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SCSL-2003-06-PT-047

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SPECIAL COURT FOR SIERRA LEONE

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Before: Judge Benjamin Mutanga Itoe

Registry: Mr. Robin Vincent

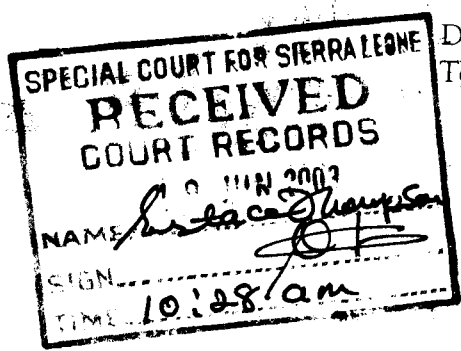
Order of: 18 June 2003

The Prosecutor Against: Alex Tamba Brima aka Tamba Alex Brima,
aka Gullit
(Case No. SCSL-2003-06-PT)

ORDER FOR ORAL HEARING IN THE MOTION FILED BY THE DEFENCE FOR
LEAVE TO FILE A WRIT OF HABEAS CORPUS AD SUBJICIENDUM

The Office of the Prosecutor:
Mr. David Crane
Mr. Jim Johnson

Defence Counsel:
Terence Michael Terry



THE SPECIAL COURT FOR SIERRA LEONE (the Special Court),

WITH Judge Benjamin Mutanga Itoe, Presiding pursuant to the provisions of Rule 28 of the Rules of Procedure and Evidence (“the Rules”);

CONSIDERING the Defence Motion for Leave to Issue a Writ of Habeas Corpus (“the Motion”) filed on 28 May 2003, the Prosecutor’s Response (“the Response”) on 5 June 2003 and the Defence Reply on 9 June 2003 (“the Reply”) thereto;

CONSIDERING the nature of this application and its impact on accessing whether the fundamental human rights of the Applicant under Article 17 of the Statute and under International Human Rights law have been violated by his continued detention;

MINDFUL of the fact that leave to file the substantive application was already signed on Friday, the 13th of March, 2003, for service to be effected on the applicant for a hearing of the substantive application which was to take place on Friday, the 20th of June, 2003.

MINDFUL however of the information furnished to me by the Registry on Friday, the 13th of June, 2003, to the effect that Counsel for the applicant, Barrister Terence Michael Terry, is currently abroad on a mission that was approved by the Registry of the Special Court and can therefore, not attend to represent his client if the matter were to come up on Friday, the 20th of June 2003;

MINDFUL of the necessity for the applicant’s Counsel to be present in Court so as to fully ensure that his interests and case are properly defended and put across to the Designated Judge at the hearing;

MINDFUL of the necessity to ensure, in all circumstances, that these fundamental human rights are being and have been respected in this matter;

PURSUANT to Rule 28 and Rule 54 of the Rules and notwithstanding the fact that Habeas Corpus is not provided for in the Rules of Evidence and Procedure;

HEREBY ORDERS:

- 1) That leave is granted to the Applicant to file his substantive application for the issue of a Writ of Habeas Corpus in his favour.

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- 2) That notwithstanding the urgency of this application, the Registrar, given the aforementioned circumstances, shall confer with the parties and the Judge and thereafter, fix a date for the hearing as soon as the applicant's Counsel returns from his mission.
- 3) That this Order and the filed Writ be served on the Honourable and Learned Attorney General and Minister of Justice of the Republic of Sierra Leone for him to file or cause written submissions to be filed in the Registry of the Special Court, and to eventually appear or be represented at the hearing in view of the fact that the consequences of this application may, as in the case of matters relating to bail brought under the provisions of Rule 65 (B) of the Rules, eventually result in an Order for the release of the applicant from custody to the Republic of Sierra Leone, 'the State to which the accused seeks to be released', through his application for the issue of a Writ of Habeas Corpus.
- 4) That the Applicant will continue to remain in custody.

Done in Freetown, Sierra Leone, this 18th day of June, 2003.

Judge Benjamin Mutanga Itoe
Designated Judge

