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SCSL-03-01-PT  
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SPECIAL COURT FOR SIERRA LEONE

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COURT MANAGEMENT	
29 MAY, 2007.	
NAME	Adiea Nsiima K.
SIGN	Neuma
TIME	15:56

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: 29 May 2007

PROSECUTOR

Against

CHARLES GHANKAY TAYLOR

---

DECISION ON URGENT AND PUBLIC DEFENCE MOTION REQUESTING LEAVE FOR  
 CHARLES GHANKAY TAYLOR TO GIVE AN UN-SWORN STATEMENT FROM THE DOCK

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Office of the Prosecutor:  
 Stephen Rapp  
 Brenda Hollis

Defence Counsel for Charles G. Taylor:  
 Karim A.A. Khan  
 Roger Sahota

SEISED of the "Urgent and Public Defence Motion Requesting Leave for Charles Ghankay Taylor to Give an Un-sworn Statement From the Dock", filed on 18 May 2007 ("Motion")<sup>1</sup> in which the Defence requests that Mr. Taylor be granted leave to give an unsworn statement from the dock, after the Prosecutor's opening statement on 4 June 2007, on the grounds that:

- (a) An unsworn statement from the dock is not inconsistent with the Special Court's Rules. The Special Court's Rules, like the Rules of Procedure and Evidence for the ICTR, from which they are adopted *mutatis mutandis*, have no explicit provision, either allowing or proscribing an accused from giving an unsworn statement from the dock;<sup>2</sup>
- (b) Mr. Taylor has hitherto refrained from making public pronouncements in regard to the court or the proceedings against him;<sup>3</sup>
- (c) It is in the interests of justice to grant him leave to give an unsworn statement from the dock;<sup>4</sup> and
- (d) The request, if granted, will not prejudice the Prosecution;<sup>5</sup>

NOTING the Prosecution's Response to "Defence Motion Requesting Leave for Charles Ghankay Taylor to Give an Un-sworn Statement From the Dock" filed on 25 May 2007 ("Response")<sup>6</sup> in which the Prosecution opposes the Motion on the grounds that:

- (a) The Defence request does not accord with the Rules or current practice of the Special Court;<sup>7</sup>
- (b) Defence Counsel, on behalf of the Accused, has on several occasions availed himself of the opportunity to make "public pronouncements" in relation to this case;<sup>8</sup>
- (c) Issues between the parties regarding contact with the media are more appropriately addressed in the context of the Code of Professional Conduct for Counsel with the Right of Audience before the Special Court for Sierra Leone, rather than in open court;<sup>9</sup>

NOTING the document entitled "Urgent and Public Reply to the Prosecution's Response to "Defence Motion Requesting Leave for Charles Ghankay Taylor to Give an Un-sworn Statement From the Dock," Served 26 May 2007" filed late<sup>10</sup> by the Defence on 29 May 2007, ("Reply");<sup>11</sup>

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<sup>1</sup> Document No.SCSL03-01-PT-244.

<sup>2</sup> Motion, para. 4.

<sup>3</sup> Motion, para. 7.

<sup>4</sup> Motion, para. 7.

<sup>5</sup> Motion, paras. 8-9.

<sup>6</sup> Document No.SCSL03-01-PT-256.

<sup>7</sup> Response, paras. 5-8.

<sup>8</sup> Response, paras. 8, 11.

<sup>9</sup> Response, para. 12.

<sup>10</sup> In its Order for Expedited Filings of 28 May 2007, the Trial Chamber ordered that such reply be filed "not later than 4.00 p.m. on 28 May 2007".

<sup>11</sup> Document No.SCSL03-01-PT-262.



NOTING further that the Defence submission that “the Chamber’s Order for Expedited Filings filed 28 May 2007 at 10.41 a.m. and served electronically on the Defence at 3.42 p.m. (Sierra Leone time)” is not supported by the records from the departments of CITS and CMS;<sup>12</sup>

CONSIDERING however, that despite the aforementioned irregularities the Trial Chamber accepts the late filing in the interests of justice;

RECALLING the “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’” issued on 25 April 2007, wherein the Trial Chamber, directed that-

1. The Taylor trial will start on 4 June 2007 as previously scheduled. However, on that date, the Prosecution may open its case by making an opening statement only.
2. At the end of the Prosecution’s opening statement, an adjournment of 18 Calendar days will be allowed to make up for preparation time lost by the Defence.
3. The Prosecution case will resume on Monday 25 June 2007.

MINDFUL of the provisions of Article 17 of the Statute of the Special Court (“Special Court”); and of Rules 26bis, 54, 73, 84, 85 and 89 of the Rules of Procedure and Evidence (“Rules”);

NOTING that Rule 84 of the Rules of Procedure and Evidence provides:

*At the opening of his case, each party may make an opening statement confined to the evidence he intends to present in support of his case. The Trial Chamber may limit the length of those statements in the interests of justice.;*

CONSIDERING that at the 2<sup>nd</sup> Plenary Meeting of the Special Court held from 3-7 March, 2003, the Judges decided against adopting the wording of the ICTR Rule 84, which permits the Defence to make an opening statement before presentation of evidence by the Prosecutor,<sup>13</sup> and, instead, adopted Rule 84 in its present form,<sup>14</sup> with the express intention of confining a defence opening statement to the opening of the defence case;

RECALLING further that at the Pre-Trial Conference held on 7 May 2007, the Honourable Justice Julia Sebutinde, Presiding Judge stated regarding the possibility of the Defence making an opening statement following the Prosecution opening statement-

*This has not been the practice and, under our Rules, which I think are very clear, each party makes an opening statement when their turn comes, at the beginning of their case [...] That is the practice under the Rules and that is the practice we wish to observe.<sup>15</sup>*

<sup>12</sup> The records from CMS and CITS show that the Trial Chambers’ Order for Expedited filing of 28 May 2007 was in fact electronically sent to all the parties including the Defence, on 28 May 2007 at 11.22 a.m. Sierra Leone time.

<sup>13</sup> Rule 84 of the ICTR Rules of Procedure and Evidence provides: *Before presentation of evidence by the Prosecutor, each party may make an opening statement. The Defence may however elect to make its statement after the Prosecutor has concluded presentation of evidence and before the presentation of evidence for the defence.*

<sup>14</sup> The words “Trial Chamber” were substituted for “Court” at the 3<sup>rd</sup> Plenary Meeting in 2004.


<sup>15</sup> See *Prosecutor v. Charles Ghankay Taylor*, Case No. SCSL-03-01-PT, Transcript of Pre-Trial Conference of 7 May 2007, page 38, lines 24-29.

HOLDING in view of the foregoing, that the Defence submissions above are, in the context of the present issue, untenable;

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DISMISSES THE MOTION.

Done at Freetown, Sierra Leone, this 29<sup>th</sup> day of May 2007.



Justice Richard Lussick



Justice Julia Sebutinde  
Presiding Judge



Justice Teresa Doherty

