



U.C. Berkeley War Crimes Studies Center  
Sierra Leone Trial Monitoring Program  
Weekly Report

**Special Court Monitoring Program Update #33**  
**Trial Chamber I - AFRC Trial (Contempt Proceedings) 29 April 2005**

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Contempt proceedings

The RUF trial was postponed in Trial Chamber I this week to hear contempt proceedings relating to the AFRC case in Trial Chamber II. The proceeding arose from alleged actions by a defense investigator and four family members of the accused in the AFRC trial. During two apparently related incidents, the investigator for the Brima team may have disclosed the identity of a witness in violation of court-ordered protective measures; the family members allegedly threatened the witness later that day in the court compound.

The Special Court Rules enable the court to prosecute anyone who “knowingly and wilfully interferes with its administration of justice.” [1] An independent investigator was appointed to report on the matter, and Trial Chamber II subsequently ordered that there were sufficient grounds to initiate contempt proceedings against the five individuals [2]. Since the findings of the independent investigator were reported to the second trial chamber in mid-March, the AFRC defense has continually requested to view the report, which was finally released to the Principal Defender on the day before the proceedings began [3]. The matter was assigned to Trial Chamber I to be heard before Judge Pierre Boutet.

The contempt allegations seem to be particularly significant to the court because they are associated with witness protection issues. This is the first time that the court has initiated contempt proceedings, and it faced a number of logistical challenges. As the Brima team has not replaced the suspended investigator under instructions from their client, the AFRC trial has been considerably delayed, which has brought substantial pressure on the court to expedite the contempt proceedings.

Some observers are concerned that a conviction could pose a security threat or contribute to public hostility toward the court, particularly if the family members are found guilty of contempt. Others have expressed that the proceedings were brought to set a necessary example of the court’s authority, particularly in light of its responsibility to protect witness identities from public disclosure.

*Background and allegations*

On 9 March 2005, Witness TF1-023 gave testimony about her forced marriage to an AFRC commander. According to the order of Trial Chamber II, which was issued in lieu of an indictment,

the defense investigator was inside the chamber that morning and identified the witness. Later on, while sitting in the public gallery, he contacted the wives of first accused Brima and third accused Kanu. The investigator and the two women left the gallery and spoke outside, at which point the investigator allegedly disclosed the identity of Witness TF1-023. The women told the investigator that they knew where the woman lived and stated that they would attack her house. After the witness had testified and while she was transported in the court compound, these two women and two others from the public gallery allegedly shouted the witness's name at the car and threatened her in Krio. The following day, the witness addressed the bench regarding this incident and the court moved into closed session to consider the details.

### *Contempt Proceedings*

The five individuals are to be tried in two separate proceedings: investigator Brima Samura was tried first, and the four women, who are indicted jointly under a different subsection of the Rules, will be tried later in June [4]. Although representatives from the Defence Office argued that the applicable rule requires the independent investigator who had submitted the report to also prosecute the cases, a prosecutor from the ICTR was allowed to proceed against the accused individuals. As she had not been involved in the investigation, the appointed prosecutor did not seem adequately prepared when she first appeared in court. Due to time constraints, she was absent from the afternoon arraignment of the four women following the close of her case against the defense investigator.

The prosecutor called three witnesses, all Court employees, to testify in the case against Brima Samura. The first witness, a technician in the chamber's audio-visual booth, testified that he was in the public gallery watching the court proceedings on the morning of the alleged events. While there, he saw an interaction between the defense investigator and two of the women, and he followed them outside. The witness alleges that he saw the defense investigator show a notepad to the two women, who then stated that they knew where the woman lived and they would attack her house. The witness notified court security. The two remaining witnesses were members of the court security staff; one guard corroborated the first witness's evidence about the conversation between the two women and the investigator outside the public gallery. As no witness was able to see what was written on the investigator's notepad, it appears that the case will hinge on whether the evidence was sufficiently convincing to establish that the investigator disclosed the name of the witness to the two women during the course of their conversation.

If they are found guilty, the individuals could face a maximum imprisonment of seven years or a maximum fine of two million Leones (roughly US \$700). Trial Chamber I has lost over a week of trial time thus far in order to hear the proceedings, in addition to investigative costs and the cost of flying in a prosecutor from East Africa.

- 1.) Rule 77 of the SCSL Rules of Procedure and Evidence.
- 2.) 29 April 2005 *Decision on the Report of the Independent Counsel Pursuant to Rules 77(C)iii and 77(D) of the Rules of Procedure and Evidence*, SCSL-2004-16.
- 3.) The prosecution argued that the Rules only require that the findings are reported to the trial chamber, and not to either party.
- 4.) Samura was charged with violating Rule 77(A)(ii), which specifies that a person who "discloses information relating to proceedings in knowing violation of an order of a Chamber" may be found in contempt. Margaret Fomba Brima, Neneh Binta Bah Jalloh, Anifa Kamara and Ester Kamara were charged with violating Rule 77(A)(iii), which specifies that a person who "threatens, intimidates, causes any injury or offers a bribe to, or otherwise interferes with, a

witness who is giving, has given, or is about to give evidence in proceedings before a Chamber, or a potential witness” may be found in contempt.