603)

SCSL-03-01-T
(20235 – 20251)

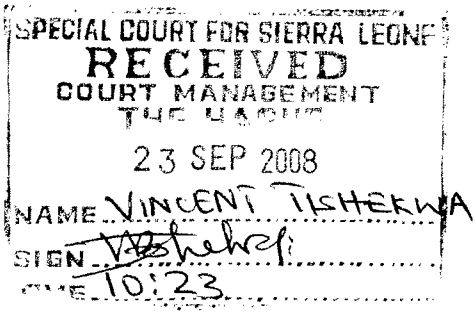
20235

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: 23 September 2008



THE PROSECUTOR **Against** **Charles Ghankay Taylor**

Case No. SCSL-03-01-T

PUBLIC WITH CONFIDENTIAL ANNEX
PROSECUTION REPLY TO "PUBLIC WITH CONFIDENTIAL ANNEX A DEFENCE OBJECTION TO 'PROSECUTION NOTICE UNDER RULE 92*bis* FOR THE ADMISSION OF EVIDENCE RELATED TO *INTER ALIA* FREETOWN & WESTERN AREA – TF1-023 & TF1-029' AND OTHER ANCILLARY RELIEF"

Office of the Prosecutor:
Ms. Brenda J. Hollis
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Mr. Courtenay Griffiths Q.C.
Mr. Andrew Cayley
Mr. Terry Munyard
Mr. Morris Anyah

I. INTRODUCTION

1. The Prosecution files this Reply to the "Public, with Confidential Annex A Defence Objection to 'Prosecution Notice under Rule 92*bis* for the Admission of Evidence Related to *inter alia* Freetown & Western Area – TF1-023 & TF1-029' and other Ancillary Relief".[1]

2. Contrary to the Defence's assertions,[2] it is the Prosecution's position that it does not require leave to file a reply to the Objections. As stated previously, Rule 92*bis* of the Rules of Procedure and Evidence ("**Rules**") does not preclude the filing of a reply to any objections filed by the Defence under Rule 92*bis*(C) and such a reply has been accepted in other proceedings before this Court[3] and in these proceedings.[4] In addition, as the Objections also include an application for other ancillary relief which should properly be made by motion,[5] then this further supports the filing of a reply.

3. In relation to the issues raised by the Defence in their Objections, the Prosecution replies as set out below. The Annex to this reply is filed confidentially as reference is made to the testimony of protected witnesses.[6]

II. REPLY

Rule 92ter

4. The application to admit the prior testimony and related exhibits of TF1-023 and TF1-029 was properly made under Rule 92*bis*. The Prosecution relies on and incorporates by

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[1] *Prosecutor v. Taylor*, SCSL-01-03-T-597, "Public, with Confidential Annex A Defence Objection to 'Prosecution Notice under Rule 92*bis* for the Admission of Evidence Related to *inter alia* Freetown & Western Area – TF1-023 & TF1-029' and Other Ancillary Relief", 17 September 2008 ("**Objections**").

[2] Objections, para. 10.

[3] *Prosecutor v. Norman et al.*, SCSL-04-14-T-444, "Prosecution's Reply to Joint Defence Objections to Consequential Request to Admit into Evidence Certain Documents Pursuant to Rule 92*bis* and 89(C)", 4 July 2005 which was noted without objection in SCSL-04-14-T-447, "Decision on Prosecution's Request to Admit into Evidence Certain Documents Pursuant to Rule 92*bis* and 89(C)", 14 July 2005.

[4] *Prosecutor v. Taylor*, SCSL-03-01-T-458, "Confidential Prosecution Reply to "Defence Objection to Prosecution Notice under Rule 92bis for the Admission of the Prior Testimony of TF1-036 into Evidence", 7 April 2008 and *Prosecutor v. Taylor*, SCSL-01-03-T-467, "Confidential Prosecution Reply to 'Defence Objection to Prosecution Notice under Rule 92bis for the Admission of Evidence related to inter alia Kenema District'", 14 April 2008.

[5] The Defence acknowledge that their application to rescind the protective measures is a separate filing (see Objections, para. 9).

