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JOMO KENYATTA ROAD • FREETOWN • SIERRA LEONE
PHONE: +1 212 963 9915 Extension: 178 7000 or +39 0831 257000 or +232 22 295995
FAX: Extension: 178 7001 or +39 0831 257001 Extension: 174 6996 or +232 22 295996

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Document: **PUBLIC WITH CONFIDENTIAL ANNEX A & PUBLIC ANNEX B- PROSECUTION RESPONSE TO URGENT DEFENCE APPLICATION FOR PROTECTIVE MEASURES FOR WITNESSES AND FOR NON-PUBLIC MATERIALS**

Document Dated: 12 May 2009

☐ **Reasons:** Annex B (Newspaper Coverage: New Democrat (Liberia) Friday 23 March 2009) to this Document # SCSL-03-01-T-778 has not been filed in its original form due to the fact that Prosecution could not obtain the Original Newspaper Coverage and managed to get the 2 pages of Annex B from the SCSL Press Clippings from Freetown, that are sent in a PDF format electronically.

Signed:

Vincent Tishekwa

Dated: 12 May 2009

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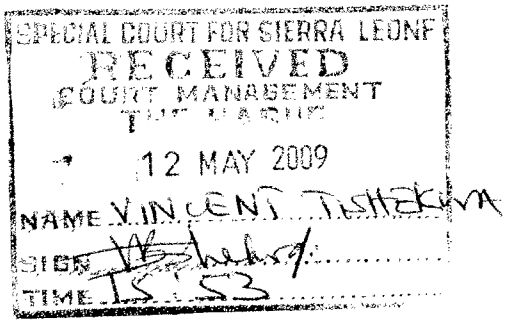
SPECIAL COURT FOR SIERRA LEONE
OFFICE OF THE PROSECUTOR
Freetown – Sierra Leone

TRIAL CHAMBER II

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

Registrar: Mr. Herman von Hebel

Date filed: 12 May 2009



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

Case No. SCSL-03-01-T

PUBLIC WITH CONFIDENTIAL ANNEX A & PUBLIC ANNEX B

PROSECUTION RESPONSE TO URGENT DEFENCE APPLICATION FOR PROTECTIVE MEASURES FOR WITNESSES AND FOR NON-PUBLIC MATERIALS

Office of the Prosecutor:
Ms. Brenda J. Hollis
Ms. Kathryn Howarth

Counsel for the Accused:
Mr. Courtenay Griffiths Q.C.
Mr. Terry Munyard
Mr. Andrew Cayley
Mr. Morris Anyah

INTRODUCTION

1. The Prosecution files this Response to the "Urgent Defence Application for Protective Measures for Witnesses and For Non-Public Materials" filed on 6 May 2009 ("Application")[1] and pursuant to the direction of the Trial Chamber, at the status conference on 7 May 2009 that the Prosecution file a Response on an expedited basis by 12 May 2009.[2]

2. In the Application, the Defence seeks an order for non-testimonial protective measures for two categories of Defence witnesses and potential Defence witnesses ("witnesses").[3] At paragraph 12 of the Application the Defence sets out the terms of the order sought.

3. As regards the categories of witnesses proposed by the Defence, the Prosecution does not oppose the granting of protective measures to ex-combatant or insider witnesses residing in West Africa. However, the Defence has not made the requisite showing to justify granting protective measures to members of this category of witnesses residing outside West Africa, nor for witnesses who are "former or current political or other high-ranking officials" involved in the conflicts in Sierra Leone and/ or Liberia.

4. In terms of the specific protective measures sought by the Defence, the Prosecution does not oppose the orders sought at paragraph 12 (a), (d), (g), (h), (i) and (j). Nor does the Prosecution oppose the substance of the orders sought at paragraph 12 (b) and (f), with the exception of certain language that is inconsistent with prior protective measures orders and for which deviation no justification can be made. However, the Prosecution opposes the order sought at paragraph 12 (c) and opposes in part the order sought at paragraph 12 (e) as the Defence has not made the requisite showing to justify these protective measures.

APPLICABLE LAW

5. Rule 69 of the Rules of Procedure and Evidence ("the Rules") provides that in "exceptional circumstances" a party may apply to the Trial Chamber to order the non-

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[1] *Prosecutor v. Taylor*, SCSL-2003-01-T-776, "Public with Annexes A, B, C, D and E Urgent Defence Application for Protective Measures for Witnesses and for Non-Public Materials", 6 May 2009.
[2] *Prosecutor v. Taylor*, Trial Transcript, 7 May 2009, p. 24243.
[3] Application, para. 1 and also para. 9.

disclosure of the identity of a witness "who may be in danger or at risk".

