

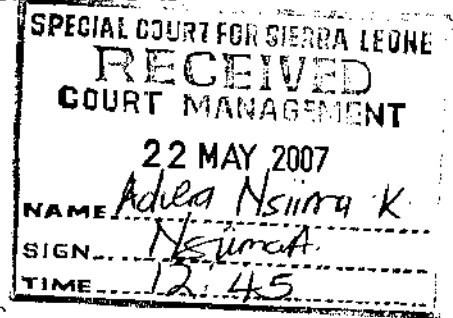
249)

SCSL-03-01-PT
(9408-9410)

9408



SPECIAL COURT FOR SIERRA LEONE



TRIAL CHAMBER II

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

Registrar: Mr. Herman von Hebel, Acting Registrar

Case No.: SCSL-03-1-PT

Date: 22 May 2007

PROSECUTOR

Against

CHARLES GHANKAY TAYLOR

DECISION ON DEFENCE APPLICATION FOR LEAVE TO APPEAL THE 25 APRIL 2007
"DECISION ON DEFENCE MOTION REQUESTING RECONSIDERATION OF 'JOINT
DEFENCE MOTIONS ON ADEQUATE FACILITIES AND ADEQUATE TIME FOR THE
PREPARATION OF MR. TAYLOR'S DEFENCE,' DATED 23 JANUARY"

Office of the Prosecutor:

Brenda Hollis
Ann Sutherland

Defence Counsel for Charles G. Taylor:

Karim A.A. Khan
Roger Sahota

TRIAL CHAMBER II ("Trial Chamber") of the Special Court for Sierra Leone ("Special Court"); 9409

SEISED of the Defence Application for Leave to Appeal the 25 April 2007 "Decision on Defence Motion Requesting Reconsideration of 'Joint Defence Motions on Adequate Facilities and Adequate Time for the Preparation of Mr. Taylor's Defence,' Dated 23 January", filed on 30 April 2007 ("Motion"), on the grounds that

- (i) "exceptional circumstances" exist, in that the course of justice would be interfered with if the Trial Chamber does not give any compensation for the three and a half months during which the Defence legal consultations were hampered by the "chilling effect" of a video surveillance camera¹; and
- (ii) "irreparable prejudice" will be caused to the Defence if it is denied immediate relief and adequate time to prepare, since the only remedy would be an order for retrial²;

NOTING the "Prosecution Response to Defence Application for Leave to Appeal Filed on 30 April 2007", filed on 8 May 2007, ("Response"), wherein the Prosecution relies on its responses filed in respect of two previous Defence motions³, conceding that the Defence had shown good cause for an additional delay in the commencement of the trial;

NOTING that the Defence has not filed a reply to the Response;

RECALLING the Trial Chamber's "Decision on Defence Motion Requesting Reconsideration of 'Joint Decision on Defence Motions on Adequate Facilities and Adequate Time for the Preparation of Mr. Taylor's Defence', dated 23 January 2007", filed on 25 April 2007 ("Impugned Decision") in which the Trial Chamber granted the said motion in part by allowing an adjournment of 18 calendar days after the Prosecution opens its case on 4 June 2007;

MINDFUL of the provisions of Article 17 of the Statute of the Special Court for Sierra Leone, and of Rules 26bis, 54 and 73 of the Rules of Procedure and Evidence ("Rules");

NOTING that Rule 73(B) of the Rules provides that:

Decisions rendered on such motions are without interlocutory appeal. However, in exceptional circumstances and to avoid irreparable prejudice to a party, the Trial Chamber may give leave to appeal. Such leave should be sought within 3 days of the decision and shall not operate as a stay of proceedings unless the Trial Chamber so orders;

NOTING therefore that Rule 73(B) does not confer a general right of appeal, but that leave to appeal may be granted by the Trial Chamber only in cases where the conjunctive conditions of exceptional circumstances and irreparable prejudice to a party are both satisfied;

¹ Motion, paras. 2, 3, 6-9.

² Motion, para. 10.

³ Response, para. 5; see also Prosecution Response to "Defence Application for Leave to Appeal 'Joint Decision on Defence Motions on Adequate Facilities and Adequate Time for the Preparation of Mr. Taylor's Defence' Dated 23 January 2007", filed on 5 February 2007, and Prosecution's Response to "Defence Motion Requesting Reconsideration of 'Joint Decision on Defence Motions on Adequate Facilities and Adequate Time for the Preparation of Mr. Taylor's Defence', dated 23 January 2007", filed on 20 April 2007.

9410

CONSIDERING that the overriding legal consideration in respect of an application of this nature is that the applicant's case must reach a level nothing short of exceptional circumstances and irreparable prejudice, having regard to the restrictive nature of Rule 73(B) and the rationale that criminal trials must not be heavily encumbered and, consequently, unduly delayed by interlocutory appeals;⁴

CONSIDERING also that the Appeals Chamber has ruled that:

"In this Court, the procedural assumption is that trials will continue to their conclusion without delay or diversion caused by interlocutory appeals on procedural matters, and that any errors which affect the final judgement will be corrected in due course by this Chamber on appeal";⁵

HOLDING that, upon a reading of the Impugned Decision, the argument by the Defence that the Trial Chamber failed to give proper regard to the three and a half months that the Defence legal consultations took place under the "chilling effect" of the video surveillance camera⁶ is fallacious and cannot be maintained;

RECALLING, in relation to the claim by the Defence of irreparable prejudice, the ruling of the Trial Chamber in its "Decision on Defence Application for Leave to Appeal 'Joint Decision on Defence Motions on Adequate Facilities and Adequate Time for the Preparation of Mr. Taylor's Defence' Dated 23 January 2007", dated 15 February 2007, at paragraph 18;

FINDING that the Defence has not met the criteria of exceptional circumstances and irreparable prejudice prescribed by Rule 73(B);

DISMISSES THE MOTION.

Done at Freetown, Sierra Leone, this 22nd day of May 2007.

Justice Richard Lussick

Justice Julia Sebutinde
Presiding Judge

Justice Teresa Doherty



[Seal of the Special Court for Sierra Leone]

⁴ See *Prosecutor v. Sesay et al.*, SCSL-2004-1-PT, Decision on the Prosecutor's Application for Leave to File an Interlocutory Appeal Against the Decision on the Prosecution Motion for Joinder, 13 February 2004.

⁵ See *Prosecutor v. Norman et al.*, SCSL-2004-1-AR-73, Decision on Amendment of the Consolidated Indictment, 16 May 2005, para. 43.

⁶ See Motion, para. 2.