[6] As noted in Annex A of the Notice: (i) TF1-023 and TF1-029 are subject to protective measures orders which, in respect of TF1-023, include closed session; and (ii) the public version of the transcript published on the Special Court's website relating to TF1-029 on 28 November 2005 contains redactions made by the Witness and Victims Section which were not made in the transcript attached to the Notice.

reference its submissions made under this heading in its recent similar filings.[7] Based on the Defence's recent similar pleadings on the Prosecution's Rule 92*bis* submissions and its submissions made at paragraphs 11 and 12 of the Objections, the Prosecution assumes that the reference to Rule 92*bis* in paragraph 32(A) of the Objections is a typographical error and that the reference should properly be to Rule 92*ter*.

Admissibility under Rule 92bis

5. As noted below, the Defence objections to portions of the prior testimony sought to be introduced into evidence are without merit.[8]

"Linkage" information / information which goes to proof of the acts and conduct of the Accused

6. Contrary to the jurisprudence and the Defence's own initial statement of the law, the Defence continually characterize evidence of the acts of others, in particular subordinates, as evidence of the acts and conduct of the Accused.[9] As stated in the Notice,[10] the testimony of TF1-023 and TF1-029 does not contain evidence which goes to proof of the acts and conduct of the Accused. None of the thirteen portions identified in Annex A as being "Acts and Conduct of the Accused" are actually evidence of the acts and conduct of the Accused as defined by the jurisprudence. At no point is any reference made to the Accused either by name or by reference to his position. There is, therefore, no merit to the Defence's claim that Annex A "lists those portions of the relevant transcripts which contain information going to proof of the acts and conduct of the accused"[11] and no legal basis on which these portions should be excluded from admission under Rule 92*bis*. The Defence's submissions on this point are wrong and create confusion. Evidence concerning the acts and conduct of subordinates and individuals other than the Accused *may* be considered by a

[7] *Prosecutor v. Taylor*, SCSL-01-03-T-588, "Public Prosecution Reply to Defence Objection to Prosecution Notice under Rule 92*bis* for the Admission of Evidence Related to *inter alia* Kono District – TF1-218 & TF1-304", 12 September 2008, paras. 4 & 5 and *Prosecutor v. Taylor*, SCSL-01-03-T-601, "Public Prosecution Reply to 'Public with Confidential Annex A Defence Objection to Prosecution Notice under Rule 92*bis* for the Admission of Evidence Related to *inter alia* Kono District' and Other Ancillary Relief", 22 September 2008, para. 4.
[8] Objections, paras. 13-20.
[9] At para. 18, the Objections acknowledge that "there remains a distinction between (a) acts and conduct of those others who commit the crimes, for which the indictment alleges that the accused is individually responsible, and (b) the acts and conduct of the accused as charged in the indictment which establish his responsibility for the acts and conduct of those others. The first is admissible under Rule 92*bis*, the latter is not." See also Objections, para. 14.
[10] *Prosecutor v. Taylor*, SCSL-01-03-T-585, "Public with Confidential Annexes A to C Prosecution Notice under Rule 92bis for the Admission of Evidence Related to inter alia Freetown & Western Area – TF1-023 & TF1-029", 11 September 2008 ("**Notice**").
[11] Objections, para. 15.

Chamber to be evidence which goes to a critical element of the Prosecution's case but it is not evidence which goes to the acts and conduct of the Accused.

7. The Defence erroneously argues that the testimonies of TF1-023 and TF1-029 contain evidence which is sufficiently proximate to the Accused to warrant cross-examination and that the evidence should be excluded if such cross-examination is not ordered.[12] First, the evidence is not sufficiently proximate to the Accused. Save for the references to Brigadier Bazzy and Gullit (in which regard see below), the subordinates referred to are not high ranking rebel commanders taking direct orders from the Accused. Under exclusion of those portions which refer to Gullit and Bazzy, when the portions identified as "Acts and Conduct of Accused" are actually considered, it is clear that the Defence is simply disputing crime base evidence.[13] The Prosecution acknowledges that all legal elements relating to the crime base are critical to the Prosecution's case in the sense that, absent stipulation or judicial notice, the Prosecution must prove all these elements beyond a reasonable doubt. However, this cannot be the sense in which this term is used herein otherwise no evidence could ever be admitted under Rule 92*bis* as amended. Given the ordinary, non-legal meaning of the term, the Prosecution highlights that the evidence of TF1-023 and TF1-029 being offered pursuant to Rule 92*bis* is not, of itself, evidence which is critical to proof of the Accused's guilt.

