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SCSL-2004-16-PT.
(5475-5486)

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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

THE TRIAL CHAMBER

Before: Judge Bankole Thompson,
Designated Judge

Registrar: Robin Vincent

Date: 01 June, 2004

PROSECUTOR	Against	Alex Tamba Brima Brima Bazy Kamara Santigie Borbor Kanu (Case No.SCSL-04-16-PT)
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**KANU - DECISION ON DEFENCE MOTION IN RESPECT OF SANTIGIE BORBOR
KANU FOR AN ORDER UNDER RULE 54 WITH RESPECT TO RELEASE OF
EXCULPATORY EVIDENCE**

Office of the Prosecutor:

Luc Cote
Robert Petit

Defence Counsel for Santigie Borbor Kanu:

Geert-Jan Alexander Knoops
J.O.D. Cole

I, JUDGE BANKOLE THOMPSON, Presiding Judge of the Trial Chamber of the Special Court, sitting as Designated Judge pursuant to Rule 28 of the Rules of Procedure and Evidence ("Rules");

SEIZED of the Kanu - Motion Requesting an Order under Rule 54 with Respect to Exculpatory Evidence ("Motion") filed on 19 March 2004;

NOTING the letter sent by the Prosecution on 26 March 2004 indicating that it does not intend to file a response to the Motion;

NOTING FURTHER that on my direction the Attorney-General and Minister of Justice of Sierra Leone was notified of the aforesaid Motion, and specifically of the Defence allegation on lack of cooperation on the part of the relevant Sierra Leone Government Authorities in respect of the release of the alleged exculpatory material, and afforded the opportunity to provide a response, if deemed necessary;

COGNISANT of Rule 54 of the Rules;

CONSIDERING THE SUBMISSIONS AND ARGUMENTS OF THE PARTIES;

The Defence Motion:

1. By the instant Motion, the Defence Counsel for Accused Santigie Borbor Kanu ("Accused") seeks from the Trial Chamber an order to require governmental authorities, *inter alia* the Cockerill Army Headquarters, to release exculpatory information and evidence to the Defence.

2. In support of its Motion, the Defence submits that according to Rule 67(A)(ii)(a) of the Rules, the Defence has an obligation to notify the Prosecution of any intention to call evidence of an alibi, in which event this notification must specify the place at which the Accused was at the time of the allegations. The Defence indicates that it has the intention to invoke an alibi defence in respect of Counts 14-17 of the Indictment¹. It further states that certain information required to fully establish the alibi of the Accused are still in the possession of governmental officials of Sierra Leone.²

3. The Defence further submits that its investigator has already obtained information in February / March 2004 that the indictee was incarcerated at the Cockerill Army Headquarters from 13 June to 1 December 2000.³

4. In its Motion, therefore, the Defence deems it necessary for a proper preparation of the trial to obtain an official verification of the detention of the Accused during the period 13 June - 1 December, 2000, and an official verification of the location at which the Accused was engaged in his capacity as military serviceman during the period 15 April - 13 June, 2000.⁴

5. Moreover, the Motion seeks also the production of the Commission for the Consolidation of Peace ("CCP") salary vouchers presumably at the Ministry of Finance, as these could substantiate the fact that the Accused was working with CCP during the period April 15 - June 12, 2000. Finally, the

¹ Attack on UNAMSIL personnel between April 15 to September 15, 2000, see *Prosecutor v Alex Tamba Brima, Brima Bazzy Kamara, Santigie Borbor Kanu*; SCSL-04-16-PT, Consolidated Indictment, February 5, 2004, para 80; as a consequence of the Decision on Prosecution Request for Leave to Amend the Indictment, 6 May 2004, these Counts are now numbered 15-18 in the Amended Consolidated Indictment, 6 May 2004.

² Motion, paras 3 & 6.

³ *Id.*, para 8.

⁴ *Id.*, para 10.

