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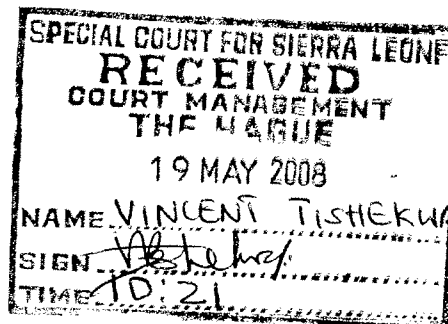
17115

SPECIAL COURT FOR SIERRA LEONE
OFFICE OF THE PROSECUTOR
Freetown – Sierra Leone

Before: Justice Teresa Doherty, Presiding
Justice Richard Lussick
Justice Julia Sebutinde
Justice El Hadji Malick Sow, Alternate Judge

Registrar: Mr. Herman von Hebel

Date filed: 19 May 2008



THE PROSECUTOR

Against

Charles Ghankay Taylor

Case No. SCSL-03-01-T

PUBLIC

PROSECUTION RESPONSE TO “PUBLIC WITH ANNEXES A AND B DEFENCE MOTION PURSUANT TO RULE 75(G) TO MODIFY KALLON & GBAO DEFENCE PROTECTIVE MEASURES DECISIONS OF 19 MARCH 2007 AND 1 MARCH 2007 FOR ACCESS TO CLOSED SESSION DEFENCE WITNESS TESTIMONY AND LIMITED DISCLOSURE OF DEFENCE WITNESS NAMES AND RELATED EXCULPATORY MATERIAL”

Office of the Prosecutor:

Ms. Brenda J. Hollis

Ms. Leigh Lawrie

Counsel for the Accused:

Mr. Courtenay Griffiths Q.C.

Mr. Terry Munyard

Mr. Andrew Cayley

Mr. Morris Anyah

I. INTRODUCTION

1. The Prosecution files this response to the Defence motion seeking modification of the protective measures orders granted to witnesses for the second and third accused in the RUF trial in order to obtain access to closed session defence witness testimony and limited disclosure of defence witness names and related potentially exculpatory material.¹
2. The Motion specifically seeks a modification of the Kallon Protective Measures Decision of 19 March 2007² and the Gbao Protective Measures Decision of 1 March 2007³ in order to allow the Defence team in the current proceedings to:
 - (i) receive service of copies of the unredacted transcripts from the Kallon and Gbao defence cases by Court Management on an on-going basis;
 - (ii) disclosure of the names and identifying data of witnesses subject to the Kallon and Gbao Protective Measures Decisions; and
 - (iii) disclosure of statements taken by the Kallon and Gbao defence teams during the course of investigations and in preparation for trial.

II. SUBMISSIONS

3. The Prosecution notes that the Defence has previously made similar requests to those set out in the Motion but on this previous occasion access was sought to Sesay defence witness material.⁴ The Prosecution further notes that the Trial Chamber granted the Defence's requests and ordered that the Sesay Protective Measures Decision⁵ be varied to permit access to certain specified

¹ *Prosecutor v. Taylor*, SCSL-03-01-T-506, "Public with Annexes A and B Defence Motion Pursuant to Rule 75(G) to Modify Kallon & Gbao Defence Protective Measures Decisions of 19 March 2007 and 1 March 2007 for Access to Closed Session Defence Witness Testimony and Limited Disclosure of Defence Witness Names and Related Exculpatory Material", 15 May 2008 ("**Motion**").

² *Prosecutor v. Sesay et al.*, SCSL-04-15-T-739, "Decision on Kallon Defence Motion for Immediate Protective Measures for Witnesses and Victims and for Non-Public Disclosure", 19 March 2007 ("**Kallon Protective Measures Decision**").

³ *Prosecutor v. Sesay et al.*, SCSL-04-15-T-716, "Decision on Gbao Defence Motion for Immediate Protective Measures for Witnesses and Confidential Motion for Delayed Disclosure and Related Measures for Witnesses", 1 March 2007 ("**Gbao Protective Measures Decision**").

⁴ *Prosecutor v. Taylor*, SCSL-03-01-T-377, "Public Defence Motion Pursuant to Rule 75(G) to Modify Sesay Defence Protective Measures Decision of 30 November 2006 for Access to Closed Session Defence Witness Testimony and Limited Disclosure of Defence Witness Names and Related Exculpatory Material", 14 December 2007 ("**December Motion**").

⁵ *Prosecutor v. Sesay et al.*, SCSL-04-15-T-668, "Decision on Sesay Defence Motion for Immediate Protective Measures for Witnesses and Victims and for Non-Public Disclosure", 30 November 2006.

Sesay defence witness material.⁶ However, such access was made subject to certain conditions.⁷

4. In view of the fact that the requests made in the Motion are similar to those made in the December Motion and notwithstanding the Chamber's decision on the December Motion, the Prosecution adopts and incorporates by reference the arguments which it made in its response to the December Motion⁸ save that such arguments should now:
 - (a) refer to the Kallon and Gbao defence teams rather than the Sesay defence team;
 - (b) refer to the Kallon and Gbao Protective Measures Decisions rather than the Sesay Protective Measures Decision; and
 - (c) exclude the confidential and *ex parte* submissions.