8. Secondly, in so far as the testimonies might be considered to contain evidence proximate to the Accused, cross-examination or exclusion are not the only options. Indeed, Rule 92*bis* does not expressly allow cross-examination and it has been described as a "back-up arrangement".[14] Instead, a more detailed consideration and assessment of the evidence is required - such as whether it has been sufficiently tested[15] and whether the opposing party has made a showing of good cause as to why further cross-examination is required in the interests of justice.[16] In this regard, it is to be noted that the evidence of TF1-023 regarding

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[12] Objections, paras. 17 – 20.

[13] See for example, Annex to Objections, p. 1, rows 5 & 6 which classify evidence of: (i) a raid by the AFRC on the witness' house; and (ii) the capture of a young boy and his subsequent joining of the group, as going to critical elements of the Prosecution case.

[14] As described by Judge Shahabuddeen at para. 6 of his Separate Opinion Appended to the Appeals Chamber Decision in *Prosecutor v. Milosović*, IT-02-54-AR73.5, "Admissibility of Evidence-In-Chief in the Form of Written Statements", 31 October 2003.

[15] For example, by the cross-examination of witnesses giving similar evidence in these proceedings or by the cross-examination of the witnesses at issue in other proceedings.

[16] See *Prosecutor v. Sesay et al.*, SCSL-04-15-T-1125, "Decision on Sesay Defence Motion and Three Defence Applications to Admit 23 Witness Statements under Rule 92*bis*", 15 May 2008, para. 40 on this issue.

Gullit and Bazzy does not establish that such individuals were direct subordinates of the Accused.[17] Rather, it establishes that both were senior commanders, facts which should not be controversial. This evidence was also tested by counsel actually acting for both Gullit and Bazzy during the AFRC trial.

Relevant evidence

9. The Defence erroneously argues that certain portions of the evidence in the witness' prior transcripts and related exhibits do not satisfy the relevancy requirement of Rule 89(C).[18] In considering the Defence submissions on this point, it is to be noted that the Notice clearly states that TF1-023 and TF1-029 provide evidence relating predominantly to crimes committed in Freetown and the Western Area.[19] Therefore, the Defence's submissions which refer to crimes allegedly committed in Kono District are likely based on an error.[20] It would appear that this is an error as the Annex correctly refers to Freetown and the Western Area.

10. Notwithstanding the foregoing, in relation to the five portions[21] identified in the Annex as "Irrelevant", the Defence ignores the significance of this evidence.[22] The common argument made in relation to "relevancy" in respect of these 5 portions is that the evidence does not either relate to a location pleaded specifically in the Indictment and/or is outside the temporal jurisdiction for the location and crime. However, this argument ignores the fact that as part of its burden of proof, the Prosecution must lead evidence concerning the chapeau requirements or contextual elements of the crimes charged in the Second Amended Indictment for the entire Indictment period (i.e. 30 November 1996 until 18 January 2002). For example, in relation to crimes against humanity, the Prosecution must lead evidence that: (i) there was an attack; (ii) the attack was widespread or systematic; (iii) the attack was directed against any civilian population; (iv) the acts of the perpetrator were part of the attack; and (v) the perpetrator had knowledge that his acts constitute part of a

