 tomorrow morning.

09:35:22 15 [Whereupon the hearing adjourned at 9.35 a.m.,

16 to be reconvened on Friday, the 28th day of

17 July, 2006, at 9.15 a.m.]

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