

086

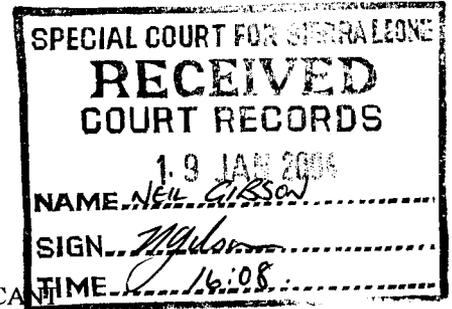
1779

SCSL - 2003 - 06 - 27  
 (1779 - 1783)  
**SPECIAL COURT FOR SIERRA LEONE**  
**FREETOWN - SEIRRA LEONE**

Before: Trial Chamber of the Special Court for Sierra Leone  
 OR the designated Judge

Registrar: Robin Vincent

Date Filed: 19<sup>th</sup> January, 2004



**BETWEEN:**

TAMBA ALEX BRIMA - APPLICANT  
 DETAINEE AT THE SPECIAL COURT  
 DETENTION CENTRE  
 JOMO KENYATTA ROAD  
 NEW ENGLAND  
 FREETOWN

AND  
 SYLVAIN ROY - 1<sup>ST</sup> RESPONDENT  
 ACTING PRINCIPAL DEFENDER  
 SPECIAL COURT FOR SIERRA LEONE  
 JOMO KENYATTA ROAD  
 NEW ENGLAND  
 FREETOWN

AND  
 THE REGISTRAR OF THE SPECIAL COURT FOR SIERRA LEONE, MR. ROBIN VINCENT - 2<sup>ND</sup> RESPONDENT  
 JOMO KENYATTA ROAD, NEW ENGLAND  
 FREETOWN

AND  
 THE DEPUTY REGISTRAR OF THE SPECIAL COURT FOR SIERRA LEONE,  
 MR. ROBERT KIRKWOOD - 3<sup>RD</sup> RESPONDENT  
 JOMO KENYATTA ROAD, NEW ENGLAND  
 FREETOWN

**APPLICANTS REPLY TO THE 2<sup>ND</sup> RESPONDENT'S RESPONSE TO APPLICANT'S MOTION FOR DENIAL BY THE ACTING PRINCIPAL DEFENDER TO ENTER A LEGAL SERVICE CONTRACT (AGREEMENT) FOR THE ASSIGNMENT OF COUNSEL FOR AND ON BEHALF OF THE ACCUSED TAMBA BRIMA THE APPLICANT HEREIN PURSUANT TO RULE 72(B) (IV) OF THE RULES OF PROCEDURE AND EVIDENCE OF THE SPECIAL COURT FOR SIERRA LEONE AND PURSUANT TO ARTICLE 12(A) - OF THE DIRECTIVE ON THE ASSIGNMENT OF COUNSEL OF THE SPECIAL COURT FOR SIERRA LEONE, AND UNDER THE INHERENT JURISDICTION OF THE TRIAL CHAMBER OF THE SPECIAL COURT FOR SIERRA LEONE.**

**Respondents:**

Mr. Sylvain Roy, Acting Principal Defender  
 Mr. Robin Vincent, Registrar  
 Mr. Robert Kirkwood, Deputy Registrar

**Applicant's Counsel:**

Terence Michael Terry

**SPECIAL COURT FOR SIERRA LEONE  
FREETOWN – SEIRRA LEONE**

Before: Trial Chamber of the Special Court for Sierra Leone  
OR the designated Judge

Registrar: Robin Vincent

Date Filed: 19<sup>th</sup> January, 2004

BETWEEN:

TAMBA ALEX BRIMA - APPLICANT  
DETAINEE AT THE SPECIAL COURT  
DETENTION CENTRE  
JOMO KENYATTA ROAD  
NEW ENGLAND  
FREETOWN

AND  
SYLVAIN ROY - 1<sup>ST</sup> RESPONDENT  
ACTING PRINCIPAL DEFENDER  
SPECIAL COURT FOR SIERRA LEONE  
JOMO KENYATTA ROAD  
NEW ENGLAND  
FREETOWN

