

**SPECIAL COURT FOR SIERRA LEONE**

OFFICE OF THE PROSECUTOR  
FREETOWN - SIERRA LEONE

**TRIAL CHAMBER II**

Before: Judge Teresa Doherty, Presiding Judge  
Judge Richard Brunt Lussick  
Judge Julia Sebutinde

Registrar: Mr. Robin Vincent

Date filed: 4 March 2005

**THE PROSECUTOR**

**Against**

**ALEX TAMBA BRIMA  
BRIMA BAZZY KAMARA  
SANTIGIE BORBOR KANU**

**Case No. SCSL - 2004 - 16 - PT**

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**PROSECUTION LETTER TO BRIMA DEFENCE  
REGARDING DISCLOSURE IN RELATION TO WITNESS TF1-081**

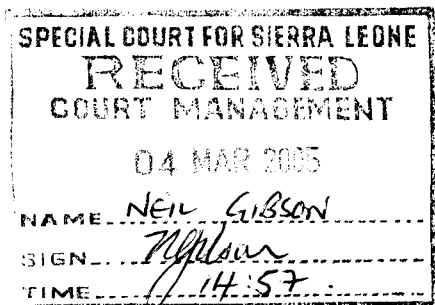
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Defence Counsel for Brima Bazy Kamara  
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4 March 2005

Mr Kevin Metzger  
C/- The Defence Office  
Special Court for Sierra Leone  
Jomo Kenyatta Road  
New England, Freetown  
Sierra Leone

**The Prosecutor v Alex Tamba Brima**  
**Case No. SCSL-2004-16-PT**

Dear Sir

I write in response to your request for disclosure in relation to witness TF1-081, whom you identify by name in two documents filed with Trial Chamber II on 2 March 2005: the Defence Response to Prosecutors Request to Admit and the Defence Request for Disclosure.

Please note that this witness is subject to protective measures which protect his anonymity: see *Oral Decision on Prosecutions Motion for Protective Measures Pursuant to Order to the Prosecution for Renewed Motion for Protective Measures Dated 2 April 2004*, of 3 February 2005. It may be more prudent to use the assigned pseudonym unless documents are filed confidentially.

I am responding to your request by letter, as neither document filed by you is a motion within the terms of Rule 73, insofar as neither document seeks ruling or relief from the Trial Chamber.

Your request is couched in terms of Rule 66(A)(ii). Rule 66 imposes upon the Prosecution the obligation to continuously disclose to the Defence copies of statements of all witnesses whom they intend to call, including new developments in the investigation in the form of "will-say statements" or interview notes or other forms obtained from a witness at any time prior to the witness giving evidence in trial. See *Prosecutor v Norman et al*, Case No. SCSL-04-14-T, Decision on Disclosure of Witness Statements and Cross Examination, 16 July 2004 paragraph 6, and *Prosecutor v Sesay et al*, Case No. SCSL-04-15-T, Ruling on Oral Application for the Exclusion of "Additional" Statement for Witness TF1-060, 23 July 2004, paragraph 15.

I inform you that all relevant materials within the custody or control of the OTP relating to witness TF1-081 have been disclosed. A 1 page typed summary of the witness statement was disclosed on 3 June 2003. The unredacted 2 page statement and accompanying 5 page report were disclosed on 26 January 2005.



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To deal with your specific point a., you refer to original medical reports of those treated by FAWE as apparently used in the preparation of the statement of the witness TF1-081. It is clear from the statement of witness TF1-081 that the report appended to it was written for publication prior to the statement being taken. Further, the statement makes clear that in writing the report the witness relied not upon medical reports but on statistics compiled by him and other doctors in the project. The OTP does not have the medical reports of the 1168 persons referred to in the report.

In the spirit of transparency, I advise that in early 2003 investigators with the OTP took photocopies of the medical records of a doctor (not witness TF1-081) who was, coincidentally, one of the doctors who participated in the FAWE project. These records were provided on a confidential basis (Rule 70). The Chief of Prosecutions advised those investigators that the documents were privileged, as they fell clearly within the realm of doctor/client confidentiality, and instructed that they were not to be used. No lawyer of the Prosecution team has ever analysed these documents. It is theoretically possible that some of the records may relate to persons treated as part of the FAWE project. However, the position on the confidentiality of those documents taken by the Prosecution means that if that fact is ascertainable from the documents, and it is by no means certain that it would be, that fact has never been established. The Prosecution does not intend to change its position regarding the confidentiality of the medical records.

The Prosecution has no information pertaining to the issues raised by you in points b. and c.. These are matters which, if relevant, you may care to pursue in cross-examination of this witness.

Yours faithfully

Lesley Taylor  
Senior Trial Attorney

cc. Trial Chamber II