6. Rule 75 (A) provides that "a Judge or Trial Chamber may...order appropriate protective measures to safeguard the privacy and security of victims and witnesses, provided that the measures are consistent with the rights of the Accused".
7. Rule 75 (B) specifies, *inter alia*, that the Trial Chamber may order measures to prevent disclosure to the public or the media of the names, identifying information or whereabouts of witnesses.
8. As acknowledged by the Defence, international criminal law jurisprudence requires that the party requesting protective measures provide the Trial Chamber with both an objective and subjective basis for ordering the same.[4] A party seeking protective measures is therefore required to provide evidence from sources other than its witnesses indicating an objective basis for assessing whether a threat to a witness' security exists.[5]
9. As previously noted in the jurisprudence of the Special Court "the concept of a fair trial must be understood as fairness to both parties and not just to the Accused".[6] Therefore, in applying the legal requirements outlined above, the same exacting standards and scrutiny must apply to the Defence Application and supporting evidence as has been applied to similar applications made by the Prosecution.

ARGUMENT

Categories of Witnesses:

10. The Defence seeks protection for "[i]nsiders or ex-combatants who fought for or were closely associated with any faction (including AFL, AFRC, CDF, LURD, NPFL, RUF, SLA, STF and ULIMO) during the conflicts that took place in Sierra Leone and/or Liberia".[7] The Prosecution appreciates that potential threats may be faced by ex-combatants and insider witnesses who reside in West Africa and who testify before the

[4] See, Application para. 13.
[5] *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 Defence Protective Measures Decision**"), para. 25.
[6] *Prosecutor v Gbao*, SCSL-2003-09-PT-048, "Decision on the Prosecution Motion for the Immediate Protective Measures for Witnesses and Victims and for Non-Public Disclosure", 10 October 2003, Judge Boutet at para. 34, relying upon case of *Prosecutor v Aleksovski*, ICTY "Appeals Chamber Decision on Admissibility of Evidence" 16 February 1999, para. 25.
[7] Application, para. 9 (a).

Special Court. The Prosecution does not, therefore, oppose the application of protective measures to such witnesses.

11. However, the Prosecution observes that the order sought by the Defence extends beyond ex-combatants and insider witnesses who reside in West Africa and potentially embraces ex-combatants and insider witnesses residing anywhere in the world. In contrast, the argument in the Application and supporting materials annexed to the Application, refer only to witnesses within Sierra Leone and Liberia.[8] Given the absence of any subjective or objective basis upon which to justify the inclusion of witnesses residing outside West Africa, any order ought to be limited to members of this category of witnesses residing within West Africa.[9] Notably, other protective measures decisions before the Special Court have also excluded from protection potential witnesses residing outside West Africa.[10]

12. Secondly, the Defence seeks protective measures for "former or current political or other high-ranking officials involved diplomatically or otherwise in the conflicts that took place in Sierra Leone and/or Liberia".[11] The Prosecution opposes a blanket application of protective measures to such witnesses. The Defence essentially makes two arguments in support of protective measures for witnesses in this proposed category. First, the Defence argues that high ranking or high profile political figures are "vulnerable" because "a politician's entire livelihood depends on reputation, favourable public opinion and goodwill of the populace" and because such "political figures...by meeting with the defence team and/or coming to testify open themselves up to severe criticism and detrimental opposition".[12] These arguments are tenuous and are unrelated

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[8] Annex A to the Application refers only to Sierra Leone, Annex B to the Application refers only to Liberia, Annex C of the Application refers to Sierra Leone, Annex D of the Application ("**Annex D**") refers to Sierra Leone and Liberia fleetingly, and Annex E of the Application ("**Annex E**") refers only to Liberia. There is no evidence in relation to other countries within or beyond West Africa.

[9] Should the Trial Chamber grant protective measures to witnesses in the second category (and for the reasons discussed in this Response it should not) then such measures ought also be limited to witnesses residing within West Africa.

[10] Kallon Defence Protective Measures Decision, para. 31; and *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 the Non-Public Disclosure", 30 November 2006, ("**Sesay Defence Protective Measures Decision**"), para. 24 (ii); *Prosecutor v Sesay et al*, SCSL-04-15-T-716, "Decision on Gbao Defence Motion for Immediate Protective Measures and Confidential Motion for Delayed Disclosure and Related Measures for Witnesses", 1 March 2007, ("**Gbao Defence Protective Measures Decision**"), paras. 34 and 42(ii).

[11] Application, para. 9 (b).