[17] Objections, para. 20. Footnote 21 referenced in para. 20 appears to imply that TF1-023's evidence establishes or is relevant to the establishment of the fact that Brigadier Bazzy is a direct subordinate of the Accused. TF1-023 does not give such evidence (see AFRC Transcript of 10/3/2005 at pg 33 lines 2-4).
[18] Objections, para. 21.
[19] Notice, para 15 & 16.
[20] Objections, para 21.
[21] While 6 portions are identified as "Irrelevant", rows 1 and 3 on page 4 are duplicates.
[22] Annex to Objections, p. 1 – TF1-023, 10 March 2005, p. 36, lines 2-29 and p 2 – TF1-023, 7 November 2005, p 31, lines 7-27; p 32, lines 28 to p 34 line 3; p 3 – TF1-029, 28 November 2005, p 14, line 7 to p 15, line 17 and p 4 – TF1-029

widespread or systematic attack directed against a civilian population. In relation to violations of Article 3 Common to the Geneva Conventions and of Additional Protocol II, the Prosecution must prove the nexus between the charged crimes and the armed conflict. Further, notwithstanding the fact that the evidence does not relate to the acts and conduct of the Accused himself, it is relevant to many of the elements which the Prosecution must prove in relation to the various forms of liability with which he is charged. While this evidence is relevant, it cannot be said to be critical or pivotal to the proof of such modes of liability. Therefore, the evidence identified by the Defence in their Annex as being "irrelevant" is, in actual fact, extremely relevant to the contextual elements of the crimes charged and the various forms of liability and should not be excluded.

11. The specific Defence claim that a portion of TF1-029's evidence is irrelevant as the time frame of the start date of a trip to Benguema is unclear should be dismissed.[23] The evidence is relevant as it is given in the context of the witness' chronological account as to why she was in Benguema, Four Mile and Magbeni with rebels. The evidence at issue concerns the period TF1-029 was captured, from 22 January 1999, until she escaped from Benguema.[24] Additionally, both portions are relevant under Rule 93 as evidence of a consistent pattern of conduct and for the reasons set out in paragraph 10 above.

Opinion or Conclusion Evidence

12. As in previous Defence filings, the Annex identifies four portions of evidence as being "Opinion or Conclusion" evidence.[25] While no arguments are made in the main body of the Objections, it would appear that the Defence position is that these portions should be excluded on this basis. This objection is without foundation. As noted in the Annex hereto, none of the witnesses give opinion or conclusion evidence. Instead, these fact witnesses give hearsay evidence, which is admissible. Further, such evidence cannot be considered opinion or conclusion evidence simply by the fact that it is not based on the witness' own first hand experience. Therefore, as more particularly set out in the Annex hereto, the Defence have erroneously identified portions of the witnesses' evidence as

[23] Annex to Objections, page 3 – TF1-029, 28 November 2005, p. 14, line 7 to p. 15, line 17 and page 4 – 28 November 2005, p 17, line 9 to 11.
[24] RUF Transcript, 28 November 2005, p. 9, lines 15-27, p. 17, lines 8-11.
[25] Annex to Objections, page 1 – TF1-023, 9 March 2005, p. 34, lines 7-12, p 35, lines 15-17, p. 52, lines 20-25, p. 54, lines 16-18; page 2 – TF1-023, 7 November 2005, p. 12, lines 6-15; page 3 – TF1-029, 28 November 2005, p. 12, line 20 to p. 13, line 20; page 3 – TF1-029, 28 November 2005, p. 13, lines 21-27.

"Opinion or Conclusion" evidence.

13. Furthermore, not all opinion evidence given by a fact witness is inadmissible. The Prosecution relies on and incorporates by reference its submissions made on this issue in its recent similar filing.[26]

14. There is, therefore, no legal basis on which the portions of evidence identified as being opinion evidence should be excluded from admission under Rule 92*bis*.

In the alternative, if all evidence admitted under 92bis, request to cross-examine

15. Taking the Defence at its word that it will not challenge the crime base, the Prosecution is not being 'mischievous' as the Defence suggests in its Objections[27]—rather, it relies on the Defence's oft-repeated assertions made on public record.[28]

16. The Defence argument that it must be shown that the line of defence in previous proceedings coincides with that of the Defence in the current proceedings does not sit squarely with its previous submissions regarding the similarity of other SCSL proceedings to the current proceedings.[29] In the Defence motion filed in December 2007, the Defence argued that the nexus between the RUF case and the Taylor case was such that it should be allowed access to closed session defence witness testimony from the RUF trial and limited disclosure of RUF defence witness names and related potentially exculpatory material.[30] Yet it now seeks to distance itself from any similarities with the RUF case for purposes of the Objections.