AND  
THE REGISTRAR OF THE SPECIAL - 2<sup>ND</sup> RESPONDENT  
COURT FOR SIERRA LEONE, MR. ROBIN VINCENT  
JOMO KENYATTA ROAD, NEW ENGLAND  
FREETOWN

AND  
THE DEPUTY REGISTRAR OF THE SPECIAL COURT  
FOR SIERRA LEONE,  
MR. ROBERT KIRKWOOD - 3<sup>RD</sup> RESPONDENT  
JOMO KENYATTA ROAD, NEW ENGLAND  
FREETOWN

---

**APPLICANTS REPLY TO THE 2<sup>ND</sup> RESPONDENT'S RESPONSE TO APPLICANT'S MOTION FOR DENIAL BY THE ACTING PRINCIPAL DEFENDER TO ENTER A LEGAL SERVICE CONTRACT (AGREEMENT) FOR THE ASSIGNMENT OF COUNSEL FOR AND ON BEHALF OF THE ACCUSED TAMBA BRIMA THE APPLICANT HEREIN PURSUANT TO RULE 72(B) (IV) OF THE RULES OF PROCEDURE AND EVIDENCE OF THE SPECIAL COURT FOR SIERRA LEONE AND PURSUANT TO ARTICLE 12(A) – OF THE DIRECTIVE ON THE ASSIGNMENT OF COUNSEL OF THE SPECIAL COURT FOR SIERRA LEONE, AND UNDER THE INHERENT JURISDICTION OF THE TRIAL CHAMBER OF THE SPECIAL COURT FOR SIERRA LEONE.**

---

In reply to the response of the 2<sup>nd</sup> Respondent dated the 16<sup>th</sup> day of January, 2004, the applicant herein will reply upon and adopt all the submissions and arguments made on

-2-

his behalf which are contained in his reply herein dated the 19<sup>th</sup> day of January, 2004 to the response of the alleged 1<sup>st</sup> Respondent herein.

In reply to paragraph 3 under 3 at Page 1 of the response of the 2<sup>nd</sup> Respondent under the caption "ARGUMENT", the latter with respect has failed to disclose any evidence of the actual appointment of the said Mr. Roy. Even assuming without conceding that this is the case, the very Rule 45 of the Rules of Procedure and Evidence of the Special Court for Sierra Leone which the Registrar the 2<sup>nd</sup> Respondent seeks to rely upon does not assist him in any way whatsoever as the person OR creature described therein is the Principal Defender – and not the Acting Principal Defender. It is submitted therefore that the 1<sup>st</sup> Respondent cannot and ought not to have vested any authority if at all on an Acting Principal Defender who was not the person OR individual contemplated under the said Rule 45 of the Rules of Procedure and Evidence of the Special Court for Sierra Leone.

In reply to paragraph 4 under 4 at Page 1, it is submitted that the 2<sup>nd</sup> Respondent concedes that there is in existence an unsigned and undated Directive and one signed and issued on 1<sup>st</sup> October, 2003 which latter document he wrongly asserted the applicant's Solicitor received by virtue of the Proof of Service Form (Appendix 1). Here in this connection the Applicant herein will rely upon and adopt the arguments and submissions in this regard canvassed in his reply to the said response of the 2<sup>nd</sup> Respondent herein.

Furthermore it is submitted that even if Article 16(c) of the Directive on Assignment of Counsel exists, nowhere in that Article does it suggest that any person other than the Principle Defender is what is contemplated by that particular directive.

In reply to the first paragraph at Page 2 of the response of the 2<sup>nd</sup> Respondent, Counsel submits that the Registrar - the 2<sup>nd</sup> Respondent herein is absolutely right in his interpretation and construction of Article 1 of the Directive on the assignment of Counsel. Where it is submitted is however the crux of the matter is that the very

-3-

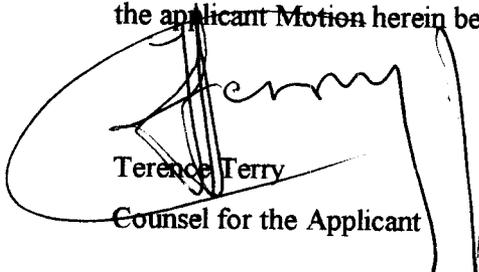
Article 1 envisages a Principal Defender and NOT, an Acting Principal Defender as the fully competent person to enter into a Legal Service Contract including one with Counsel Mr. Terry for the applicant herein.