[12] Application, para. 17.

to the "privacy and security" of witnesses or to a "danger or [ ] risk" to witnesses; and so cannot justify protection under the Rules. Aside from not being legally capable of meeting the test required for granting protective measures under the Rules, these arguments lack any *objective* basis. The supporting materials provided by the Defence speak of the *subjective* concerns as voiced by their witnesses; there is no independent evidence from parties outside of the Defence to support such a finding. Moreover, the Defence characterization of the attitude of Liberians towards Charles Taylor is unsophisticated and inaccurate – Charles Taylor commands significant support inside Liberia and beyond.[13]

13. Secondly, the Defence argues that high-level ex-combatants and high-profile political figures face a threat from the UN because they risk being banned from travelling or having their assets frozen pursuant to the terms of UN Security Council Resolutions 1521 (2003) and 1534 (2004).[14] Of course, to the extent this argument has any basis, it could only be relevant to those persons not already on existing travel ban or asset freeze lists. In any event, the argument is without objective basis. First, as for the travel ban, the Defence argument ignores that in 2006 when the Accused was to be transferred to the custody of the Special Court, the UN Security Council adopted Resolution 1688 (2006). This Resolution specifically provides that any witnesses whose presence is required for the trial shall be exempt from the travel ban imposed by Resolution 1521 (2003).[15] The Defence allegation that witnesses are at risk of being banned from travel is therefore tantamount to alleging bad faith on the part of the UN. Furthermore, relevant to both the travel ban and assets freeze, is the fact that the Resolution recognises the importance of the proceedings in contributing to the achievement of truth and reconciliation in Liberia and the wider sub region and the establishment of the rule of law in Sierra Leone and the wider sub region and it encourages all States to ensure that any evidence or witnesses are made available to the Special Court and speaks to enabling the appearance of witnesses, experts and other persons required to

[13] See Confidential Annex A for citation and see also, by way of example, an article reporting statements made by Lead Defence Counsel about Charles Taylor's popularity in Liberia, in *New Democrat (Liberia)* Friday 23 March 2009, extract highlighted at Annex B of the Response.
[14] Application, para. 18.
[15] Security Council Resolution 1688 (2006), para. 9.

be at the Special Court.[16] Such language is inconsistent with the apparent underlying Defence premise that the UN will act improperly in carrying out its official duties as a responsible world body. The argument that Defence witnesses face a threat from the UN therefore lacks any *objective* basis and should be dismissed and therefore the Defence application fails.

Non-disclosure of names and identifying information to the public and the media - 12 (b):

14. The Prosecution does not oppose the non-disclosure of the names or identifying information of the first category of Defence witnesses to the public or the media. However, the Defence has provided no basis for deviating from the wording that has been consistently used by the Trial Chambers of the Special Court in granting non-testimonial protective measures to both Prosecution and Defence witnesses, namely that: "The names or any other identifying information of these witnesses shall not be disclosed to the public or the media, *and this order shall remain in effect after the conclusion of proceedings*".[17] Absent such justification, any order should use such consistent language.

Non-Disclosure of names and identifying information to the Prosecution - 12 (c):

15. The Prosecution opposes the order sought by the Defence at paragraph 12(c), in which the Defence seek to withhold the names and identifying information of Defence witnesses to the Prosecution until 21 days before the witness is due to testify.

16. There are no "exceptional circumstances" or any "objective basis" whatsoever upon which to conclude that any Defence witness is or may be "in danger or at risk" from the Prosecution, nor that any sustainable privacy right is jeopardized by the Prosecution. The Defence cannot therefore satisfy the legal requirements of Rules 69 or 75 to justify the imposition of such a measure.

17. As a preliminary point, the Prosecution disagrees with the Defence's characterisation of the Prosecution's contact with witnesses, as expressed in the statements annexed to the Application.[18] There is nothing improper in the Prosecution seeking to contact potential

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[16] Ibid., preamble and paras. 4 and 8c.
[17] Emphasis added. See Sesay Defence Protective Measures Decision, para. 25f; Gbao Defence Protective Measures Decision, para. 43f; and Kallon Defence Protective Measures Decision para. 34f; and similar wording in *Prosecutor v Brima et al*, "Decision on Joint Defence Application for Protective Measures for Defence Witnesses", 9 May 2006 (**"AFRC Defence Protective Measures Decision"**) order (c); and see Confidential Annex A for further citation.
[18] Annex D, para. 9 and Annex E para. 8

witnesses or sources of information, nor is there anything improper about the manner in which the Prosecution has sought to contact such persons.

