



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

TUESDAY, 26 SEPTEMBER 2006  
9.25 A.M  
TRIAL

TRIAL CHAMBER II

Before the Judges:

**Ri chard Lussi ck, Presi di ng**  
**Teresa Doherty**  
**Julia Sebutinde**

For Chambers:

**Ms Carolyn Buff**

For the Registry:

**Mr Thomas George**

For the Prosecution:

**Mr Karim Agha**  
**Mr Charles Hardaway**  
**Ms Maja Dimitrova (Case Manager)**

For the accused Alex Tamba  
Brima:

**Ms Glenna Thompson**

For the accused Brima Bazy  
Kamara:

**Mr Andrew William Kodwo Daniels**

For the accused Santigie Borbor  
Kanu:

**Mr Geert-Jan Alexander Knoops**

1 [AFRC26SEP06A - MD]  
2 Tuesday, 26 September 2006  
3 [Open session]  
4 [The accused present]  
09:25:34 5 [Upon commencing at 9.25 a.m.]

6 PRESIDING JUDGE: Good morning. We apologise for the  
7 slightly late start. A message reached us that there had been  
8 some problems with Defence witnesses and we thought you might  
9 appreciate a few extra minutes. I see the witness box is  
09:25:49 10 omni nously empty; what is the Defence position?

11 MS THOMPSON: Good morning, Your Honour. Your Honour, we  
12 were expecting DAB-156 this morning, to be followed by DAB-157.  
13 Shortly before 8.00 this morning, I was informed by our legal  
14 assistant, who had been contacted by WWS, that both these  
09:26:12 15 witnesses have complained of ill health; one of them since last  
16 night and I think the other one this morning.

17 He went to the witness safe house to ascertain what the  
18 correct position was and it was at that time I sent the email  
19 informing all that there might be a problem

09:26:35 20 They are to be referred to gynaecologists -- I am told --  
21 but WWS have also said that they are sending in a psychologist to  
22 see them now, to talk to them, as well as other members of staff  
23 of WWS to speak to them and see whether they will be able to come  
24 in some time today.

09:27:03 25 I am awaiting the results of those consultations and  
26 meetings with the -- between them and the witnesses. As a  
27 backup, I had in mind DAB-056. He was not supposed to be in  
28 today and had not been prepped, as it were. He has been spoken  
29 to. He also now has a personal problem which he wants to attend

1 to because he did not envisage having to come to Court today and  
2 thought he would have time this morning to deal with this issue  
3 which involves his child, and that is what he wants to do this  
4 morning, so he appears to be unavailable.

09:27:51 5 Your Honours, the other two witnesses, that is DAB-111 and  
6 I think DAB-109, and there is a possibility of DAB-110 although  
7 technically - although they are in the witness house and came in  
8 last night have travelled very far -- I think they come from  
9 somewhere near the Guinea border. And we are advised by WWS that  
09:28:16 10 they usually need about a day to recover from the journey, the  
11 journey being very long and bumpy, I expect, but they do need a  
12 day so they will not be available to come to Court today.

13 In short, the position is, Your Honour, that I don't know  
14 how long WWS will take with these witnesses, and they will get  
09:28:42 15 back to me with word as to whether they will be able to give  
16 evidence, and then see the doctor later, or whether we will just  
17 have to reschedule and put them back to later this week. That's  
18 the situation as it is now, Your Honour.

19 PRESIDING JUDGE: Well, in other words, you have got no  
09:29:07 20 witnesses to call at all?

21 MS THOMPSON: None this morning.

22 PRESIDING JUDGE: But didn't we agree that there would be a  
23 weekly witness list of 15 witnesses so that you would have a  
24 backup list if some witnesses towards the front of the list were  
09:29:22 25 not available?

26 MS THOMPSON: Yes, Your Honour. These, Your Honour, are  
27 individual witnesses. WWS did go -- their names were supplied to  
28 WWS on Thursday. A revised list, a shortened list I should say,  
29 was given to WWS on Friday and these are the witnesses who are

1 now coming down.

2 The root of this problem really is the fact that we trimmed  
3 the entire witness list and therefore got away with -- basically  
4 did away with a lot of the common witnesses so we then had to  
09:29:54 5 bring the individual Defence case forward.

6 For the Brima Defence the witness list has been cut  
7 extremely short and it was envisaged that if all these witnesses  
8 were here we would not sort of -- we don't need more than eight  
9 witnesses -- that was the whole idea. Therefore, we couldn't  
09:30:17 10 actually have a long plan.

