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1718

SCSL - 2003 - 06 - PT
Special Court for Sierra Leone (1718 - 1723)
Office of the Registrar

Before: The Trial Chamber; or
The Designated Judge

Registrar: Mr. Robin Vincent

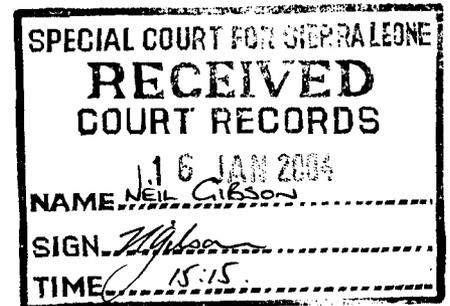
Date Filed: 16 January 2004

THE PROSECUTOR

Against

ALEX TAMBA BRIMA

SCSL - 2003 - 06 - PT



SECOND RESPONDENT'S RESPONSE TO APPLICANT'S MOTION AGAINST DENIAL BY THE ACTING PRINCIPAL DEFENDER TO ENTER A LEGAL SERVICE CONTRACT FOR THE ASSIGNMENT OF COUNSEL FOR AND ON BEHALF OF THE ACCUSED ALEX TAMBA BRIMA THE APPLICANT HEREIN PURSUANT TO RULE 72 (B) (IV) OF THE RULES OF PROCEDURE AND EVIDENCE OF THE SPECIAL COURT FOR SIERRA LEONE AND PURSUANT TO ARTICLE 12 (A) OF THE DIRECTIVE ON THE ASSIGNMENT OF COUNSEL OF THE SPECIAL COURT FOR SIERRA LEONE AND UNDER THE INHERENT JURISDICTION OF THE TRIAL CHAMBER OF THE SPECIAL COURT FOR SIERRA LEONE

Applicant:
Mr. Alex Tamba Brima

Defence Counsel:
Mr. Terence M. Terry

Respondents:
Mr. Sylvain Roy, Acting Principal Defender
Mr. Robin Vincent, Registrar
Mr. Robert Kirkwood, Deputy Registrar

INTRODUCTION

1. The Applicant, by Motion filed 5 January 2004, requested that the Trial Chamber or the Designated Judge invalidate the decision of Mr. Sylvain Roy, Acting Principal Defender, to withdraw the provisional assignment of Mr. Terence Terry to represent the Applicant. The Applicant submitted several arguments why the Acting Principal Defender's decision should be invalidated, including the argument that the Acting Principal Defender cannot perform the functions of Principal Defender and the argument that Article 16 (C) of the Directive does not exist. The Applicant further requested that the Trial Chamber or the Designated Judge order the Registrar, the Deputy Registrar or any other appropriate authority to enter into a Legal Service Contract with Mr. Terry.
2. The present Response is submitted in my capacity as the second respondent, and on behalf of the Deputy Registrar as the third respondent. As the Acting Principal Defender intends to submit his own Response to the Motion, the present Response is limited to issues which directly concern me as the Registrar.

ARGUMENT

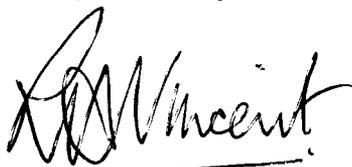
3. On 7 July 2003, I appointed Mr. Roy as Acting Principal Defender to fully exercise the authority of the Principal Defender as referred in Rule 45 of the Rules of Procedure and Evidence. Mr. Roy was so appointed pending the recruitment of the Principal Defender. To date, the post of Principal Defender has not been filled due to difficulties in recruitment.
4. In his Motion, the Applicant appears to rely on a version of the Directive which is unsigned and undated. The applicable Directive is the document which I signed and issued on 1 October 2003, and which entered into force on 3 October 2003. This document was served on Mr. Terry on 2 October 2002, as indicated on the Proof of Service Form (Appendix 1). Contrary to the Applicant's assertion, Article 16 (C) of the Directive on which the Acting Principal Defender based his withdrawal of Mr. Terry's provisional assignment, exists.

5. A Legal Services Contract is defined in Article 1 of the Directive as “the agreement between Contracting Counsel and the Principal Defender for the representation of a Suspect or Accused before the Special Court for Sierra Leone.” The Principal Defender is therefore fully competent to enter (or not enter) into Legal Service Contracts, including one with Mr. Terry.
6. Article 16 (C) of the Directive provides that “if the Assigned Counsel and the Principal Defender cannot agree upon the terms of a Legal Services Contract within 90 days of provisional assignment of Counsel, the provisional assignment may be withdrawn by the Principal Defender and other Counsel shall be assigned to the Suspect of Accused.” The Directive does not contain any provisions which would allow such withdrawal by the Principal Defender to be reviewed or invalidated. The decision of the Acting Principal Defender to withdraw the provisional assignment of Mr. Terry should therefore be considered final.