In reply to the second paragraph (under the rubric 6) to be found at page 2 of the response of the 2<sup>nd</sup> Respondent, it is submitted that reliance on Article 16(c) of the said Article does not again assist the 2<sup>nd</sup> Respondent based on the text and the very provisions of that particular Article which refers to a Principal Defender and NOT and Acting Defender.

It is further submitted that since the Acting Principal Defender is not the person contemplated under the provisions of the said Article 16(c) the assertion by the Registrar to the effect that the decision of the Acting Principal Defender the 1<sup>st</sup> Respondent herein to withdraw the provisional assignment of Mr. Terence Terry is final does not arise and is at best academic as the person therein envisaged is not the Acting Principal Defender but the Principal Defender. To that it is graciously submitted that the purported act OR acts of the Acting Principal Defender are contrary to and violates all the provisions he allegedly acted upon, and to that extent the applicant graciously invite the said Trial Chamber to grant the said orders sought for in the said Motion of the Applicant dated the 18<sup>th</sup> December, 2003.

CONCLUSION:-

The Applicant most respectfully submits that for the several reasons raised and articulated in the said applicants Motion filed herein, its reply to both the alleged 1<sup>st</sup> Respondent and the 2<sup>nd</sup> Respondent herein, that the orders contained and prayed for in the applicant Motion herein be accordingly granted.

  
Terence Terry  
Counsel for the Applicant

Dated the 19<sup>th</sup> day of January, 2004.

**SPECIAL COURT FOR SIERRA LEONE**

**FREETOWN – SEIRRA LEONE**

**Before:** Trial Chamber of the Special Court for Sierra Leone  
OR the designated Judge

**Registrar:** Robin Vincent

**Date Filed:** 19<sup>th</sup> January, 2004

**BETWEEN:**

TAMBA ALEX BRIMA - APPLICANT  
DETAINEE AT THE SPECIAL COURT  
DETENTION CENTRE  
JOMO KENYATTA ROAD  
NEW ENGLAND  
FREETOWN

AND  
SYLVAIN ROY - 1<sup>ST</sup> RESPONDENT  
ACTING PRINCIPAL DEFENDER  
SPECIAL COURT FOR SIERRA LEONE  
JOMO KENYATTA ROAD  
NEW ENGLAND  
FREETOWN

AND  
THE REGISTRAR OF THE SPECIAL - 2<sup>ND</sup> RESPONDENT  
COURT FOR SIERRA LEONE, MR. ROBIN VINCENT  
JOMO KENYATTA ROAD, NEW ENGLAND  
FREETOWN

AND  
THE DEPUTY REGISTRAR OF THE SPECIAL COURT  
FOR SIERRA LEONE,  
MR. ROBERT KIRKWOOD - 3<sup>RD</sup> RESPONDENT  
JOMO KENYATTA ROAD, NEW ENGLAND  
FREETOWN

---

**APPLICANTS REPLY TO THE 2<sup>ND</sup> RESPONDENT'S RESPONSE TO APPLICANT'S MOTION FOR DENIAL BY THE ACTING PRINCIPAL DEFENDER TO ENTER A LEGAL SERVICE CONTRACT (AGREEMENT) FOR THE ASSIGNMENT OF COUNSEL FOR AND ON BEHALF OF THE ACCUSED TAMBA BRIMA THE APPLICANT HEREIN PURSUANT TO RULE 72(B) (IV) OF THE RULES OF PROCEDURE AND EVIDENCE OF THE SPECIAL COURT FOR SIERRA LEONE AND PURSUANT TO ARTICLE 12(A) – OF THE DIRECTIVE ON THE ASSIGNMENT OF COUNSEL OF THE SPECIAL COURT FOR SIERRA LEONE, AND UNDER THE INHERENT JURISDICTION OF THE TRIAL CHAMBER OF THE SPECIAL COURT FOR SIERRA LEONE.**

---