III. CONCLUSION

5. In accordance with the arguments made in its Response (amended as set out in paragraph 4 above), the Prosecution does not oppose a modification to the Kallon and Gbao Protective Measures Decisions, provided that:
 - (i) such modification only permits the Defence access to redacted copies of closed session transcripts from the Kallon and Gbao Defence cases;
 - (ii) the Defence are only served with those parts of such closed session transcripts which consist of Kallon and Gbao Defence witness testimony;
 - (iii) the transcripts of testimony are redacted to remove:
 - (a) the names and identifying data of the witness testifying in closed session in the Kallon or Gbao Defence cases; and
 - (b) any information covered by protective measures orders imposed by decisions other than the Kallon and Gbao Protective Measures Decisions (including decisions in the

⁶ *Prosecutor v. Taylor*, SCSL-03-01-T-439, "Decision on Defence Motion Pursuant to Rule 75(G) to Modify Sesay Defence Protective Measures Decision of 30 November 2006 for Access to Closed Session Defence Witness Testimony and Limited Disclosure of Defence Witness Names and Related Exculpatory Material", 14 March 2008.

⁷ *Ibid*, pages 5-6.

⁸ *Prosecutor v. Taylor*, SCSL-03-01-T-381, "Public with *Ex Parte* Annex Prosecution Response to 'Defence Motion Pursuant to Rule 75(G) to Modify Sesay Defence Protective Measures Decision of 30 November 2006 for Access to Closed Session Defence Witness Testimony and Limited Disclosure of Defence Witness Names and Related Exculpatory Material'", 7 January 2008 ("**Response**").

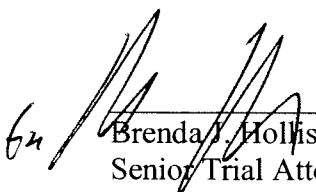
current proceedings) such as the names of Prosecution witnesses; and

- (iv) the Defence are made subject to protective measures similar to those set out in paragraph 15 of the Response.
6. The Prosecution requests that the Trial Chamber deny the Defence's request for access to statements taken by the Kallon and Gbao Defence teams and for disclosure of the names and identifying data of witnesses subject to the Kallon or Gbao Protective Measures Decisions. However, should the Trial Chamber grant the Defence access to such witness statements, then the Prosecution requests that the Trial Chamber order:
- (i) the redaction of the witness' name and identifying data and any material and/or information in the possession of the Kallon and Gbao Defence teams which are covered by protective measures orders imposed in other SCSL proceedings (including the current proceedings) and which might be contained in Kallon and/or Gbao Defence team statements prior to disclosure to the Defence; and
- (ii) that the Defence be made subject to the protective measures similar to those set out in paragraph 15 of the Response.

Filed in The Hague,

19 May 2008,

For the Prosecution,

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Brenda J. Hollis
Senior Trial Attorney

LIST OF AUTHORITIES

SCSL Cases

Prosecutor v. Taylor, SCSL-03-01-T

Prosecutor v. Taylor, SCSL-03-01-T-377, “Public Defence Motion Pursuant to Rule 75(G) to Modify Sesay Defence Protective Measures Decision of 30 November 2006 for Access to Closed Session Defence Witness Testimony and Limited Disclosure of Defence Witness Names and Related Exculpatory Material”, 14 December 2007

Prosecutor v. Taylor, SCSL-03-01-T-381, “Public with *Ex Parte* Annex Prosecution Response to ‘Defence Motion Pursuant to Rule 75(G) to Modify Sesay Defence Protective Measures Decision of 30 November 2006 for Access to

Closed Session Defence Witness Testimony and Limited Disclosure of Defence Witness Names and Related Exculpatory Material”, 7 January 2008

Prosecutor v. Taylor, SCSL-03-01-T-439, “Decision on Defence Motion Pursuant to Rule 75(G) to Modify Sesay Defence Protective Measures Decision of 30 November 2006 for Access to Closed Session Defence Witness Testimony and Limited Disclosure of Defence Witness Names and Related Exculpatory Material”, 14 March 2008

Prosecutor v. Taylor, SCSL-03-01-T-506, “Public with Annexes A and B Defence Motion Pursuant to Rule 75(G) to Modify Kallon & Gbao Defence Protective Measures Decisions of 19 March 2007 and 1 March 2007 for Access to Closed Session Defence Witness Testimony and Limited Disclosure of Defence Witness Names and Related Exculpatory Material”, 15 May 2008

Prosecutor v. Sesay et al., SCSL-04-15-T

Prosecutor v. Sesay et al., SCSL-04-15-T-668, “Decision on Sesay Defence Motion for Immediate Protective Measures for Witnesses and Victims and for Non-Public Disclosure”, 30 November 2006

Prosecutor v. Sesay et al., SCSL-04-15-T-716, “Decision on Gbao Defence Motion for Immediate Protective Measures for Witnesses and Confidential Motion for Delayed Disclosure and Related Measures for Witnesses”, 1 March 2007

Prosecutor v. Sesay et al., SCSL-04-15-T-739, “Decision on Kallon Defence Motion for Immediate Protective Measures for Witnesses and Victims and for Non-Public Disclosure”, 19 March 2007