Defence seeks an order for the hearing of several individuals who can confirm the fact that the Accused was detained during the abovementioned period.⁵

6. Further, according to the Defence, it has undertaken reasonable steps to obtain the information from the authorities involved⁶, but the authorities seem unwilling to cooperate.⁷

7. Regarding state cooperation in international criminal law in general and the relation between Sierra Leone and the Special Court, the Defence submits that the intermediary of national authorities and their cooperation are indispensable requirements for the functioning of the disclosure and discovery mechanism.⁸

8. The Defence, in addition, submits that the importance of state cooperation between the Special Court and the Government of Sierra Leone is underlined by Section 21(2) of the Special Court Agreement Ratification Act⁹ which establishes that an order of the Special Court is binding on "every natural person, corporation, or other body created by or under Sierra Leone Law." Further, according to the Defence, regarding the seizure of documents or other tangible objects, section 21(3) requires such items to be delivered "forthwith" into the custody of the Special Court, even if that is not specified in the order. The Defence quotes Article 17(1) of the Ratification Act, pursuant to which the Government is obliged to cooperate with "all organs of the Special Court at all stages of the proceedings," and argues that by analogy this also applies to cooperation with the Defence.¹⁰

9. Specifically, the relief sought by the Defence from the Trial Chamber is a two-fold Order, to wit:

- i) To the government and/or military authorities at the Ministry of Finance and/or Cockerill Army Headquarters ... to provide an official statement in which they confirm the correctness of the information obtained by the Defence investigator ... among which official verifications of the exact dates of the Accused's detention period at Cockerill Army Headquarters, or any other orders as the Trial Chamber may deem appropriate;
- ii) To the appropriate authorities of the Ministry of Finance and/or Cockerill Army Headquarters to provide the CCP salary vouchers as specified in this motion (enhancing the period April - June and/or June - September 2000) and/or any other document which may establish the presence of the Accused in the period of April - June 2000 at the location of CCP in Freetown."¹¹

Prosecution's Response:

10. The Prosecution by a letter dated 26 March 2004 indicated that it did not intend to file a response to the aforesaid motion.

Notice to the Government of Sierra Leone

11. By a letter dated May 18, 2004 the Attorney General and Minister of Justice of Sierra Leone was informed about this Motion especially as regards the allegation of the Defence of lack of co-

⁵ *Id.*, paras 13-14.

⁶ Correspondence is annexed to the motion as Exhibit 1 to 5.

⁷ *Id.*, paras 17-24.

⁸ *Id.*, paras 29-30.

⁹ Special Court Agreement, 2002, Ratification Act, 2002; Bill, Supplement to the Sierra Leone Gazette Vol. CXXX. No II, 7th March 2002 ("Ratification Act").

¹⁰ Motion, para 30.

¹¹ *Id.*, para 33.

operation of the relevant national authorities in releasing exculpatory material in respect of the Accused herein. Despite a request for an expedited response, if necessary, the Court has not received any response from the Attorney General's office.

AND HAVING DELIBERATED THUS:

Introduction

12. This Motion brought by Counsel for the Accused herein focuses, generally, on the issue of the framework for the implementation of co-operation between the Special Court and the Government of Sierra Leone, and specifically, on the issue of the accessibility of an accused person to exculpatory evidence in the possession of the national authorities.

13. The records show that this is the second Motion before this Court on the issue of the co-operation between the Special Court and the Government of Sierra Leone within the aforesaid statutory framework for co-operation. The Court, accordingly, missed the opportunity of expounding the law on the subject earlier because the first Motion was a Defence Request for a *subpoena duces tecum* in the case of *Prosecutor v. Morris Kallon*,¹² dismissed by the Trial Chamber on the grounds that it was identical to a Defence application that had been dismissed prior to that one.

Orders Sought

14. The instant Motion seeks from the Trial Chamber two specific orders in the context of the statutory mechanism for co-operation between the Court and the national authorities of Sierra Leone.