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[26] *Prosecutor v. Taylor*, SCSL-01-03-T-588, "Public Prosecution Reply to Defence Objection to Prosecution Notice under Rule 92*bis* for the Admission of Evidence Related to *inter alia* Kono District – TF1-218 & TF1-304", 12 September 2008, para. 16.

[27] Objections, para. 24.

[28] See Defence Counsel's statements at the Status Conference held on 20 August 2007, pages 20-21, as noted in fn 29 of the Notice. See also *Prosecutor v. Taylor*, SCSL-03-01-T, Trial Transcript, 14 February 2008, page 3857, lines 7-20, as noted in fn 29 of the Notice. See also The Inquirer (Monrovia), "Taylor's Defense Team Pleased With Trial", 21 February 2008, available online at http://allafrica.com/stories/printable/200802211010.html, which states: "The defense is also disturbed that a number of crime-based witnesses have been shipped half-way across the world to give traumatic testimony about events that the defense does not dispute[--] their evidence is not contested on cross-examination because it does not relate to the nature of the allegations against Mr. Taylor."

[29] Objections, para. 25.

[30] *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. A similar motion is also currently pending in respect of Kallon and Gbao defence witnesses – see *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.

17. In addition to the foregoing, the Prosecution relies on and incorporates by reference its submissions made under this heading in its recent similar filings.[31]

Witness Availability for Cross-Examination

18. As stated previously, the Prosecution is cognisant of the logistical arrangements and advance planning which must be undertaken for witnesses to travel from Sierra Leone to The Hague. The Prosecution, therefore, advises that, should the Chamber order that these witnesses be made available for cross-examination, then the Prosecution shall endeavour that they be available from the beginning of October 2008.

Defence Application to Rescind Protective Measures for TF1-023 and TF1-029

19. Should this Trial Chamber grant cross examination of any of these witnesses, making the Defence request a justiciable issue, the application is fatally flawed. The Objections fail to provide evidence sufficient to satisfy the relevant test for rescission or lessening of existing protective measures. This test was recently reaffirmed by the Appeals Chamber when it found that the party seeking to rescind the existing measures must:

> "present supporting evidence capable of establishing on a preponderance of probabilities that the witness is no longer in need of such protection. The *Trial Chamber* must thus be satisfied that there is a change in the security situation facing the witness such as a diminution in the threat level faced by the witness that justifies a variation of protective measures orders."[32]

20. Therefore, in accordance with the Appeals Chamber's ruling, the Trial Chamber must first determine whether the Defence has provided supporting evidence capable of establishing "on a preponderance of the probabilities that the witness is no longer in need of ... protection" and then determine the nature and extent of the variations sought.33

21. The Defence's generalized assertions regarding the location of the trial and the current security situation in Sierra Leone fail to meet the burden required to rescind or lessen

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[31] *Prosecutor v. Taylor*, SCSL-01-03-T-588, "Public Prosecution Reply to Defence Objection to Prosecution Notice under Rule 92*bis* for the Admission of Evidence Related to *inter alia* Kono District – TF1-218 & TF1-304", 12 September 2008, paras. 18 - 22 and *Prosecutor v. Taylor*, SCSL-01-03-T-601, "Public Prosecution Reply to 'Public with Confidential Annex A Defence Objection to Prosecution Notice under Rule 92*bis* for the Admission of Evidence Related to *inter alia* Kono District' and Other Ancillary Relief", 22 September 2008, paras. 16, 17, 19.
[32] *Prosecutor v. Sesay et al.*, SCSL-04-15-T-1146, "Decision on Prosecution Appeal of Decision on the Sesay Defence Motion Requesting the Lifting of Protective Measures in Respect of Certain Prosecution Witnesses", 23 May 2008, para. 37, emphasis added.
[33] *Ibid*, para. 38.

protective measures.[34] The continuing security threat to the witnesses is evidenced by the fact that this Trial Chamber has continued to grant and apply protective measures in these proceedings. Furthermore, to suggest that moving the trial to The Hague has somehow lessened the need for protection ignores the reality that this trial is perhaps even more accessible than prior proceedings held in Freetown. Passages of witness testimony are frequently directly quoted in newspapers in both Liberia and Sierra Leone, as well as in the international media. Liberians and Sierra Leoneans may gain direct access to the proceedings on the Internet, allowing a wider audience to view the trial than the limits set by the number of seats available in a courtroom in Freetown. Moreover, these witnesses will not remain in The Hague once they have completed their testimony. They must return to their homes in Sierra Leone and are not isolated from threats just because the court proceedings are being held in Europe.

