

368)

SCSL-03-01-1

(12820 - 12822)



12820

SPECIAL COURT FOR SIERRA LEONE

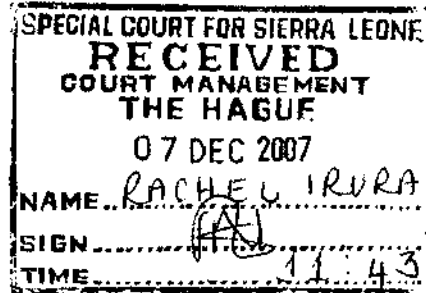
TRIAL CHAMBER II

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

**DECISION ON CONFIDENTIAL URGENT PROSECUTION MOTION FOR IMMEDIATE
PROTECTIVE MEASURES FOR WITNESSES AND FOR NON-PUBLIC DISCLOSURE**

Office of the Prosecutor:

Brenda Hollis
Nicholas Koumjian
Leigh Lawrie

Defence Counsel for Charles G. Taylor:

Courtenay Griffiths, Q.C.
Terry Munyard
Andrew Cayley

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

SEISED of the "Confidential Urgent Prosecution Motion for Immediate Protective Measures for Witnesses and for Non-Public Disclosure", filed on 6 November 2007 ("Motion")¹ requesting an order that protective measures as ordered in paragraphs (a) to (m) of the Trial Chamber's Protective Measures Decision on 5 May 2006² be extended with immediate effect to the seven witnesses listed in Annex A to the Motion on the grounds that those witnesses continue to face potential threats to their security;³

NOTING the "Confidential Defence Response to the Urgent Prosecution Motion for Immediate Protective Measures for Witnesses and for Non-Public Disclosure", filed on 16 November 2007 ("Response")⁴, wherein the Defence does not oppose the orders sought⁵, but refers to allegations against the Accused⁶ by the Prosecution and requests, pursuant to Article 17 of the Statute of the Special Court for Sierra Leone ("Statute") and Rule 54 of the Rules of Procedure and Evidence ("Rules"), that the Trial Chamber order that the Prosecution disclose to the Defence-

- a) the pseudonym or name of the potential witness interfered with, the nature of the interference, the date of the interference and the person carrying out the interference in respect of those allegations of witness interference after 30 May 2007 and made against the Accused;⁷
- b) the pseudonym or name of potential witness interfered with, the nature of the interference, the date of the interference and the person carrying out the interference in respect of those allegations of witness interference made against individuals identifying themselves as members of the Defence team or as individuals working on behalf the Defence team or the Accused.⁸

NOTING the "Confidential Reply to the Defence Response to Urgent Prosecution Motion for Immediate Protective Measures for Witnesses and for Non-Public Disclosure", filed on 21 November 2007 ("Reply")⁹, wherein the Prosecution states that although the request for an order to disclose information made by the Defence in its Response was not in the form of an alternative prayer for relief and should have been filed as a motion, it will address the Defence request in the interest of efficiency, and submits that the request should be dismissed as it would vitiate existing protective measure orders and would endanger witnesses, potential witnesses and sources;¹⁰

¹ Document SCSL03-01-T-356.

² *Prosecutor v. Taylor*, SCSL-03-01-PT-99, Decision on Confidential Prosecution Motion for Immediate Protective Measures for Witnesses and for Non-Public Disclosure and Urgent Request for Interim Measures and on Confidential Prosecution Motion for Leave to Substitute a Corrected and Supplemented List as Annex A of the Confidential Prosecution Motion for Immediate Protective Measures for Witnesses and for Non-Public Disclosure and Urgent Request for Interim Measures, 5 May 2006.

³ Motion, paras 6, 12.

⁴ Document SCSL-03-01-T-360.

⁵ Response, para. 1.

⁶ Response, paras 2-5.

⁷ Response, para. 17.

⁸ Response, para. 17.

⁹ Document SCSL03-01-T-367.

¹⁰ Reply, paras 3 and 7.

RECALLING the Trial Chamber's Protective Measures Decision on 5 May 2006¹¹ ordering that certain protective measures specified in paragraphs (a) to (m) of that decision shall be applicable to the witnesses referred to in that decision;

CONSIDERING that the Defence does not oppose the orders sought by the Prosecution;

CONSIDERING FURTHER that the supplementary request by the Defence for disclosure of certain information by the Prosecution was a prayer for relief which was not properly filed in accordance with Rule 73(A) and emphasising that such practice will not be tolerated in future;

FINDING however, pursuant to Rule 5 and in the interest of efficiency that the Prosecution has not been materially prejudiced by the supplementary request, to which it was able to adequately respond;

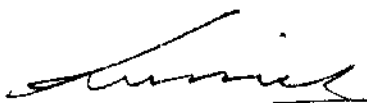
HOLDING that the said supplementary request from the Defence would, if granted, vitiate existing protective measures as previously ordered and could compromise the security of the concerned protected witnesses;

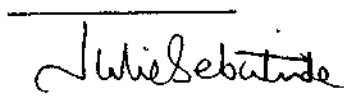
MINDFUL of Article 17(2) of the Statute and Rule 78 of the Rules, and considering that all documents filed before the Special Court should be public, as a matter of general principle, unless a cogent reason is offered to the contrary¹² and that there are no valid reasons to file this Decision confidentially;

HEREBY GRANTS the Motion; and

1. **ORDERS** that the protective measures set out in paragraphs (a) to (m) of the Trial Chamber's Protective Measures Decision of 5 May 2006¹³ be extended to Witnesses TF1-571, TF1-572, TF1-575, TF1-577, TF1-579, TF1-584, TF1-590 and that those measures be implemented immediately;
2. **DENIES** the request for disclosure made by the Defence.

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


Justice Richard Lussick


Justice Julia Sebutinde
Presiding Judge


Justice Teresa Doherty

[Seal of the Special Court for Sierra Leone]



¹¹ Document SCSL-03-01-PT-99.

¹² *Prosecutor v. Brima, Kamara, Kanu*, Case No. SCSL-04-16, Decision on Confidential Joint Defence Application for Withdrawal of Counsel for Brima and Kamara and on the Request for Further Representation by Counsel for Kanu, 20 May 2005 (filed on 23 May 2005), para. 22.

¹³ Document SCSL-03-01-PT-99.