15. The said Orders are:

- i) that the Government and/or the military authorities at the Ministry of Finance and/or Cokerill Army Headquarters provide an official statement confirming the correctness of the information obtained by the Defence investigator including verification of the exact dates of the Accused's detention period at or any other Orders as the Trial Chamber may deem appropriate;
- ii) that the appropriate authorities of the Ministry of Finance and/or Cockerill Army Headquarters provide CCP salary vouchers as specified in the Motion (enhancing the period April-June and/or June-September 2000) and/or any other document which may establish the presence of the Accused in the period of April-June 2000 at the location of CPP in Freetown.

Legal Basis For Orders Sought

16. The Motion is filed pursuant to Rule 54 of the Rules of Procedure and Evidence of the Court. Rule 54 is in these terms:

“At the request of either party or of its own motion, a Judge or a Trial Chamber may issue orders, summonses, subpoenas, warrants and transfer orders as may be necessary for the purposes of an investigation in the preparation or conduct of trial.”

¹² *Prosecutor v Morris Kallon*, SCSL-2003-07-PT, Order on the Defence Request for *subpoena duces tecum*, 24 September 2003.

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Applicable Principles: Special Court Statutory Provisions:

17. In ascertaining the applicable principles for the purposes of this Motion, it is important to recall, as just stated, that the application invokes the statutory machinery for co-operation between the Court and the Government of Sierra Leone for the implementation of the Court's orders and facilitating compliance with its process. This statutory framework for co-operation is embodied in the Special Court Agreement, 2002, Ratification Act, 2002. The relevant provision of the Act for the purposes of the instant application is section 21 which enacts, *inter alia*:

“(2) Notwithstanding any other law, every natural person, corporation, or other body created by or under Sierra Leone law shall comply with any direction specified in an order of the Special Court.

(3) Without prejudice to the generality of subsection (i) any person executing an order of the Special Court shall deliver forthwith any books, documents, photographs, tangible objects or other physical objects seized during the execution of that order into the custody of the Special Court.”

18. Section 21 of the aforementioned Sierra Leone legislation derives international legal authority and validity from the bilateral Agreement between the United Nations and the Government of Sierra Leone on the establishment of a Special Court for Sierra Leone. Article 17 of the said Agreement provides thus:

“1. The Government shall cooperate with all organs of the Special Court at all stages of the proceedings. It shall in particular facilitate access to the Prosecutor to sites, persons and relevant documents required for investigation.

2. The Government shall comply without undue delay with any request for assistance by the Special Court or an order issued by the Chambers, including but not limited to:

(a) Identification and location of persons;

(b) Service of documents;

(c) Arrest on detention of persons;

(d) Transfer of an indictee to the Court.”

As noted in paragraph 12, this Court has not had any decided case before now on the subject.

Applicable Jurisprudence: The Blaskic Criteria

19. Consistent with the Court's general philosophy of drawing, persuasively from the judicial experiences of sister international criminal tribunals¹³, as to their approaches in determining complex and delicate legal issues of international criminal law importance with necessary adaptations, it is instructive, to explore and expound the law governing states' cooperation with international criminal tribunals. In this regard, it must be noted that, at the level of the International Criminal Tribunal for former Yugoslavia (“ICTY”) some judicial light has been shed on this rather

¹³ See *Prosecutor v. Issa Hassan Sesay*, Case No. SCSL-2003-05-PT, Decision on the Prosecutor's Motion for Immediate Protective Measures for Witnesses and Victims and for Non-Public Disclosure, 23 May 2003, para. 11; see also *Prosecutor v. Issa Hassan Sesay, Alex Tamba Brima, Morris Kallon, Augustine Gbao, Brima Bazzy Kamara, Santigie Borbor Kanu*, Decision and Order on Prosecution's Motion for Joinder, 27 January 2004, para. 26.

esoteric area of the law in the case of the *Prosecutor v. Blaskic*¹⁴. In that case, the Appeals Chamber insightfully addressed certain central issues germane to the subject of the instant application. These are:

- (a) whether the international tribunal can issue subpoenas to states and state officials;
- (b) whether the international tribunal can issue binding orders to states;
- (c) the nature and scope of such binding orders;
- (d) whether the international tribunal can direct binding orders to state officials,