22. Finally, the Defence assertions do not claim that the witnesses have no subjective security concerns. These witnesses are victims of brutal atrocities that have reshaped their lives and give credence to substantial fears. In this regard, both witnesses were subjected to sexual violence, crimes which this Court has acknowledged can carry considerable stigmatization.[35] To discount their subjective and very real concerns regarding security *and* privacy by insisting that the rights of the Accused should *prevail* in these circumstances ignores the mandate that protective measures must strike a proper *balance* between the rights of the Accused and the protection of the witnesses.[36] The Prosecution reiterates that the jurisprudence states that it is not a violation of the Accused's rights to prevent the public from knowing the identity of the witness.[37]

III. CONCLUSION

23. The Objections are without merit.

24. The application by the Prosecution was properly made under Rule 92*bis*.

25. The Defence have not established any legal basis on which any of the evidence submitted

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[34] Objections, paras. 27 to 29.

[35] See *Prosecutor v. Norman et al.*, SCSL-04-16-A-675, "Judgment", 22 February 2008, para. 199 and para. 33 of the Partially Dissenting Opinion of Justice Doherty on Count 7 (Sexual Slavery) and Count 8 (Forced Marriage) appended to *Prosecutor v. Brima et al.*, SCSL-04-16-T, Judgement, 20 June 2007.

[36] Objections, para. 31, emphasis added.

[37] See for example, *Prosecutor v. Sesay et al.*, SCSL-04-15-T-180, "Decision on Prosecution Motion for Modification of Protective Measures for Witnesses", 5 July 2004, para. 28 and *Prosecutor v. Norman et al.*, SCSL-04-14-T, "Ruling on Motion for Modification of Protective Measures for Witnesses", 18 November 2004, p. 13.

for admission under Rule 92*bis* should be excluded as the evidence is relevant, does not go to the proof of the acts and conduct of the Accused (giving such phrase its plain and ordinary meaning as is required by the jurisprudence), it does not relate to opinion evidence, or in the alternative, the opinions were properly elicited from these fact witnesses.

26. Assuming, *arguendo,* that the Chamber does find good cause has been established, then cross-examination should be limited only to relevant areas of inquiry not covered by the prior cross-examination. To hold otherwise, would be to completely frustrate the purpose of Rule 92*bis*.

27. The Defence application to have the protective measures of TF1-023 and TF1-029 varied or rescinded is fatally flawed and should be dismissed.

28. Accordingly, the Prosecution requests that the prior testimony and related exhibits as submitted by the Prosecution of TF1-023 and TF1-029 be admitted into evidence under Rule 92*bis* as requested by the Prosecution in its Notice.

Filed in The Hague,
23 September 2008
For the Prosecution,

Brenda J. Hollis
Principal Trial Attorney

LIST OF AUTHORITIES

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***Prosecutor v. Taylor*, Case No. SCSL-03-01-T**

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Prosecutor v. Taylor, SCSL-03-01-T-458, "Confidential Prosecution Reply to "Defence Objection to Prosecution Notice under Rule 92*bis* for the Admission of the Prior Testimony of TF1-036 into Evidence", 7 April 2008

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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. Taylor, SCSL-01-03-T-585, "Public with Confidential Annexes A to C Prosecution Notice under Rule 92*bis* for the Admission of Evidence Related to *inter alia* Freetown & Western Area – TF1-023 & TF1-029", 11 September 2008

Prosecutor v. Taylor, SCSL-01-03-T-597, "Public, with Confidential Annex A Defence Objection to 'Prosecution Notice under Rule 92*bis* for the Admission of Evidence Related to *inter alia* Freetown & Western Area – TF1-023 & TF1-029' and Other Ancillary Relief", 17 September 2008