18. As regards the existence of any possible threat of "reprisals" or "retribution" by the Prosecution against Defence witnesses, such an allegation is entirely without merit. Although witnesses may *subjectively* fear "reprisals" or "retribution" being taken against them if they co-operate with the Defence, having previously been contacted by the Prosecution, and/ or may have "expressed fear of being indicted or taken into custody themselves",[19] such fears lack any *objective* basis.

19. Further, the Prosecution and the Defence are differently situated in relation to the application of Rules 69 and 75. Withholding the names and identifying information of protected Prosecution witnesses from the Defence until 42 days prior to the anticipated date of the witnesses' testimony was justified on the basis of potential threats from the Accused and other persons associated with him.[20] Thus, whilst there was an objective and subjective basis for withholding the names and identifying information of Prosecution witnesses from the Defence, who would then of course provide it to the Accused, there is no similar objective basis upon which withholding such information from the Prosecution can be justified, and therefore no basis upon which to make an order pursuant to Rules 69 and 75. Furthermore, neither can any equality of arms argument justify the granting of such a limitation without the requisite showing of both a subjective and objective basis for the measure.

20. Moreover, once the names and or identifying information of a Defence witness are made known to the Prosecution, then pursuant to the requested protective measure at paragraph 12 (e),[21] the substance of which the Prosecution does not oppose, the Prosecution would be required to contact any witness through the Witnesses and Victims Section (WVS), and could only do so having first obtained the consent of the witness to be so contacted.[22] Therefore, any Defence witnesses who "fears" unwanted contact with the Prosecution would be protected. Indeed, such a witness would in fact be better protected from any unwanted contact by the Prosecution if their identities

[19] Annex D, at paras. 9 and 12d.
[20] See Confidential Annex A for further argument and citation, and note the citations to evidence adduced at trial which indicated that the Accused has taken action against persons he believed to be a threat to him.
[21] See para. 22 below.
[22] See the order sought at paragraph 12 (e) of the Application.

were disclosed to the Prosecution, as the Prosecution would then be required to use the above mentioned procedure.

21. If the Trial Chamber were nevertheless minded to grant the Defence's request for an order that the names and identifying information of witnesses not be disclosed to the Prosecution, such information should be provided to the Prosecution not less than 42 days before the witness is due to testify at trial. This is the minimum period for such disclosure that would be consistent with the fair trial rights of both parties.[23] The time period imposed on the Prosecution for the disclosure of names and identifying information of its protected witnesses to the Defence, in this case, was 42 days before the witness was due to testify at trial,[24] and this with the Defence having the full benefit of all redacted statements of the witness well in advance of the witness' testimony. If the Defence required a minimum of 42 days to prepare once it had the name and other identifying data of a witness, there is no principled reason why the Prosecution – who would face the same logistical issues - would require less time. The Defence have made no justification for greater protections to attach to witnesses for the Defence, over and above those protections which applied to those witnesses who testified for the Prosecution. Nor would any argument of alleged significant disparity in resources justify giving the Prosecution one half the time given the Defence.[25]

Contact with Defence Witnesses – 12 (e):

22. As regards the order proposed by the Defence at paragraph 12 (e) of the Application, the Prosecution does not oppose a procedure whereby the Prosecution are permitted to contact a Defence witness through Witness and Victims Section (WVS), and in circumstances in which WVS have obtained the informed consent of the witness to such contact. This is the procedure that the Prosecution in an earlier Response noted

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[23] As to the fair trial rights of both parties see para. 9 and footnote 6 above. As regards the previous grant of such protective measures before this court, in the CDF case no such protective measures were granted to Defence witnesses, in the RUF cases the period for disclosure by the Defence to the Prosecution of identifying information for protected Defence witnesses was 42 days (Sesay Defence Protective Measures Decision, para. 25c; Gbao Defence Protective Measures Decision, para. 43c; and Kallon Defence Protective Measures Decision, para. 34c) and in the AFRC case, it is acknowledged that the period was 21 days, AFRC Defence Protective Measures Decision, order (d).

[24] See confidential Annex A for citation; and see also *Prosecutor v Morris Kallon*, SCSL-2003-07-PT-IP-033, "Decision on the Prosecutor's Motion for Immediate Protective Measures for Witnesses and Victims for Non-Public Disclosure", 23 May 2003, at para. 17, where Judge Thompson specifically rejected the Prosecution request for a 21 day time limit and ordered a 42 day time limit for disclosure.