20. The following extract from the *Blaskic* Judgment serves to put that Decision in its factual and legal context:

“The Appeals Chamber of the International Criminal Tribunal for the former Yugoslavia (“International Tribunal”) is seized of the question of the validity of a *subpoena duces tecum* issued by Judge Gabrielle Kirk McDonald to the Republic of Croatia (“Croatia”) and its Defence Minister, Mr. Gojko Susak, on 15 January 1997. This matter arises by way of a challenge by Croatia to the Decision of Trial Chamber II on 18 July 1997 (“Subpoena Decision”) upholding the issuance of the said *subpoena duces tecum* by Judge McDonald, and ordering compliance therewith by Croatia within 30 days. Croatia has challenged the legal power and authority of the International Tribunal to issue this compulsory order to States and high government officials. The legal issues that have been argued before this Chamber address the power of a Judge in a Trial Chamber of the International Tribunal to issue *subpoena duces tecum* in general and, in particular, to a state, the power of a Judge or Trial Chamber of the International Tribunal to issue a *subpoena duces tecum* to high government officials of a State and other individuals; the appropriate remedies to be taken if there is non-compliance with such *subpoena duces tecum*, and other issues including the question of the national necessity interests of sovereign states.”

21. In addressing the first question, namely, *whether the international tribunal can issue subpoenas to states and states officials*, the Appeal Chamber’s approach was twofold. Firstly, the Chamber reasoned thus:

“... the International Tribunal does not possess any power to take enforcement measures against States. Had the drafters of the Statute intended to vest the International Tribunal with such a power, they would have expressly provided for it. In the case of an international judicial body, this is not a power that can be regarded as inherent in its functions. Under current international law States can only be the subject of countermeasures taken by other States or of sanctions visited upon them by the organized international community, i.e. the United Nations or other intergovernmental organisations.”

Secondly, the Chamber emphasised that:

“Under present international law, it is clear that states, by definition, cannot be the subject of criminal sanctions akin to those provided for in national criminal systems.”¹⁵

22. On the issue of the international tribunal’s power or lack thereof to issue binding orders to states, the Appeals Chamber had this to say:

¹⁴ *Prosecutor v. Tihomir Blaskic*, Judgement on the Request of the Republic of Croatia for Review of the Decision of Trial Chamber II, 18 July 1997; 29 October, 1997 (“*Blaskic* Judgement”).

¹⁵ *Id.* para 25

“However, it is self-evident that the International Tribunal, in order to bring to trial persons living under the jurisdiction of sovereign states, not being endowed with enforcement agents of its own, must rely upon the cooperation of States. The International Tribunal must turn to states if it is effectively to investigate crimes, collect evidence, summon witnesses and have indictees arrested and surrendered to the International Tribunal. The drafters of the Statute realistically took account of this in imposing upon all states the obligation to lend cooperation and judicial assistance to the International Tribunal. The obligation is laid down in Article 29 ... The exceptional legal basis of Article 29 accounts for the novel and indeed unique power granted to the International Tribunals to issue orders to sovereign states (under customary international law, states, as a matter of principle, cannot be “ordered” either by other states or international bodies.”¹⁶

23. On the question of *the obligation of states under Article 29*, the Appeals Chamber noted that it

“concerns both action that states may take only and exclusively through their organs (this, for instance, happens in case of an order enjoining a state produce documents in the possession of ones of its officials).”¹⁷

24. As to the nature and scope of binding orders that can be issued by the International Tribunal, the Chamber laid down certain criteria which a request for an order for production of documents issued under Article 29(2) of the statute, whether before or after commencement of a trial, must satisfy. These are:

(i) it must identify specific documents and not broad categories;

(ii) it must set out succinctly the reasons why such documents are deemed relevant to the trial, except if giving reasons might jeopardize prosecutorial or defence strategy;

(iii) it must not be unduly onerous;

(iv) it must give the requested state sufficient time for compliance.”¹⁸

All these conditions must be met.

