

512

SCSL-04-16-T
(18353 - 18355)

18353

**SPECIAL COURT FOR
SIERRA LEONE**

Case No. SCSL-2004-16-T

BEFORE: Justice Richard Lussick, Presiding
Justice Julia Sebutinde
Justice Teresa Doherty

Registrar: Mr Lovemore G. Munlo SC

Date filed: 13th July 2006

THE PROSECUTOR

Against

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

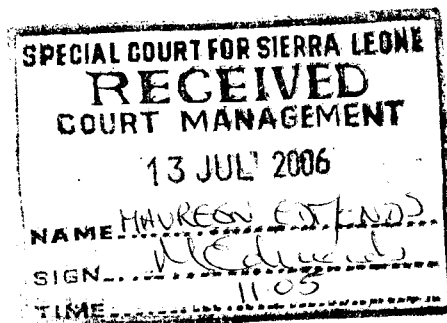
**PUBLIC BRIMA - RESPONSE TO PROSECUTION MOTION FOR RELIEF IN
RESPECT OF VIOLATIONS OF RULE 67**

Office of the Prosecutor:
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Kojo Graham
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Carry J. Knoop



SCSLI-2004-16-T

INTRODUCTION

1. On 7 July 2006, the Prosecution filed a “Prosecution Motion for Relief in Respect of Violations of Rule 67” (“**Prosecution Motion**”).¹ The Defence for the First Accused, Mr. Tamba Brima, herewith files a response thereto.
2. The Prosecution alleges that “the Defence for the First and Third Accused are in breach of Rule 67.”²

LEGAL ARGUMENTS

3. The Defence does not accept that it is in breach of Rule 67 (A) (ii) on the basis of the assumptions of the Prosecution as to alibi or otherwise.
4. The Defence for the first Accused argues that firstly it did not put forward the ‘defence’ of alibi, which is not a defence in itself³. Indeed the First Accused merely asserted that the he (and in some places the Third Accused) was (were) not in a position to commit the crimes with which he (they) has (have) been charged.
5. The Defence would submit that this assertion is not new as the cross examination of Prosecution witnesses by the Defence went to the issue of whether the First Accused was in a position, either physically or by virtue of his position to commit the crimes with which he has been charged, or that he was not the person the witnesses claimed to have seen.
6. As regards specific evidence, the Defence wishes to raise the fact that the prosecution’s own evidence has in part provided some support for portions of the evidence of the Accused and his position at a particular location.⁴

¹ Prosecutor v. Motion for Relief in Respect of Violations of Rule 67,

² Prosecution Motion, para. 5.

³ Delalic et al (ICTY) Appeals Chamber Judgement February 2000

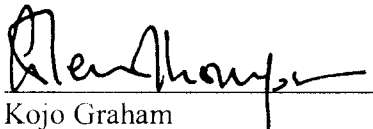
⁴ See the evidence of witness TF1- 167 Transcript of 15th and 16th September 2005 - examination in chief dealing with the arrest and detention of all three accused persons at Eddie Town and from there to Newton

7. The Defence wishes to assert that all the First Accused has done is to raise reasonable doubt in the evidence led against him. The evidence is in response to that led by the Prosecution whose role was to adduce enough evidence to eliminate any doubt.
8. The Defence will also say that Rule 67(A)(ii) language is clear; in that it states that any information regarding alibi should be provided "as early as practicably possible." The constraints faced by the Defence in terms of evidence gathering and witness finding for this case has been well rehearsed before the Trial Chamber.
9. Further and in the alternative the Defence relies on Rule 67(B) which provides that " Failure of the Defence to provide such notice under this Rule shall not limit the right of the Accused to rely on the above defences"

CONCLUSION

10. The Defence therefore asks that the Prosecution motion be dismissed in its entirety.

Filed this ^{3rd} day of July 2006



Kojo Graham
Glenna Thompson