[25] *Prosecutor v Taylor*, Trial Transcript 4 May 2009, p. 24217.

would be appropriate in relation to Defence contact with potential witnesses,[26] and it is the procedure currently applicable to the Defence, following the subsequent decision of the Trial Chamber earlier this year.[27] This procedure was also applied to the Prosecution and co-Accused during the defence stage of the RUF case.[28] However, the Prosecution opposes the additional requirement that the Defence need be notified of such requested or actual contact. Significantly, as with the procedure currently applicable to the Defence,[29] in the RUF case there was no requirement that the relevant Defence be notified of requested or actual contact by the Prosecution or another Defence team. The Defence have provided no justification for such notification. The Prosecution further opposes any requirement that "except under exceptional circumstances, any such contact shall not take place before the witness' testimony in court". The Defence have failed to justify why the Prosecution ought to be so restricted.[30]

Sharing Witness Related Non-Public Materials – 12 (f):

23. The Prosecution does not oppose the order sought at 12 (f), save for the fact that the Prosecution would submit that the phrase "cross examination" is overly restrictive and that an appropriate phrase would be "cross examination and any rebuttal case" or language which encompasses both. Such language is consistent with legitimate functions of the Prosecution and with similar protective measures applicable to the Defence in this case.[31]

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[26] *Prosecutor v Taylor*, "Prosecution Response to Defence Motion Pursuant to Rules 66 and 68 for the Disclosure of Exculpatory Material in Redacted Witness Statements of Witnesses the Prosecution Does Not Intend to Call", 5 March 2009, paras. 20 -22.

[27] *Prosecutor v Taylor*, SCSL-2003-01-T-770, "Decision on Defence Motion Pursuant to Rules 66 and 68 for the Disclosure of Exculpatory Material in Redacted Witness Statements of Witnesses the Prosecution Does Not Intend to Call", 30 March 2009, ("**Taylor Decision on Rule 66 and 68**") paragraphs 30 – 31.

[28] Gbao Defence Protective Measures Decision, para. 43 (k); Sesay Protective Measures Decision, para. 25 (j); and Kallon Defence Protective Measures Decision, para. 34 (j).

[29] See Taylor Decision on Rule 66 and 68, paras. 30 - 31. It is acknowledged that earlier applicable protective measures decisions required the Defence to obtain the "written consent of the Prosecution or the leave of the court" to contact a Prosecution witness; however, there was no requirement that the Prosecution be notified of contact by the Defence with a Prosecution witness if leave of the court were sought, and the current procedure does not require the Defence to notify the Prosecution about their contact with Prosecution witnesses.

[30] Notably in the protective measure decisions in the RUF case, cited in footnote 28, the phrase "Except under exceptional circumstances, any such interview shall not take place at the outset of the witness' testimony in court".

[31] See Confidential Annex A for citation.

CONCLUSION

24. For the reasons stated above the Defence Application ought to be dismissed in as far as it relates to the first category of witnesses outside West Africa and to the second proposed category of former or current political or other high-ranking officials involved in the conflicts in Sierra Leone or Liberia. The order sought at paragraph 12 (c) should also be dismissed and the order sought at paragraph 12 (e) allowed in part only. The orders sought at paragraph 12 (b) and (f) ought to be granted with the revised language set out by the Prosecution in paragraphs 14 and 23 above.

Filed in The Hague,
12 May 2009,
For the Prosecution,

Brenda J. Hollis
Principal Trial Attorney

INDEX OF AUTHORITIES

A. ORDERS, DECISIONS AND JUDGEMENTS

SCSL Cases

Prosecutor v. Taylor

Prosecutor v Taylor, SCSL-2003-01-T-770 "Decision on Defence Motion Pursuant to Rules 66 and 68 for the Disclosure of Exculpatory Material in Redacted Witness Statements of Witnesses the Prosecution Does Not Intend to Call", 30 March 2009.

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

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 the Non-Public Disclosure", 30 November 2006.

Prosecutor v. Brima et al

Prosecutor v Brima et al, SCSL-04-16-T-488, "Decision on Joint Defence Application for Protective Measures for Defence Witnesses", 9 May 2006.

Prosecutor v. Gbao (pre-joinder)

Prosecutor v Gbao, SCSL-2003-09-PT-048, "Decision on the Prosecution Motion for the Immediate Protective Measures for Witnesses and Victims and for Non-Public Disclosure", 10 October 2003.

Prosecutor v. Brima (pre-joinder)

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Prosecutor v. Kallon (pre-joinder)

Prosecutor v Morris Kallon, SCSL-2003-07-PT-IP-033, "Decision on the Prosecutor's Motion for Immediate Protective Measures for Witnesses and Victims for Non-Public Disclosure", 23 May 2003.