CONCLUSION

7. In view of the above, I respectfully submit that the Trial Chamber or the Designated Judge dismiss the Applicant’s motion.

Freetown, 16 January 2004

A handwritten signature in black ink, appearing to read 'Robin Vincent', with a horizontal line underneath the name.

Robin Vincent

Registrar

INDEX OF APPENDICES

Appendix 1: Court Service – Form 3 – Proof of Service in Freetown for service of the Directive on the Assignment of Counsel on Mr. Terence Terry on 2 October 2003

Appendix 1

Court Service – Form 3 – Proof of Service in Freetown for service of the Directive on the Assignment of Counsel on Mr. Terence Terry on 2 October 2003



SPECIAL COURT FOR SIERRA LEONE
JOMO KENYATTA ROAD • FREETOWN • SIERRA LEONE

COURT SERVICE – FORM 3 – PROOF OF SERVICE IN FREETOWN

Date: <p style="font-size: 1.2em; font-family: cursive;">2-10-2003</p>	Case Names: The Prosecutor v. <i>Alex Tamba Brima</i> Case No.s: <i>SCSL-2003-06-PT</i>										
To: A:	<table style="width:100%; border: none;"> <tr> <td style="width:50%; border: none;"> <input type="checkbox"/> TRIAL CHAMBER _____ copies received by: _____ (signature) </td> <td style="width:50%; border: none;"> <input type="checkbox"/> APPEALS CHAMBER _____ copies received by: _____ (signature): </td> </tr> <tr> <td style="border: none;"> For onward transmission to: <input type="checkbox"/> Judge B. THOMPSON, Presiding <input type="checkbox"/> Judge ITOE <input type="checkbox"/> Judge BOUTET <input type="checkbox"/> Legal Officer <input type="checkbox"/> By Fax: See CS 3F Form </td> <td style="border: none;"> For onward transmission to: <input type="checkbox"/> Judge G. ROBERTSON, President <input type="checkbox"/> Judge R. WINTHER <input type="checkbox"/> Judge AYOOLA <input type="checkbox"/> Judge G. KING <input type="checkbox"/> Judge JALLOW <input type="checkbox"/> By Fax: See CS Form 3F </td> </tr> <tr> <td colspan="2" style="border: none;"> OFFICE OF THE PROSECUTOR <input type="checkbox"/> Trial Attorney in charge of case: _____, received by _____ </td> </tr> <tr> <td colspan="2" style="border: none;"> <input type="checkbox"/> DEFENSE <input type="checkbox"/> Accused: See CS 2 Form <input type="checkbox"/> Defence Office: <i>Mallett</i> <input checked="" type="checkbox"/> Counsel: <i>For Terrence Terry</i> <input checked="" type="checkbox"/> In Freetown _____ (signature) Abroad: <input type="checkbox"/> By fax see CS 3F Form </td> </tr> <tr> <td colspan="2" style="border: none;"> All Decisions & Imp. Public Docs: <input type="checkbox"/> Press & Public Affairs <input type="checkbox"/> Court Library </td> </tr> </table>	<input type="checkbox"/> TRIAL CHAMBER _____ copies received by: _____ (signature)	<input type="checkbox"/> APPEALS CHAMBER _____ copies received by: _____ (signature):	For onward transmission to: <input type="checkbox"/> Judge B. THOMPSON, Presiding <input type="checkbox"/> Judge ITOE <input type="checkbox"/> Judge BOUTET <input type="checkbox"/> Legal Officer <input type="checkbox"/> By Fax: See CS 3F Form	For onward transmission to: <input type="checkbox"/> Judge G. ROBERTSON, President <input type="checkbox"/> Judge R. WINTHER <input type="checkbox"/> Judge AYOOLA <input type="checkbox"/> Judge G. KING <input type="checkbox"/> Judge JALLOW <input type="checkbox"/> By Fax: See CS Form 3F	OFFICE OF THE PROSECUTOR <input type="checkbox"/> Trial Attorney in charge of case: _____, received by _____		<input type="checkbox"/> DEFENSE <input type="checkbox"/> Accused: See CS 2 Form <input type="checkbox"/> Defence Office: <i>Mallett</i> <input checked="" type="checkbox"/> Counsel: <i>For Terrence Terry</i> <input checked="" type="checkbox"/> In Freetown _____ (signature) Abroad: <input type="checkbox"/> By fax see CS 3F Form		All Decisions & Imp. Public Docs: <input type="checkbox"/> Press & Public Affairs <input type="checkbox"/> Court Library	
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CC:	<input type="checkbox"/> Registrar <input type="checkbox"/> Deputy Registrar <input type="checkbox"/> Chief WVSS <input type="checkbox"/> Chief of Security										
Subject	Kindly find attached the following documents:										

Documents name

Date Filed

Pages

(1) Directive on the Assignment of Counsel
 2-10-03
 1284 / 1296