

SPECIAL COURT FOR SIERRA LEONE
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TRIAL CHAMBER II

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

Interim Registrar: Lovemore Munlo

Date: 31 January 2006

PROSECUTOR

Against

Alex Tamba Brima
Brima Bazy Kamara
Santigie Borbor Kanu
(Case No.SCSL-04-16-T)

ORDER ON THE CONFIDENTIAL FILING OF THE PROSECUTION RESPONSE TO DEFENCE MOTIONS FOR JUDGEMENT OF ACQUITTAL PURSUANT TO RULE 98

Office of the Prosecutor:

Jim Johnson
Karim Agha
Nina Jørgenson
James Hodes

Defence Counsel for Alex Tamba Brima:

Kojo Graham
Glenna Thompson

Defence Counsel for Brima Bazy

Kamara:
Andrew Daniels
Mohamed Pa-Momo Fofanah

Defence Counsel for Santigie Borbor

Kanu:
Geert-Jan Alexander Knoop
Cary Knoop
Abibola E. Manly-Spain

TRIAL CHAMBER II (“Trial Chamber”) of the Special Court for Sierra Leone (“Special Court”), composed of Justice Richard Lussick, presiding, Justice Teresa Doherty and Justice Julia Sebutinde;

NOTING the Brima - Motion for Judgement of Acquittal pursuant to Rule 98, filed on 12 December 2005 (“the Brima Motion”);

NOTING the Defence Motion for Judgement of Acquittal of the Second Accused – Brima Bazy Kamara, filed on 12 December 2005 (“the Kamara Motion”);

NOTING the Kanu – Factual Part Defence Motion for Judgment of Acquittal under Rule 98, filed on 13 December 2005 (“the Kanu Motion”);

NOTING the Joint Legal Part – Defence Motion for Judgment of Acquittal under Rule 98, filed by all three Accused on 13 December 2005 (“the Joint Legal Motion”);

NOTING the Prosecution Response to Defence Motions for Judgement of Acquittal pursuant to Rule 98, filed on 23 January 2006 (“the Prosecution Response”);

NOTING that all three Defence Motions and the Joint Legal Motion have been filed publicly;

NOTING that the Prosecution Response has been filed confidentially;

CONSIDERING that the Response has been filed confidentially with an explanation in the Court Management Filing Form (Court Management – Form 1 – Filing Cover Sheet) that “[S]ubject to Rule 69 of the Rules of Procedure and Evidence and Trial Chamber II’s confirmation that the Decision on Prosecution Measures for Witnesses dated 5 July 2004 in the matter of the Prosecutor v. Sesay, Gbao and Kallon extends to all witnesses in this case, Prosecutor v. Brima, Kamara and Kanu, in that testimony from closed trial sessions has been quoted throughout the response”;

CONSIDERING the provisions on protective measures, in particular Rules 69(A) and 75 of the Rules of Procedure and Evidence (“the Rules”) and the provisions of Article 4(B) of the Practice Direction on Filing Documents Before the Special Court;

CONSIDERING that a balance should be maintained between the protection of witnesses and the right of the accused to a public trial;

CONSIDERING that it is the practice of the other International Criminal Tribunals that in those cases where witness protection issues arise, both confidential and public motions and responses may be filed;[\[1\]](#)

CONSIDERING THEREFORE that it is in the interest of conducting a public hearing that the Prosecution should file a redacted public version of their Response, in addition to the confidential Response already filed;

HEREBY ORDERS the Prosecution to file a public version of the Response on or before 14 February 2006 with redactions to protect the identity of witnesses where applicable;

Done at Freetown, Sierra Leone, this 31st day of January 2006.

Justice Teresa Doherty

Justice Richard Lussick
Presiding Judge

Justice Julia Sebutinde

[Seal of the Special Court for Sierra Leone]

[\[1\]](#) *Prosecutor v. Brdjanin*, Case No. IT-99-36-T, Decision on Motion for Acquittal Pursuant to Rule 98bis, 28 November 2003, para. 1.