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B. OTHER DOCUMENTS

Transcripts

Prosecutor v. Taylor, Trial Transcript, 7 May 2009, p. 24243.
Prosecutor v. Taylor, Trial Transcript, 4 May 2009, p. 24217

Motions/ Responses/ Replies

Prosecutor v Taylor, "Prosecution Response to Defence Motion Pursuant to Rules 66 and 68 for the Disclosure of Exculpatory Material in Redacted Witness Statements of Witnesses the Prosecution Does Not Intend to Call", 5 March 2009

Newspaper Coverage

New Democrat (Liberia) Friday 23 March 2009 (see Annex B)

UN Security Council Resolutions

Security Council Resolution 1688 (2006)

http://daccessdds.un.org/doc/UNDOC/GEN/N06/392/20/PDF/N0639220.pdf?OpenElement

SPECIAL COURT FOR SIERRA LEONE
BINCKHORSTLAAN 400 • 2516 BL DEN HAAG • THE NETHERLANDS
PHONE: +31 70 515 9701 or +31 70 515 (+Ext 9725)

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**
Document Index Number: **778**
Document Date: **12 MAY 2009**
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☐ Indictment
☒ **Response**
☐Decision
☐ Correspondence

Document Title:

CONFIDENTIAL ANNEX A

Name of Officer:

Vincent Tishekwa

Signed: 

25164

ANNEX B

stand for perhaps his last political speech, denied first when he appeared before the Court in Freetown and demanded to make a speech. "We are not here for political speeches", declared the Ugandan-born judge Sebutinde. Now, that request cannot be denied, for it will come in a form of a testimony, with his lawyers asking leading questions and getting answers he had so well rehearsed. The climax will come under cross-examination, when prosecuting lawyers will seek to dismantle Mr. Taylor's claims. The entire show promises interesting headlines and more as Charles Taylor stars in Charles Taylor in the finale of his movie.

Already, his lawyer has launched a political campaign designed to woo sympathizers for his client, all understandable and expected since he is well paid for such acts. Addressing a press conference here this week, he asked what he said was a rhetorical question: If Taylor were to return and compete in an election with President Ellen Johnson Sirleaf, who would win? He said he did not want an answer because, he implied, it is obvious. Mr. Taylor enjoys immense popularity here, or so Mr. Griffiths has been constantly told with high degree of believability.

Whatever the answer, the likelihood of Mr. Taylor contesting elections and winning depends on how well Mr. Griffiths convinces the judges, not the Liberian people, of how great and innocent he is. After that, the Jamaican is perfectly placed to serve as campaign manager for Mr. Taylor, but it is certain that victory will depends on creating the kinds of conditions—war, death and total state collapse—that prevailed

for the war by dwelling on the abuses under Samuel K. Doe and insisting that he came to free his people from bondage, even if in the end he placed them in greater bondage. He will insist that his war was just, made unjust only by foreign meddling that made him

regime and the invasion, then much o
except for the political drama in whic
the setting, not Sierra Leone.
Prosecutor Stephen Rapp, in his op
declared:

COURTENAY GRIFFITHS CONVINCE OF TAYLOR'S POPULA

25166

New Democrat (Liberia)
Friday, 23 March 2009

Charles Taylor Staling Charles Taylor

Coming Testimony: The Expectans, The Claims & The Surprises

Mr. Courtenay Griffiths, main lawyer pleading for former President Charles Taylor on trial for war crimes, is giving us some hints of what his client will tell the world in testimony. Mr Taylor is expected to take a grand stand for perhaps his last political speech, denied first when he appeared before the Court in Freetown and demanded to make a speech. "We are not here for political speeches", declared the Ugandan-born judge Sebutinde. Now, that request cannot be denied, for it will come in a form of a testimony, with his lawyer asking leading questions and getting answers he had so well rehearsed. The climax will come under cross-examination, when prosecuting lawyers will seek to dismantle Mr. Taylor's claims. The entire show promises interesting headlines and more as Charles Taylor stars as Charles Taylor in the finale of his movie.

[illegible] Rebel Leaders [illegible] the late Hinga Norman (Kamajors), who died in prison before verdict and convicted RUF leaders

Firstly, his lawyer has launched a political campaign. [illegible] all understandable and expected since he is well paid for such [illegible]. Addressing a press conference here this week, he asked what he said was a rhetorical question: If Taylor were to return and compete in an election with President Ellen Johnson Sirleaf, who would win? He said he did not want an answer because, he implied, it is obvious Mr. Taylor enjoys immense popularity here, or so Mr. Griffiths has been constantly told with high degree of believability.

Whatever the answer, the likelihood of Mr. Taylor [illegible] elections and winning depends on how well Mr. Griffiths convinces the judges, not the Liberian people, of how great and innocent he is. After that, the Jamaican is perfectly placed to serve as campaign manager for Mr. Taylor, but it is certain that victory will depends on creating the kinds of conditions—[illegible] and total state collapse—that prevailed between December 1989 to 1997 when Liberians, in their wisdom, decided to bequeath the presidency to [illegible] instead of perpetual killings and miserable misery.

For now, however, there are several scenarios and propositions based on Mr. Taylor's past claims and our mindset hinting what he will say.

Proposition One: Mr. Charles Taylor, in climbing the podium to vindicate himself, will offer justifications for the war by dwelling on the abuses under Samuel K. Doe and insisting that he came to free his people from bondage, even if in the end he placed them in greater bondage. He will insist that his war was just, made unjust only by foreign meddling that made him to move into Sierra Leone, where he has claimed his grandfather came from.

Courtenay Griffiths convinced of Taylor's popularity

Proposition Two: The Accused will [illegible] his own role in the Samuel Doe military junta that he helped bring to power on 12 April 1980 when he joined the military rebellion as a civilian organizer.

Proposition Three: He will claim that, after all, he is not the one with the greatest responsibility for the war, with blood all over his face than this undeniable, but that others, many now in key political leadership, are part and parcel of the war and crimes for which he is being held unjustly. He is expected to supply a list of those he will claim financed the war and must therefore be dragged together with him, since he will not go down alone. He who is down fears no fall.

Proposition Four: He is being singled out, he is expected to tell the court, because the west hates him since he represents what they oppose. He is a victim of a greater western conspiracy against African leaders, an embodiment of the racism against Africa.

Proposition Five: His lawyer says the 1989 invasion will form part of his testimony. Therefore, he is expected to give the political justifications for it, but whether he will offer justifications for the unending atrocities, as dozens of witnesses including his key [illegible] and documents attest, is open to question. His comments on these could come during cross-examination. Would he claim a higher moral than Samuel K. Doe?

Whatever Mr. Taylor will say, the Indictment against him, and the Counts in it, will be the basis of judgment.

The Indictment, reproduced here in part from the Prosecution's Opening Statement, lays the basis of the case. In it, references to Liberia, and to crimes committed here, are just in passing. Thus if the crux of Mr. Taylor's defence, as his lawyer says, is the Doe regime and the invasion, then much more is expected, except for the political drama in which Liberia will be the setting, not Sierra Leone.

Prosecutor Stephen Rapp, in his opening statement, declared:

The Accused stands indicted for eleven crimes under the statute of the SCSL.

Counts in Second Amended Indictment [illegible]:

Five counts of crimes against humanity - these being murder, rape, sexual slavery, [illegible] and inhumane acts against the civilian population of SL.

Charles [illegible] leaders

Five counts of war crimes - these [illegible] the civilian population of SL, violence to life, in particular murder and cruel treatment, outrages upon personal dignity and pillage (looting of property),

and

One count of other serious violations of international humanitarian law - being the conscripting or enlisting children under the age of 15 into armed forces or groups, or using them to participate actively in hostilities.

The Prosecution alleges that these crimes [illegible] in Sierra Leone between 30 November 1996 and 18 January 2002.

It is in fact one over-arching crime, a campaign of terror, itself a war crime, but also contains violent acts that are in this context also crimes. The component crimes [illegible] acts included killings, physical violence such as mutilations, sexual violence [illegible] rape, sexual slavery and other outrages, [illegible] of forced labour, the recruitment and use of children, the burning that killed and maimed beings, and together with looting and pillage in many cases, deprived them of all that they

[illegible] will explain in greater detail, they are crimes [illegible] international humanitarian law, as enshrined [illegible], because of connection to armed conflict, because they were committed as part of a [illegible] or systematic attack against a civilian [illegible] common plan amounted to or involved the commission of the crimes alleged in the Amended Indictment.

[illegible], the Accused and other participants [illegible] common plan used criminal means to achieve political power and physical control over the population of Sierra Leone. These criminal [illegible] the campaign of terror waged against the population of Sierra Leone that I have described.

[illegible] identified in the indictment were within [illegible] of the common criminal plan or were [illegible] foreseeable consequences of it. As one [illegible] of the common criminal plan, the Accused was fully aware of the horrific consequences [illegible] would visit on the civilian [illegible] of Sierra Leone, did nothing to prevent or [illegible] these crimes and indeed continued to act in [illegible] or aided their commission.

Brief Introduction To Sierra Leone And The [illegible]

[illegible] to note that Sierra Leone is located in a [illegible] borders [illegible]. These lines [illegible] during the colonial period, and do not follow ethnic or linguistic groups. Many in up-country border areas have closer relations to people across the borders than to those in their capital cities.

Sierra Leone is divided into 12 districts, plus the Western Area that includes the capital Freetown.

Liberia is divided into 15 counties, and its capital Monrovia.

Our Amended Indictment focuses on six district or areas in Sierra Leone,

Its diamond resources are found in Kono and Kenema Districts.

Kono District - Koidu, Tombodu, Yengema

Kenema District - Tongo Fields (Cyborg Pit)

Kailahun District will be an important focus of our evidence because it was long-term corridor between Sierra Leone and and Lofa County in Liberia.

Now I will turn to the evidence we intend to present in support of our case.

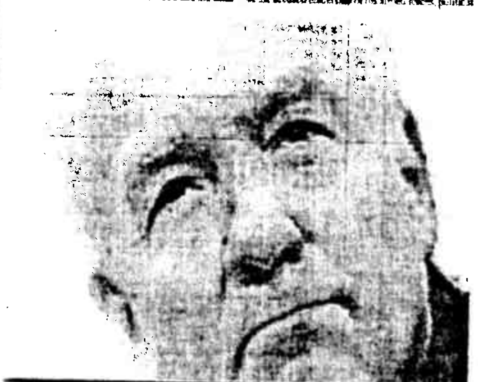
[illegible] History - Common Plan And Nature Of The Accused Participation

To fully understand the crimes that are described in the indictment and the central role that the Accused had in the commission of them, it's important to look at the history and understand the major political events that led to the campaign of terror against the civilian population of Sierra Leone.

The jurisdiction of this court is limited by the Statute of the Court to crimes committed in the territory of Sierra Leone since 30 November 1996. The crimes charged in this indictment were mainly committed between that date and the end of the Sierra Leone war on 18 January 2002. However, the planning and preparation of these crimes began long before 1996 and criminal acts which furthered the plan and led to the crimes often occurred far from the borders of Sierra Leone. The evidence will show that the Accused's plan to control territory of Sierra Leone through a campaign of terror began at least in 1991 when forces supported by Charles Taylor including many of his own Liberian NPFL soldiers first invaded the territory of Sierra Leone.

To understand the Accused's motivation and his links to other members of the common plan and the Revolutionary United Front (RUF) rebels and their Armed Forces Revolutionary Council (AFRC) allies, one must consider evidence going back to this period and further understand the international context in which the Accused's intervention in Sierra Leone took place. It is necessary to understand the Accused's own rise to power in Liberia and the ends to which he was prepared to go to achieve these, his links to allies in the region, and why he saw others as obstacles to his rule. One cannot fully understand the Accused's ability to influence and control forces in Sierra Leone without some understanding of the uniquely personal nature of the accused leadership of his armed forces, political party and government. This relationship often went far outside the de jure chain of command and ensured that those subordinates understood that the Accused had the power and will to reward those that [illegible] his plans and punish or destroy those that displeased him. By the time the crimes charged in this indictment took place, the Accused had well established relationships with those on the ground in Sierra Leone who carried out the crimes. The RUF and its allies in Sierra Leone were clearly dependent on the Accused and the individual commanders understood his power to reward or punish each of them.

1990 Execution: To form part of the defense



Stephen Rapp face to face with Taylor

Moreover, many of the crimes committed by rebel forces supported by the Accused in Sierra Leone mirrored crimes that had been committed by Accused's forces in Liberia. The RUF trained [illegible] war and methods of guerrilla warfare in Liberia with Taylor's NPFL. An example is the recruitment of child soldiers. The rebel forces in Sierra Leone carried out widescale recruitment of children, as done by the NPFL in Liberia and organized and used those children in their military campaign against the civilian population of Sierra Leone in the same manner they were organized and utilized in Liberia. The most obvious point that the crimes committed by the RUF and allied forces in Sierra Leone were foreseeable is the fact that very similar crimes were carried out by the NPFL in Liberia.

Further, the Prosecution submits it will be essential for this court to examine evidence of the Accused's actions after the indictment period. The Prosecution will seek to introduce evidence of post-offence conduct, in particular, the murders of men who were in the Accused's inner circle and who were aware of crimes perpetrated by the Accused. The evidence will show that these men were eliminated so as to not expose the Accused, which is behaviour going to [illegible] consciousness of his criminal responsibility for the crimes in Sierra Leone that come under the jurisdiction of this Court.

Of course, the Accused did not participate in this common plan alone. He was a major figure who worked closely and in concert with others in both Liberia and Sierra Leone to achieve the objectives of this enterprise.