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Prosecutor v. Norman et al., SCSL-04-14-T-444, "Prosecution's Reply to Joint Defence Objections to Consequential Request to Admit into Evidence Certain Documents Pursuant to Rule 92*bis* and 89(C)", 4 July 2005

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Prosecutor v. Sesay et al., SCSL-04-15-T-1146, "Decision on Prosecution Appeal of Decision on the Sesay Defence Motion Requesting the Lifting of Protective Measures in Respect of Certain Prosecution Witnesses", 23 May 2008

***Prosecutor v. Brima et al.*, SCSL-04-16-T**

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Prosecutor v. Brima et al., SCSL-04-16-T, Trial Transcript, 10 March 2005

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Taylor's Defense Team Pleased With Trial

The Inquirer (Monrovia)

NEWS
21 February 2008
Posted to the web 21 February 2008

Six weeks into the trial of the former President of Liberia, Mr. Charles Taylor, his defense team says it is pleased with the progress of the proceedings so far.

According to a release, the prosecution will call its fourteenth witness today, and the defense would continue its cross-examination of witnesses, challenging them effectively on the basis of bias, relevance, credibility and the receipt of benefits from the prosecution in exchange for information.

Mr. Taylor is being tried in the Hague, the Netherlands, despite being charged for offenses that took place in Sierra Leone between 1996 and 2002.

Mr. Taylor's lead counsel, Courtenay Griffiths, QC, recently spoke to United Nations Radio in Liberia and Sierra Leone and stressed that despite the fact that the trial was moved from West Africa, he considers the people of West Africa to be Mr. Taylor's "jury."

"The public may have convicted Mr. Taylor long ago, but the evidence currently being put forth in the courtroom is not sufficient to secure a conviction," the Taylor defense team said.

Mr. Griffiths stated, "We want the public in West Africa to follow this trial so that at the end of it, if he is convicted and they have had the opportunity of following the evidence they can say hands up high the former president received a fair trial. But equally, if the public in West Africa followed the proceedings and are in the position to follow these proceedings, they will say at the end of the day that there is no way that this man can be convicted with this kind of evidence."

The defense said it is deeply concerned that key evidence in the case may be given in "closed session," meaning Mr. Taylor could be convicted on evidence which no one outside the courtroom has heard. Closed sessions make the case difficult for the defense to investigate and difficult for West Africans to evaluate.

The defense is also disturbed that a number of crime-based witnesses have been shipped half-way across the world to give traumatic testimony about events that the defense does not dispute their evidence is not contested on cross-examination because it does not relate to the nature of the allegations against Mr. Taylor.

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Mr. Griffiths believes that calling such individuals "demonstrates the paucity of the prosecution case-the fact that they have to appeal to emotion by parading limbless individuals and rape victims before a global audience."

"Keeping the people of West Africa involved in and informed about the facts and evidence that come to light during the trial is consequently an important issue for the defense-not only because the conflict itself impacted West Africans, but because West Africans are in the best position to evaluate what did and did not happen during the conflict. Thus open, transparent and accessible proceedings, with witnesses who can actually comment on any alleged link between Mr. Taylor and atrocities in Sierra Leone, will ensure that Mr. Taylor's statutory rights to a "fair and public" hearing are protected," the release issued by the Taylor defense concluded.

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Court Management Section – Court Records

CONFIDENTIAL DOCUMENT CERTIFICATE

This certificate replaces the following confidential document which has been filed in the Confidential Case File.

Case Name: **The Prosecutor – v- Charles Ghankay Taylor**
Case Number: **SCSL-03-01-T**
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☐ Correspondence

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PUBLIC WITH CONFIDENTIAL ANNEX – PROSECUTION REPLY TO "PUBLIC WITH CONFIDENTIAL ANNEX A DEFENCE OBJECTION TO 'PROSECUTION NOTICE UNDER RULE 92bis FOR THE ADMISSION OF EVIDENCE RELATED TO INTER ALIA FREETOWN & WESTERN AREA – TF1-023& TF1-029' AND OTHER ANCILLARUY RELIEF"

Name of Officer:

Vincent Tishekwa

Signed: