

SPECIAL COURT FOR SIERRA LEONE

JOMO KENYATTA ROAD • FREETOWN • SIERRA LEONE
PHONE: +1 212 963 9915 Extension: 178 7000 or +39 0831 257000 or +232 22 295995
FAX: Extension: 178 7001 or +39 0831 257001 Extension: 174 6996 or +232 22 295996

TRIAL CHAMBER II

Before:

Justice Richard Lussick, Presiding Judge

Justice Teresa Doherty Justice Julia Sebutinde

Registrar:

Lovemore G. Munlo, SC

Date:

17 May 2006

SPECIAL COURT FOR SIERRA LEONE
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PROSECUTOR

Against

Alex Tamba Brima Brima Bazzy Kamara Santigie Borbor Kanu (Case No.SCSL-04-16-T)

DECISION ON CONFIDENTIAL JOINT DEFENCE MOTION AS TO INABILITY TO PROVIDE DETAILS OF CERTAIN WITNESSES ON 10 MAY 2006 AND ANTICIPATION SUBPOENAS AD TESTIFICANDUM

Office of the Prosecutor:

Christopher Staker Karim Agha Defence Counsel for Alex Tamba Brima:

Kojo Graham Glenna Thompson

Defence Counsel for Brima Bazzy Kamara:

Andrew Daniels

Mohamed Pa-Momo Fofanah

Defence Counsel for Santigie Borbor Kanu:

Geert-Jan Alexander Knoops

Carry J. Knoops A.E. Manly-Spain TRIAL CHAMBER II ("Trial Chamber") of the Special Court for Sierra Leone ("Special Court"), composed of Justice Richard Lussick, presiding, Justice Teresa Doherty and Justice Julia Sebutinde;

SEISED of the Confidential Joint Defence Motion as to Inability to Provide Details of Certain Witnesses on 10 May 2006 and Anticipation Subpoenas Ad Testificandum, filed on 9 May 2006 ("Motion"), in which the Joint Defence seeks leave to extend the deadline for presentation of its final witness list until the beginning of the trial session to be held in September 2006, and anticipates that subpoenas ad testificandum may have to be issued;

NOTING the Confidential Prosecution Response to Joint Defence Motion Dated 9 May 2006, filed on 15 May 2006 ("Response"), in which the Prosecution questions the "Confidential" filing of the Motion and Reply and submits that the current witness list should be the definitive witness list and that the Defence should be required to show good cause for the addition of further witnesses, and that the Defence should be ordered to expedite the filing of any motions for subpoenas;

NOTING the Confidential Joint Defence Reply to Prosecution Response to Defence Motion as to the Inability to Provide Details of Certain Witnesses on 10 May 2006 and Anticipation Subpoenas Ad Testificandum, filed on 16 May 2006 ("Reply");

RECALLING the Trial Chamber's Order for Disclosure Pursuant to Rule 73ter and the Start of the Defence Case ("Order"), dated 26 April 2006;

RECALLING ALSO the Confidential Joint Defence Disclosure Pursuant to Trial Chamber Order of 26 April 2006 containing a provisional witness list;

CONSIDERING the difficulties encountered by the Defence teams in accessing witnesses in certain districts of Sierra Leone and in locating witnesses in Freetown who were initially willing to testify, which may result in changes having to be made to the witness list already filed;

MINDFUL of the rights of the Accused, and in particular of the provisions of Article 17(4)(b) of the Statute of the Special Court for Sierra Leone ("Statute") by virtue of which the Accused have the right "to have adequate time and facilities for the preparation of his or her defence";

NOTING that although it may be necessary for the Defence to apply in due course for the issue of subpoenas, no such necessity has been established at this stage;

CONSIDERING that the Joint Defence request to vary the Order by allowing the Defence to file its final witness list by the beginning of the trial session to be held in September 2006 is reasonable, given the particular circumstances;

SATISFIED that an order to that effect will be in the interests of justice and will provide the Defence with adequate time to properly comply with the Order;

SATISFIED ALSO that the Motion and Reply have been properly filed as "Confidential";

HEREBY GRANTS THE MOTION and

ORDERS:

(1) that the Defence file their final witness list pursuant to the Order on or before Monday, 21 August 2006;

Case No. SCSL-04-16-T

2.

17 May 2006

PURL: https://www.legal-tools.org/doc/003f6

(2) that the Motion and Reply remain confidential.

Done at Freetown, Sierra Leone, this 17th day of May 2006.

Justice Teresa Doherty

Justice Richard Lussick Presiding Judge Justice Julia Sebutinde

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