Applicable Jurisprudence: Adaptation of the Blaskic Criteria

25. Guided persuasively by the principles enunciated by the ICTY in the *Blaskic* Judgement, as Designated Judge, I now proceed to adopt with modifications, if necessary, the test laid down in that case, for the purpose of applications of this type brought before the Special Court. In my considered opinion, Article 17 of the Agreement between the United Nations and the Government of Sierra Leone on the establishment of a Special Court for Sierra Leone and section 21 of the Ratification Act together form the doctrinal bedrock of the machinery for co-operation between the Government of Sierra Leone and the Court in the execution of its statutory mandate.

26. On a level of specificity, articulated in paragraphs 27-29 are the three key principles for future guidance of the Court in determining the merits of applications of this nature.

¹⁶ *Id.* para 26.

¹⁷ *Id.* para 27.

¹⁸ *Id.* para 32.

LIST

27. First, the Special Court lacks legal authority to apply any enforcement measures against the State of Sierra Leone, there being no express statutory authority in the founding instruments of the Court for that purpose, nor can it be asserted that the Court's inherent jurisdiction includes such power. Any other view of the law on this theme would amount to a disregard for or encroachment upon, the entrenched doctrine of state sovereignty.

28. Second, predicated upon its founding instruments, the Special Court, not being endowed with enforcement agents of its own, must depend and rely upon the co-operation of the sovereign State of Sierra Leone in order to prosecute persons alleged to bear the greatest responsibility for serious violations of international humanitarian law during the hostilities which took place during the rebel war. In essence, under the statutory co-operation scheme, there devolves upon the State of Sierra Leone an international contractual obligation, which is treaty-based, to assist the Special Court effectively investigate crimes, collect evidence, summon witnesses and have indictees arrested and delivered to the Special Court.

29. Third, as emphasized in *Blaskic* in respect of Article 29 of the ICTY Statute, the power granted to the ICTY to issue orders to sovereign States is exceptional and novel, one not hitherto recognised under customary international law. To the same extent, analogically, does Article 17 of the Special Court's Statute create the unique power authorising the Special Court to issue orders to the sovereign State of Sierra Leone. It follows, therefore, that the contractual obligation created under the bilateral arrangement between the United Nations and the Government of Sierra Leone specifically applies to cases where the State of Sierra Leone is required to produce documents in possession of its officials.

30. In addition to the above key principles undergirding the statutory framework for co-operation between the Court and the State of Sierra Leone articulated in paragraphs 25-29, it is now necessary to stipulate for the purposes of applications of this nature seeking orders for the implementation of Article 17, that for such applications to succeed, the applicant must fulfil the criteria laid down in the *Blaskic* Judgement.

Evaluation of Merits of the Motion

31. In applying the test in the *Blaskic* Judgement in determining the merits of the Motion, four key issues call for consideration. They are:

- (a) whether the documents requested by the Defence are sufficiently identified;
- (b) whether reasons given to justify the need for the release of the documents are succinctly presented;
- (c) whether reasonable steps were taken by the applicant to obtain the documents; and
- (d) whether the order, if granted, will be unduly burdensome on the State of Sierra Leone.

a) Are the requested documents sufficiently identified?

32. Based on a careful review and evaluation of the Motion and attachments, I find the requested documents to be sufficiently identified. To this effect are Exhibit 1, Folios A and B and Consolidation Commission for Peace salary vouchers in respect of Accused for the period April 15-June 12, 2002. The main document is characterised at page 3 lines 8-9 as "the detention register for the period 15th April to 15th September 2000". Folio A is a photostat copy of a document entitled "Detainees

27. First, the Special Court lacks legal authority to apply any enforcement measures against the State of Sierra Leone, there being no express statutory authority in the founding instruments of the Court for that purpose, nor can it be asserted that the Court's inherent jurisdiction includes such power. Any other view of the law on this theme would amount to a disregard for, or encroachment upon, the entrenched doctrine of state sovereignty.