11 We knew that these people were coming down. The question  
12 was, when they came down, I perhaps naively thought that when  
13 they came down, given a day or two between each one, they should  
14 be able to come to Court the day after, well, 48 hours after they  
09:30:35 15 came down to Freetown, which was the reason why after the witness  
16 yesterday, it was envisaged that these two ladies would be able  
17 to fill in today. Then those who arrived last night could come  
18 in tomorrow and Thursday and then the speech-impaired gentleman,  
19 DAB-093, would then come in later on in the week with the  
09:30:58 20 cross-examination on Thursday morning. The idea was that by the  
21 end of this week, certainly by Monday, we should have exhausted  
22 our list and that would have been it for the Brima Defence.

23 PRESIDING JUDGE: All right. You certainly can't  
24 anticipate people being ill. It seems a bit of a coincidence --  
09:31:20 25 I remember last week -- there was an ill witness too. So I  
26 wonder what diet they are getting at the WWS?

27 MS THOMPSON: I can't comment on that, save to say that  
28 they are now dealing with it. We have been -- I have been on the  
29 phone to them. The last I asked was an email to confirm, but I

1 didn't get it, but I did -- the lady did come in here to explain  
2 to me what they were going to try to do now. The legal assistant  
3 is also there so he will be sort of telling us, as and when, what  
4 the situation is.

09:31:55 5 PRESIDING JUDGE: Well, Ms Thompson, we appreciate what you  
6 say about cutting the common witness list, and I could see once  
7 that was done it would have brought the personal witness list  
8 forward. But what we would appreciate now is if the -- now that  
9 those arrangements have been done, and we are into the common --  
09:32:19 10 we are into the personal witness list, we would appreciate it if  
11 you would have some backup witnesses that would take into account  
12 the fact that some witnesses towards the beginning of the list  
13 may, for whatever reason at all, not be available. That might  
14 lead to some inconvenience, I know, because you may have some  
09:32:43 15 witnesses waiting around for days in the witness house, but it is  
16 certainly better than no witnesses at all showing up and we lose  
17 all that Court time.

18 MS THOMPSON: Yes, Your Honour. I take the point, Your  
19 Honour. And, as I say, I think part of the problem with the  
09:33:01 20 backup as well was the fact that the individual witness lists  
21 were trimmed, and I envisaged that we would have been taking only  
22 eight. At the moment, we have five in there, and six, in fact,  
23 in there, with two coming. But I do take the point, Your Honour,  
24 and I think that perhaps I need to look -- it will probably mean  
09:33:29 25 me going back to the list that -- of those witnesses we have sort  
26 of done away with, but who are still technically available.

27 PRESIDING JUDGE: Thank you, Ms Thompson. Would the  
28 Prosecution have anything to say?

29 MR AGHA: Yes. Only to say, Your Honour, that it is indeed

1 regrettable that the witnesses do seem to be falling ill arriving  
2 at the witness house and that is obviously beyond the control of  
3 my learned friends on the other side.

4 The only observation we would make at this stage is I  
09:34:02 5 believe there are seven or eight common witnesses who have still  
6 not been given up, and I understand WWS had gone to gather them  
7 up on the weekend and, if any of those did show up, they would be  
8 the first put in the box.

9 So I am just wondering what the position regards bringing  
09:34:21 10 those witnesses, whether following the mission at the weekend  
11 they were found and are able to give evidence or have, indeed,  
12 been given up because, as my learned friend indicates, we are now  
13 into the individual list of the first accused.

14 PRESIDING JUDGE: Well, I don't know if the Defence has any  
09:34:40 15 information on that mission on the weekend?

16 MR DANIELS: Respectfully, Your Honours, we are aware that  
17 one witness, DAB-043, Emmanuel Kargbo, I beg your pardon, did  
18 come into the witness house, but we haven't seen him, haven't  
19 spoken to him. You know, it has been a decision to drop him.

09:35:11 20 However, we have DAB-147 who is on his way, a common  
21 witness and he, I understand, would be here Thursday. Thursday,  
22 I believe, coming in from Kenema, and we will be ready to take  
23 him as soon as he comes; that is DAB-147.

24 PRESIDING JUDGE: All right. Thank you, Mr Daniels.

09:35:54 25 JUDGE DOHERTY: Ms Thompson, in the course of your address,  
26 you mentioned -- you said something they may be able to come  
27 today. Just how likely is that and is it worth reviewing the  
28 position?

29 MS THOMPSON: Your Honour, I think it's worth reviewing the

1 position, specially since the psychologist is now involved.  
2 Shortly before you came into Court, the lady from WWS told me  
3 they were going to sit and to talk to them to see whether that --  
4 despite they are ill, they may be able to give evidence and then  
09:36:24 5 see a doctor, or whether seeing the doctor is perhaps more  
6 paramount than giving evidence. That is over and beyond the fact  
7 that the doctor at the witness house had referred them to someone  
8 else.

