



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

WEDNESDAY, 16 NOVEMBER 2005
9.44 a.m.
TRIAL

TRIAL CHAMBER II

Before the Judges:	Teresa Doherty, Presiding Julia Sebutinde Richard Lussick
For Chambers:	Mr Simon Meisenberg Ms Carolyn Buff
For the Registry:	Ms Maureen Edmonds
For the Prosecution:	Mr James Johnson Ms Wambui Ngunya Ms Maja Dimitrova (Case Manager) Ms Martine Durocher (intern)
For the Principal Defender:	Mr Vincent Nmeielle Ms Claire Carlton-Hanciles Ms Haddijatou Kah-Jallow Ms Elizabeth Nahamya Mr Ibrahim Foday Mansaray
For the accused Alex Tamba Brima:	Ms Glenna Thompson Mr Kojo Graham
For the accused Brima Bazy Kamara:	Mr Andrew William Kodwo Daniels Mr Mohamed Pa-Momo Fofanah
For the accused Santigie Borbor Kanau:	Mr Amadu Koroma

1 Wednesday, 16 November 2005

2 [Open session]

3 [The accused Brima not present]

4 [The accused Kamara and Kanu present]

09:14:00 5 [Upon commencing at 9.44 a.m.]

6 PRESIDING JUDGE: Good morning. I notice Mr Brima is not
7 in court. Ms Thompson -- sorry, Mr Graham?

8 MR GRAHAM: Your Honour, he is not feeling very well this
9 morning so I think he is going to the infirmary this morning.

09:43:19 10 PRESIDING JUDGE: Thank you, I will have that recorded.

11 Mr Johnson.

12 MS NGUNYA: Good morning, Your Honours.

13 PRESIDING JUDGE: Good morning, Ms Ngunya.

14 MS NGUNYA: I will address the Court this morning.

09:43:36 15 Your Honours, I will stand guided by the Court, because from what
16 I heard from last week's hearing, last Monday, we were going to
17 meet today, a mention date, to assess the way forward following
18 the expiry of the notice and filing period for the Defence which
19 expires today. Defence objections have been duly filed and
09:43:59 20 received by the Prosecution yesterday afternoon and at this stage
21 the [Microphone not activated]

22 PRESIDING JUDGE: Just a moment, please. I seem to have
23 lost -- Ms Ngunya, have you got your --

24 THE INTERPRETER: Your Honours, the interpreters are asking
09:44:26 25 the counsel to please lower her speed so that we can interpret
26 for the accused persons. Please.

27 PRESIDING JUDGE: Thank you, Mr Interpreter. Ms Ngunya,
28 you heard the interpreter.

29 MS NGUNYA: Actually, I didn't. If he could please repeat

1 himself.

2 PRESIDING JUDGE: What he said was if you could please
3 speak a little slower in order to allow them to interpret.

4 MS NGUNYA: Okay, I will repeat that.

09:44:55 5 PRESIDING JUDGE: Thank you, Ms Ngunya.

6 MS NGUNYA: Your Honours, I was saying that yesterday
7 afternoon we received the Defence objections to our Rule 92 bis
8 notice filed on 1 November 2005. Your Honours, in light of the
9 objections raised by the Defence, the Prosecution would

09:45:13 10 appreciate the chance to respond to those objections in writing.

11 Our objections will not be long and we intend to file them before
12 close of business today.

13 PRESIDING JUDGE: Ms Ngunya, I am not aware of any
14 provision in Rule 92 that gives a right of reply.

09:45:39 15 MS NGUNYA: Actually that is another reason why I was
16 coming to the Court this morning is to find out if you would
17 require oral submissions or whether we can go by way of what is
18 already in writing. That is what I was coming to next. Also the
19 direction of the Court as to how you would like us to proceed
09:45:59 20 either by oral submission or by what we have already tendered
21 before the Court.

22 Your Honours, I have also addressed this point with Defence
23 counsel and at this stage they have no objection and I would like
24 to let the Court know that if I am to proceed with my oral
09:46:19 25 submissions, I am quite prepared to do so.

26 That is all Your Honours.

27 PRESIDING JUDGE: When you say oral submissions, Ms Ngunya,
28 what are you talking about? Because 92 bis allows you to give
29 notice and for the Defence to raise objection. When you are

1 saying oral submissions and written submissions, what are you
2 referring to?

09:46:47 3 MS NGUNYA: I'm sorry, Your Honour. I wanted to respond to
4 their objections raised yesterday, if that is agreeable by
5 Your Honours. If not, so be it.