28. Second, predicated upon its founding instruments, the Special Court, not being endowed with enforcement agents of its own, must depend and rely upon the co-operation of the sovereign State of Sierra Leone in order to prosecute persons alleged to bear the greatest responsibility for serious violations of international humanitarian law during the hostilities which took place during the rebel war. In essence, under the statutory co-operation scheme, there devolves upon the State of Sierra Leone an international contractual obligation, which is treaty-based, to assist the Special Court effectively investigate crimes, collect evidence, summon witnesses and have indictees arrested and delivered to the Special Court.

29. Third, as emphasized in *Blaskic* in respect of Article 29 of the ICTY Statute, the power granted to the ICTY to issue orders to sovereign States is exceptional and novel, one not hitherto recognised under customary international law. To the same extent, analogically, does Article 17 of the Special Court's Statute create the unique power authorising the Special Court to issue orders to the sovereign State of Sierra Leone. It follows, therefore, that the contractual obligation created under the bilateral arrangement between the United Nations and the Government of Sierra Leone specifically applies to cases where the State of Sierra Leone is required to produce documents in possession of its officials.

30. In addition to the above key principles undergirding the statutory framework for co-operation between the Court and the State of Sierra Leone articulated in paragraphs 25-29, it is now necessary to stipulate for the purposes of applications of this nature seeking orders for the implementation of Article 17, that for such applications to succeed, the applicant must fulfil the criteria laid down in the *Blaskic* Judgement.

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Book of Records". It contains entries of names of suspects and such other particulars as the date of entry into custody, unit, offence, and action taken. In that Folio, there is an entry relating to suspect "18164955 Sgt. Kanu S of the CCP unit for the offence of UML/Firing". Folio B is a List of suspects in custody as at Friday 1st December 2000, which, for the purposes of the instant Motion has this entry:

Name of Suspect	Date	Unit	Offence	Remarks
18164955 Sgt. Kanu S. B.	13/06/00	CCP	UML-Firing	Released

b) Are the reasons given to justify the need for the release of the required documents sufficient and succinctly set out?

33. Based on a careful review and evaluation of the averments and submissions of the Defence, I find that there are sufficient legal and factual reasons to justify the need for release of the requested documents and that they are succinctly presented. I am reinforced in this finding by the legal analysis of the Defence at page 2 paragraphs 3-5 of the Motion where, *inter alia*, the Defence submits that:

"According to Rule 67(A)(ii)(a), the Defence has an obligation to notify the Prosecution of any intentions to call evidence of an alibi, in which event this notification must specify, the place at which the Accused was at the time of the allegations. The Defence wishes to fulfil this obligation, albeit that certain information to fully establish this alibi defense is still in the possession of governmental officials of Sierra Leone. Although the Defence is able to establish a *prima facie* case for the acceptance of this defense, it deems it in the interest of the investigation and preparation of the case that the latter information is disclosed to the parties.

With respect to this *prima facie* case, the Defense refers to materials that indicate that the Accused could not reasonably have been involved in the alleged crimes as mentioned under Counts 14-17 due to, in short, his incarceration at Cockerill Army Headquarters with respect to a shooting incident that took place at Juba Hill earlier.

According to Rule 67(A)(ii)(a) of the Rules, the Defence shall notify the Prosecution of its intent to enter "[t] he defence of an alibi; in which case the notification shall specify the place or places at which the accused claims to have been present at the time of the alleged crime and the names and addresses of witnesses and any other evidence upon which the accused intends to rely to establish the alibi."

I also find sufficient factual reasons adduced for the requested documents as evident from paragraphs 9-11 of the Motion, set out hereunder:

"In view of Section V below, this Motion intends to seek an order from the Trial Chamber in which the national authorities are directed to provide all documents available which may substantiate the fact that the Accused reasonably could not have committed the charges against UNAMSIL personnel under Counts 14-17, more specifically those allegedly committed within Bombali, Kailahun, Kambia, Port Loko and Kono districts.

Two sorts of information are deemed necessary for a proper preparation of the trial, the disclosure of which is also in the interest of justice:

- (i) Official verification of the detention of the Accused in the period of 13 June to 1 December, 2000;
- (ii) Official verification of the location at which the Accused was engaged in his capacity as military serviceman in the period 15 April - 13 June, 2000.