9 So, perhaps, Your Honour, I think it might be best to give  
09:36:45 10 them some time for them to at least inform us, rather than to say  
11 the day is forfeited, which I really don't want to ask the Court  
12 for, but to sort of adjourn for maybe half-an-hour, 45 minutes,  
13 or so, and then they will be able to give us some feedback as to  
14 what the likely situation is.

09:37:29 15 PRESIDING JUDGE: All right. Well, look, we will give the  
16 Defence some time to ascertain the current witness situation. We  
17 will adjourn the Court until 10.30. We will reconvene then.

18 [Break taken at 9.37 a.m.]

19 [Upon resuming at 10.32 a.m.]

10:33:06 20 PRESIDING JUDGE: What's the position, Ms Thompson?

21 MS THOMPSON: Yes, Your Honour. First of all, Your Honour,  
22 I'm grateful for the time. Secondly, I've spoken to the  
23 psychologist and her assessment of them is that they do need to  
24 see a doctor. She says that both of them, especially DAB-156,  
10:33:25 25 does look physically ill. In her opinion, they must see a  
26 doctor. They are to be taken to a doctor this morning and she  
27 also says that, because of the journey that they've had, perhaps  
28 apart from the physical ailment, they need some time to rest and  
29 then should be fit for tomorrow.

1           That being the case, Your Honour, as far as the Brima  
2 individual witnesses are concerned, as I mentioned earlier, apart  
3 from these two ladies, there are five more in the house. One of  
4 them is vision-impaired, DAB-093, whose interpreter is not  
10:34:17 5 available until the afternoons, and would need some notice, so  
6 that was going to come at the tail-end of the week. The other  
7 one, DAB-059, has now left the witness house to attend to this  
8 situation with his child and, therefore, we're not sure when he  
9 will be available.

10:34:37 10           There is DAB-109, DAB-111 and DAB-110, who are the three  
11 who came in last night and therefore need a day's rest. The  
12 proposal is that we can take those three tomorrow. The legal  
13 assistant will speak to them later on today and we can take them  
14 tomorrow, by which time, and I have no reason to go against what  
10:35:13 15 the psychologist has said, but I would safely assume that DAB-156  
16 and 157 would then be ready to come to Court, and that should  
17 take us into Thursday. Then DAB-100, who I know is on his way to  
18 Freetown today, can come in sometime on Friday.

10:35:37 19           My hope, perhaps it was a bit optimistic on my part, but I  
20 was hoping, so far as Brima individual witnesses were concerned,  
21 we would have concluded those by Friday, save the  
22 cross-examination of DAB-033 on Monday. That is now unlikely and  
23 would mean we will go into next week.

10:36:02 24           Your Honours, obviously there are no witnesses today, which  
25 means I'm going to ask for an adjournment for today and it means  
26 we've wasted one day. I would suggest, if there is no objection  
27 from my learned friends, or from the Court, but I have spoken to  
28 my learned friends on this side, that we have a full day  
29 tomorrow. I don't know whether that's a possibility, but if we

1 have a full day tomorrow, we can catch up on what is actually  
2 wasted today and then, hopefully, these three will start and  
3 we'll go to the two ladies and work down the list.

10:36:41 4 In any event I will, later on this afternoon, send an email  
5 of the order of call, as best as I can, hoping that there will be  
6 no more unfortunate incidents.

7 PRESIDING JUDGE: Thank you, Ms Thompson. Does the  
8 Prosecution want to say anything?

10:37:02 9 MR AGHA: Yes, Your Honour. Only to say that the  
10 Prosecution thinks it is a very sensible suggestion learned  
11 Defence suggesting that we indeed sit for the full day tomorrow  
12 so we can catch up any lost time today and we'd certainly support  
13 that, if the Bench were so minded, and then we can carry on from  
14 there.

10:37:20 15 PRESIDING JUDGE: All right. Thank you, Mr Agha. Yes,  
16 we'll grant the Defence application for an adjournment for the  
17 rest of the day. We're going to adjourn the Court until 9.15  
18 tomorrow morning. We will work the full day tomorrow. It will  
19 be another normal Court day and the Court will use this afternoon  
10:37:57 20 instead as the half day for other purposes that it has every  
21 week. We'll adjourn to 9.15 and work the full day tomorrow.  
22 Thank you.

23 [Whereupon the hearing adjourned at 10.37 a.m.,  
24 to be reconvened on Wednesday, the 27th day  
10:39:01 25 of September 2006, at 9.15 a.m.]

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