6 PRESIDING JUDGE: We will just confer, please.

7 [Trial Chamber conferred]

8 PRESIDING JUDGE: We have considered the application.
9 There is a procedure laid down in Rule 92 bis of the Rules of
09:49:55 10 Procedure and Evidence. It does not contain a right of reply.
11 The Trial Chamber will consider admission of the documents and
12 rule on objections when the documents are formally tendered.

13 MS NGUNYA: Thank you, Your Honour. In that case I would
14 like to try and formally tender the documents before the Court.

09:50:24 15 PRESIDING JUDGE: Thank you, Ms Ngunya. Please proceed.

16 MS NGUNYA: Your Honour, again I stand guided by the Court.
17 I have an Annex A which has listed all the documents that the
18 Prosecution wishes to tender. With your permission I would just
19 like to call them out by their number. That way if all parties
09:51:04 20 can refer to their Annex A.

21 PRESIDING JUDGE: [Indiscernible] copy of --

22 MS NGUNYA: Sorry, Annex 1. I believe Annex 1 has been
23 served on the Court and on the Defence. Your Honours --

24 PRESIDING JUDGE: I would appreciate it if you would just
09:51:38 25 pause while we get that in front of us, please. Thank you,
26 Ms Ngunya for your patience. We have that before us now. If you
27 would please proceed.

28 MS NGUNYA: Thank you, Your Honours.

29 PRESIDING JUDGE: Sorry, we have only one copy at the

1 moment, but we'll work on that.

2 MS NGUNYA: Thank you, Your Honours.

3 Your Honour, the first document is document number 1,
4 Security Council Resolution 1132 of 8 October 1997 concerning
09:55:14 5 Sierra Leone and the AFRC.

6 The second document is again a UN document, Security
7 Council Resolution 1181 of 13th July 1998 concerning Sierra Leone
8 and the ongoing conflict.

9 Document number 4, Security Council Resolution 1270 of 22
09:55:59 10 October 1999. Document number 7 --

11 JUDGE SEBUTINDE: Ms Ngunya, is there a document number 3?

12 MS NGUNYA: No, there isn't. The numbers correspond to
13 what was filed in the other Trial Chamber. And Your Honours, as
14 well as the judicial notice motion, I am told.

09:56:34 15 Document 7, Security Council Resolution 1306, 5 July 2000,
16 concerning the diamond trade.

17 Document 11, Fourth Report of the Secretary-General on the
18 Situation in Sierra Leone, dated 18 March 1998.

19 Document 12, Fifth Report of the Secretary-General on the
09:57:05 20 Situation in Sierra Leone, dated 9 June 1998.

21 Document 13, report of the United Nations Observer Mission
22 in Sierra Leone, First Progress Report of 12 August 1998.

23 Document 14, report of the United Nations Observer Mission
24 in Sierra Leone, Second Progress Report, 16th October 1998.

09:57:45 25 Document 15, report of the United Nations Observer Mission
26 in Sierra Leone, Third Progress Report, 16th December 1998.

27 Document 16, report of the United Nations Observer Mission
28 in Sierra Leone, Fifth Report, 4th March 1999.

29 Document 17, report of the United Nations Observer Mission

1 in Sierra Leone, Sixth Report, 4th June 1999.

2 Document 18, United Nations Officer for the Coordination of
3 Humanitarian Affairs, Sierra Leone Humanitarian Situation Report,
4 5th June 1997.

09:58:48 5 Document 19, United Nations Officer for the Coordination of
6 Humanitarian Affairs, Sierra Leone Humanitarian Situation Report,
7 14th July 1997.

8 Document 26, Human Rights Assessment Mission for Freetown
9 of 25 January -- sorry, let me repeat that, Your Honours.

09:59:22 10 Document 26, Human Rights Assessment Mission to Freetown,
11 25 January and 1 to 4 February 1999, Findings and
12 Recommendations.

13 Document 29, Report on Atrocities Committed Against the
14 Sierra Leone Population, UNHCR Conakry branch, dated 28th January
09:59:49 15 1999.

16 Document 31, Human Rights Watch, Sowing Terror, Atrocities
17 Against Civilians in Sierra Leone. This is in Volume 10 number
18 3A, July 1998.

19 Document 32, Human Rights Watch. The title of the document
10:00:16 20 is "Will kill you if you cry - sexual violence in the
21 Sierra Leone conflict". This is Volume 15 number 1A January
22 2003.

23 Document 34, Amnesty International Sierra Leone 1998, A
24 Year of Atrocities Against Civilians.

10:00:44 25 Document 35, Amnesty International Sierra Leone, Childhood,
26 a Casualty of Conflict. The index is AFR51/69/00, 31st August
27 2000.