RBT

c) Were reasonable steps taken by the Applicant to obtain the requested documents?

34. After a very careful review and evaluation of the averments and submissions of the Defence, I find conclusively that reasonable steps were indeed taken by the Applicant to obtain the requested documents. To this effect are the unrebutted submissions and averments contained in paragraphs 17-23 of the Motion, there being no response filed by the Prosecution.

d) Will the order, if granted, be burdensome on the State of Sierra Leone?

35. It is my considered view, again based on an examination of the averments and submissions of the Defence and the nature and scope of the documents requested, that the production or release of the said documents (specifically the originals of Folios A and B and the relevant CCP salary vouchers) will not be onerous on the State of Sierra Leone. The instant request does not relate to, for example, (a) voluminous or similar documents whose identification, location, or scrutiny might pose some formidable problems of production (b) documents that might become very taxing or expensive for the Government to produce, (c) documents that are not strictly justified by the exigencies of the trial, or (d) documents touching and concerning matters of national security. The documents sought are vital to the preparation of the case of the Defence in respect of counts 15-18 of the Amended Consolidated Indictment.

36. Predicated upon the analysis and considerations in paragraphs 16-34, the inference is, in my view, irresistible that the instant application meets the requirements of the *Blaskic* test as adopted for the purposes of such application before the Special Court, and I so hold.

Further Order Sought

37. At paragraph 14 of the Motion, the Applicant seeks further from the Court an order pursuant to the aforesaid Rule 54 for the hearing of "several individuals who can confirm the fact that the Accused was indeed detained in the above mentioned period", reference being made to the following persons:

(i) Lieutenant-Colonel Sheku Mohamed Koroma;

(ii) Captain Sylvanus of the Military Police (who conducted the investigation for the Juba Hill shooting incident)

(iii) Colonel S. O. William.

At this point in time, I do not deem it appropriate to grant this order for the reason that it is not strictly part of the relief sought and is only prayed for as an ancillary order, though this Court has authority under Rule 54 to grant it.

Disposition

38. For the foregoing reasons and considerations, I, Judge Bankole Thompson, as Designated Judge of the Trial Chamber, pursuant to Rule 28, being seized of the instant Motion,

Pursuant To Rule 54

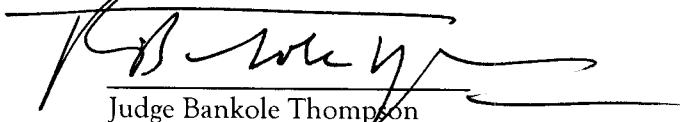
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HEREBY GRANT THE SAID MOTION AND REQUEST THE CO-OPERATION and assistance of the competent authorities of the State of Sierra Leone as follows:

- (1) That the Government and/or military authorities at the Ministry of Finance and/or Cockerill Army Headquarters in the Republic of Sierra Leone, and more particularly, Lieutenant Colonel Sheku Mohamed Koroma, Captain Sylvanus of the Military Police, and Colonel S.O. Williams, **DO PROVIDE** to the Defence herein an official statement confirming the correctness of the information embodied in Exhibit 1 of the Motion with verifications of the Accused's detention period at Cockerill Army Headquarters as evident from Folios A and B attached to the Motion.
- (2) That the appropriate authorities of the Ministry of Finance and/or Cockerill Army Headquarters in the Republic of Sierra Leone **DO PROVIDE** to the Defence herein the CCP salary vouchers as specified in the Motion (enhancing the period April - June and/or any other document which may establish the presence of the Accused during the period of April -June 2000 at the location of CCP in Freetown.
- (3) That the Applicant is granted liberty to apply for the subsidiary order at a later appropriate stage.

AND EXPRESS APPRECIATION to the Government of Sierra Leone for its co-operation and assistance in this matter.

Done at Freetown, this 1st day of June 2004


 Judge Bankole Thompson
 Designated under Rule 28 of
 the Rules

