

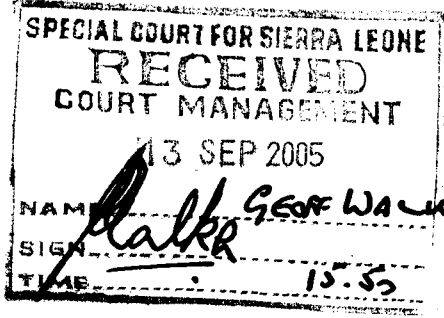
**SPECIAL COURT FOR SIERRA LEONE**

**THE APPEALS CHAMBER**

Before: Justice A. Raja N. Fernando, Presiding  
Justice Emmanuel Ayoola  
Justice George Gelaga King  
Justice Geoffrey Robertson, QC  
Justice Renate Winter

Registrar: Robin Vincent

Date filed:



**THE PROSECUTOR**      **Against**      **ALEX TAMBA BRIMA**  
**BRIMA BAZZY KAMARA**  
**SANTIGNE BORBOR KANU**

**CASE NO. SCSL-2004-16-T**

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**FIRST RESPONDENT'S ADDITIONAL MOTION TO THE INTERLOCUTORY APPEAL OF ALEX TAMBA BRIMA AND BRIMA BAZZY KAMARA AND THE RESPONSE BY THE PRINCIPAL DEFENDER (THE SECOND RESPONDENT)**

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First Respondent

Defence Counsel for Brima

The Registrar

Kojo Graham  
Glenna Thompson

Second Respondent

Defence Counsel for Kamara

The Principal Defender

Andrew Daniels  
Mohammed Pa-Momo Fofanah

**I BACKGROUND**

1. The Appellants sought leave to appeal the majority decision of the Trial Chamber<sup>1</sup> on 14 July 2004 No application for leave to appeal was filed by any of the other parties to the Original Motion<sup>2</sup>.
2. The Appellants were granted Leave to Appeal by Trial Chamber II on 5 August 2005.
3. The Appellants filed a Notice of Appeal on 2 September 2005 (served on 5 September 2005) and set out seven grounds of appeal.
4. The Second Respondent (The Principal Defender) responded to the Notice of Appeal on 9 September 2005.
5. In the Response of the Second Respondent under Part IV of its Response it sought to argue “Additional Grounds and Arguments Submitted by the Defence Office”.<sup>3</sup>
6. In this Part the Second Respondent sought to raise four additional grounds of appeal.

**II ARGUMENTS**

7. It is the submission of the First Respondent that the Second Respondent is not entitled to plead additional grounds outside the grounds of appeal filed by the Appellants.
8. The Second Respondent could have, as did the Appellants, sought leave to appeal and then filed grounds of appeal but chose not to.
9. In these circumstances it cannot now seek to use the appeal by the Appellants to argue additional grounds that it wishes the Appeal Chamber to consider.

<sup>1</sup>

“Decision of the Extremely Urgent Confidential Joint Motion for the re-Appointment of Kevin Metzger and Wilbert Harris as lead Counsel for Alex Tamba Metzger and Wilbert Harris as lead Counsel for alex Tamba Brima and Brima Bazy Kamara and Decision on cross Motion by deputy Principal defender to Trial Chamber II for Clarification of its Oral Order of 12 May 2005”, 9 June 2005

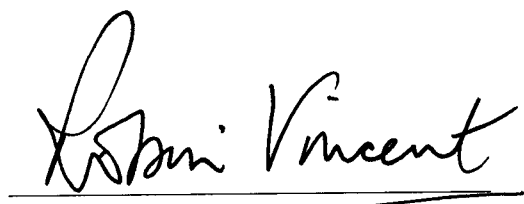
<sup>2</sup> Extremely Urgent Confidential Motion for the Re-Appointment of Kevin Metzger and Wilbert Harris as Lead Counsel for Alex Tamba Brima and Brima Bazy Kamara pursuant to Articles 17 (4) (C) and 17 (4) (D) of the Statute of the Special Court for Sierra Leone and rule 54 of the Rules of procedure and evidence and the Inherent Jurisdiction of the Court” filed 24 May 2005.

<sup>3</sup> Pages 16 to 23 of the “Defence Response To Brima-Kamara Defense Appeal Motion Pursuant To Article II Of The Practice Direction For Certain Appeals Before The Special Court”.

- 10. Whilst the First Respondent would have arguments to present on the additional grounds pleaded (in particular the line authority of the Registrar over the defence personnel), this use of pleadings by the Second Respondent does not give the First Respondent an opportunity under The Rules of Procedure and Evidence to respond to these additional grounds.
- 11. The submission of the First Respondent is therefore that the additional grounds that the Principal Defender has sought to raise in Part IV of its Response should not be considered by the Appeal Chamber.
- 12. The First Respondent opposes any granting of leave to consider the additional grounds, as this would encourage and condone procedural practices outside the procedural Rules of the Court which have been specifically drafted to prevent unnecessary delays and costs in the operation of the court.
- 13. However, if leave is granted by the Appeal Chamber to the Second Respondent to allow it to consider these additional grounds, then the First Respondent submits that it be given the opportunity to file a Response.

Date the 14<sup>th</sup> day of September 2005.

At Freetown



Robin Vincent  
Registrar of the Special Court for Sierra Leone