28 Document 38, Amnesty International Annual Report for 2000
29 on Sierra Leone.

1 Document 45 - we admitted most passages in the whole
2 document - No Peace Without Justice, Sierra Leone Conflict --

3 PRESIDING JUDGE: You mean you are tendering this?

4 MS NGUNYA: Sorry, we tendered this, yes.

10:01:37 5 No Peace Without Justice, Sierra Leone Conflict Mapping
6 Program, 9 March 2004. Also included is a letter from No Peace
7 Without Justice certifying the report.

8 Document 46, "War Related Sexual Violence in Sierra Leone",
9 report by Physicians For Human Rights published in 2002.

10:02:02 10 Document 52, Statement of the Historic Return to Freetown,
11 Sierra Leone of the Leaders of the Alliance of the Revolutionary
12 United Front of Sierra Leone and the Armed Forces Revolutionary
13 Council. This is dated 3 October 1999.

14 Document 53, Personal Statement by Lieutenant JP Koroma on
10:02:30 15 1st October 1999.

16 Document 54, the Revolutionary United Front's apology to
17 the nation delivered on SLBS on 18th June 1997.

18 Document 55, the Lome Peace Accord.

19 Document 56, the Abidjan Peace Accord.

10:03:08 20 Document 57, the Conakry Accord.

21 Document 58, Ceasefire Agreement Between the Government and
22 the Revolutionary United Front, dated 18 March 1999.

23 Document 60, United States Department of State, Sierra
24 Leone Country Report on Human Rights Practices for 1997. This
10:03:40 25 was released by the Bureau of Democracy, Human Rights and Labour.
26 It is dated January 30, 1998.

27 Document 70, First Report on the United Nations Mission in
28 Sierra Leone dated 6 December 1999.

29 Document 76, Women Wielding Peace and the Policy

1 Commission, Front Combat to Community, Women and Girls of
2 Sierra Leone. This is written by D Mazrana and Christopher
3 Carlson, dated January 2004.

10:04:33 4 Document 77, minutes dated 23 January 1998 of meeting of
5 AFRC Supreme Council held on 9 December 1997.

6 Document 78, Government Notice 272, Sierra Leone Gazette
7 number 69.

8 Document 79, decrees 1, 5 and 7 of 1997, Sierra Leone
9 Gazette. Also number 41 dated December 5, also Sierra Leone
10:05:15 10 Gazette. The Sierra Leone Gazette number 49 of December 6th and
11 the Sierra Leone Gazette dated 7th December, number 63.

12 Document 81, Records of Deaths 1 through 19 January 1999,
13 Births and Deaths Registry, Freetown, Sierra Leone.

14 Document 82, SLBS radio broadcast of 25 May 1997 at
10:05:57 15 1842 GMT.

16 Document 83, again a broadcast by SLBS on 25 May 1997 at
17 1930 GMT.

18 Document 85, SLBS radio broadcast, 29 May at 1526 GMT.

19 Document 86, again an SLBS broadcast on 30 May at 1932 GMT.

10:06:36 20 Document 88, address by Major Johnny Paul Koroma, Head of
21 State and Chairman of the Armed Forces Revolutionary Council,
22 Freetown, dated 1 June 1997.

23 Document 89, an AFRC press release of 3 January 1998.

24 Your Honours, we have also tendered a communiqué,
10:07:15 25 Exhibit 57, from the Original Prosecution Proposed Exhibit List
26 filed on 26 April 2004. This is a joint communiqué meeting
27 between the Special Representative of the UN Secretary-General to
28 Sierra Leone and the delegation of the Revolutionary United Front
29 in Abidjan. This took place 19th to 21st February 1999.

1 Your Honour, the last item we would like to tender this
2 morning is Exhibit 144 from the Original Prosecution Proposed
3 Exhibit List filed on 26 April 2004. This is an unedited video
4 footage of 6th January 1999.

10:08:11 5 Your Honours, that concludes the list of documents that the
6 Prosecution would like to tender.

7 PRESIDING JUDGE: Thank you, Ms Ngunya. We will consider
8 the tender of these documents in the light of the objections, and
9 we will give a ruling on this on Monday 18th November 2005. If
10:08:36 10 there is no other matters, we will adjourn the Court to 18th
11 November 2005 for decision.

12 MR GRAHAM: Your Honour, I think Friday is the 18th. I
13 thought I heard you say Monday.

14 PRESIDING JUDGE: The Monday, so if I have got my date
10:08:53 15 wrong, I apologise. I will look up my diary again, Mr Graham.
16 You are quite right, Mr Graham, it is the 21st. For purposes of
17 record, we will reserve until Monday, 21st November 2005.
18 Madam Court Attendant, please adjourn court to Monday,
19 21st November 2005.

10:09:41 20 [Whereupon the hearing adjourned at 10.10 a.m.,
21 to be reconvened on Monday, the 21st day of
22 November 2005]

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