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(SCSL-03-01-T)
(12817 - 12819)



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SPECIAL COURT FOR SIERRA LEONE

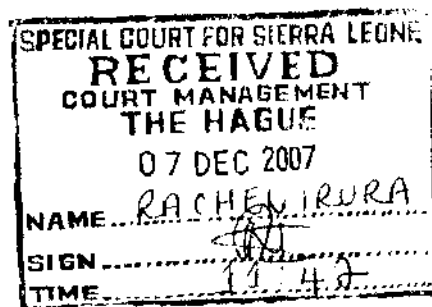
TRIAL CHAMBER II

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

Registrar: Herman von Hebel

Case No.: SCSL-03-1-T

Date: 7 December 2007



PROSECUTOR

Against

CHARLES GHANKAY TAYLOR

ORDER PURSUANT TO RULE 54 ON PROSECUTION'S NOTIFICATION OF AMENDED PROSECUTION WITNESS LIST

Office of the Prosecutor:

Brenda Hollis
Nicholas Koumjian
Leigh Lawrie

Defence Counsel for Charles G. Taylor:

Mr. Courtenay Griffiths, Q.C.
Mr. Terry Munyard
Mr. Andrew Cayley

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

HAVING RECEIVED the "Public, with Confidential Annex D Notification of Amended Prosecution Witness List", filed on 6 November 2007 ("Notification")¹, wherein the Prosecution purports to notify the Trial Chamber and the Defence pursuant to Rule 73bis(B)(iv) of the Rules of Procedure and Evidence ("Rules") of an amended list of witnesses it intends to call;

NOTING the "Defence Response to 'Public, with Confidential Annex D Notification of Amended Prosecution Witness List'", filed on 16 November 2007 ("Response")², wherein the Defence submits that the Prosecution was required to seek leave of the Trial Chamber under Rules 66(A)(ii) and 73bis(E) before proceeding with the disclosure of additional witness statements and the amendment of its witness list and requests that the Trial Chamber

- (i) Strike the Prosecution's Amended Witness List;
- (ii) Determine the disclosure of additional witness statements by the Prosecution to have been in violation of Rule 66(A)(ii); and
- (iii) Grant any other appropriate relief in the totality of the circumstances;³

NOTING the "Reply to Defence Response to Public, with Confidential Annex D Notification of Amended Prosecution Witness List", filed on 21 November 2007 ("Reply")⁴, wherein the Prosecution submits that a variation of its witness list and any addition thereto is in the Prosecution's discretion until 60 days "before the presentation of evidence" and that in any event it is in the interest of justice to grant leave for an amendment of the witness list and the Prosecution has shown good cause for the disclosure of additional witness statements;⁵

NOTING Article 17(4) of the Statute of the Special Court for Sierra Leone ("Statute") and Rules 5, 54, 66(A)(ii), 73(A), 73bis(B)(iv), 73bis(E) and 84;

RECALLING that the Prosecution filed is "Rule 73bis Pre Trial Conference Materials - Pre Trial Brief" on 4 April 2007⁶, wherein it included a list of witnesses it intends to call at trial;

RECALLING FURTHER the Prosecutor's opening statement on 4 June 2007 and the opening of the trial on that day pursuant to Rule 84.

FINDING that the date of "the commencement of the trial" was the 4 June 2007;

CONSIDERING that after the commencement of the trial the Prosecution may only vary its witness list and disclose statements of additional witnesses with leave of the Trial Chamber pursuant to Rules 73bis(E) and 66(A)(ii);

FINDING FURTHER that the Prosecution's Notification filed on 6 November 2007 after the commencement of the trial was in violation of Rules 73bis(E) and 66(A)(ii);

¹ SCSL-03-01-357.

² SCSL-03-01-361.

³ Response, para. 15.

⁴ SCSL-03-01-363.

⁵ Reply, para. 10.

⁶ SCSL-03-01-218.

CONSIDERING ALSO that where an objection on the grounds of non-compliance with the Rules has been made by a party, the Trial Chamber may, pursuant to Rule 5, grant relief if the non-compliance with the Rules has caused material prejudice to the objecting party;

FINDING that material prejudice was caused to the Defence by the Prosecution's non-compliance with Rules 66(A)(ii) and 73bis(E);

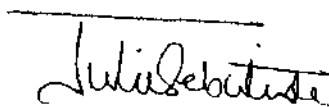
HEREBY rejects the Notification; and

ORDERS the Prosecution, pursuant to Rule 54 of the Rules, to comply with Rules 66(A)(ii), 73bis(E) and 73(A) if it wishes to disclose additional witness statements and amend its witness list.

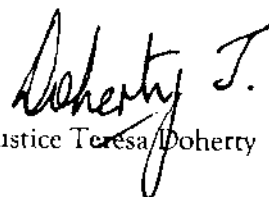
Done at The Hague, The Netherlands, this 7th day of December 2007.



Justice Richard Lussick



Justice Julia Sebutinde
Presiding Judge



Justice Teresa Doherty

