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SCSL-03-01-T
(30188-30195)

30188



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: Binta Mansaray

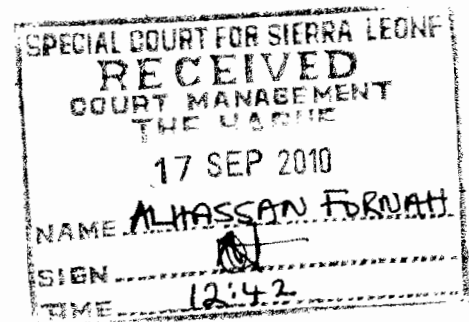
Case No.: SCSL-03-1-T

Date: 17 September 2010

PROSECUTOR

v.

Charles Ghankay TAYLOR



DECISION ON PUBLIC WITH ANNEXES A-J AND CONFIDENTIAL ANNEXES K-L DEFENCE MOTION FOR ADMISSION OF DOCUMENTS PURSUANT TO RULE 92 *BIS* - SPECIAL TASK FORCE

Office of the Prosecutor:

Brenda J. Hollis
Leigh Lawrie
Nathan Quick

Counsel for the Accused:

Courtenay Griffiths, Q.C.
Terry Munyard
Morris Anyah
Silas Chekera
James Supuwood

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

SEISED of the "Public with Annexes A-J and Confidential Annexes K-L Defence Motion for Admission of Documents Pursuant to Rule 92bis - Special Task Force", filed on 9 September 2010 ("Motion"),¹ wherein the Defence requests the Trial Chamber, pursuant to Rule 92bis of the Rules of Procedure and Evidence ("Rules"), to admit into evidence the following eleven documents ("Defence Documents") relating to the Special Task Force ("STF") of the Republic of Sierra Leone Armed Forces,² on the grounds that the material sought to be admitted into evidence satisfies the requirements of Rule 92bis in that the evidence is relevant, susceptible of confirmation, and does not go to proof of the acts and conduct of the Accused:³

- (a) Document DCT-451, titled "Comprehensive Nominal Roll of STF (Liberian) Dropped from the Sierra Leone Army since 12 November 2000, and Due for One-Off *Ex-Gratia* Cash Payment," which the Defence submits, is a list of 29 Liberian fighters in the STF that formed part of the SLA as late as November 2000 and who were "dropped" after 12 November 2000;⁴
- (b) Document DCT-452, comprising hand-written notes⁵, David Livingstone Mah Bropleh's "Passport/Laissez-Passer Application Form" which, the Defence submits, proves that Bropleh, a Liberian national was residing in Sierra Leone in July 1997 when the STF was functioning as part of the SLA/AFRC, and his "Curriculum Vitae" which, the Defence submits, indicates the nature of his military education and experience and corroborates the Accused's testimony about Bropleh's background and role in the conflict in Sierra Leone and Liberia;⁶
- (c) Document DCT-453, a cover letter STF/HQ/SL/22/A dated 1 July 2000, from Lt. Col. Siaka S. Kiawu, Administration Officer STF, Office of the Special Task Force Defence Headquarters, Cockerill North Wilkison [sic] Road, Freetown, to Defence Headquarters, Cockerill North Wilkinson Road, Freetown," requesting payment for hotel bills for the months of June and July 2000, for rooms occupied by B/General David L. Bropleh,

¹ SCSL-03-01-T-1071.

² Motion, para. 1.

³ Motion, paras 11-31.

⁴ Motion, paras 2, 13; Annex A.

⁵ The Trial Chamber notes that although the Motion refers to "hand-written notes", none were in fact included in the Confidential Annex K.

⁶ Motion, paras 2, 14; Confidential Annex K.

Commanding Officer of the STF and Senior Officers of the Command which, the Defence submits, shows the SLA was responsible for funding the activities of the STF;⁷

- (d) Document DCT-454, a letter STF/HQ/SL/02/A dated 30 April 2000, from General David L. Bropleh, Commanding General STF, Headquarters Special Task Force, Grafton, to the CDS(AG), Defence Headquarters, Cockerill North Wilkinson Road, Freetown, titled "Ref: Pending Issues," in which Bropleh is requesting payment to various STF units in Port Loko and Grafton and money for food provisions for STF troops at Grafton and which, the Defence submits, further shows the SLA was responsible for funding the activities of the STF;⁸
- (e) Document DCT-455, titled "Situation Report and Request" dated 24 August 2000 from Lt. P. Kaidii, STF Commander, Charlie Coy HQ, Ops Mayosor, 1 SLA BDE, Port Loko, to the Commanding Officer, Special Task Force Defence Headquarters, Cockerill North Wilkinson Road, Freetown which, the Defence submits, shows that in August 2000, STF Officer in Port Loko were reporting back to the Commanding Officer of the STF at Defence Headquarters at Cockerill in Freetown as regards skirmishes with the RUF;⁹
- (f) Document DCT-456, titled "Special Task Force - AFRSL KIA'S and N/D'S Nominal Roll From 1995-2001 As At November 200" which, the Defence submits, lists the names and Army numbers of STF-AFRSL fighters killed in action between 1995 and 2001 and shows that the STF was part of the SLA as early as 1995;¹⁰
- (g) Document DCT-457, a cover letter STF/DHQ/SL/26/A dated 17 August 2000, from Lt. S.S. Kiawu, Administration Officer, STF, Office of the Special Task Force Defence Headquarters, Cockerill North Wilkinson Road, Freetown, to the SO-1 Admin, Defence Headquarters, Cockerill North Wilkinson Road, Freetown, titled "Nominal Roll - STF PERS," and comprehensive Nominal Roll of STF/SL personnel stationed at Grafton and 1 SLA Brigade, Port Loko in August 2000 which, the Defence submits, lists General DLM Bropleh as Commanding Officer of the STF;¹¹
- (h) Document DCT-458, titled "Special Task Force - AFRSL, Attestation Form/Area of Deployment, DHQ-SL," listing the names, nationality, date of enlistment, position, and area

⁷ Motion, paras 2, 15; Annex B.

⁸ Motion, paras 2, 16; Annex C.

⁹ Motion, paras 2, 17; Annex D.

¹⁰ Motion, paras 2, 18; Annex E.

¹¹ Motion, paras 2, 19; Annex F.

of deployment of STF/AFRSL members which, the Defence submits, shows that Liberians were used by the SLA from as early as between 1991-1994;¹²

- (i) Document DCT-459, comprising the “Special Task Force Attestation Forms (DHQ-SL)” of David Bropleh (dated 10 June 2000), Siaka Kiawu (dated 21 June 2000), Amos Tarr (dated 21 June 2000), Gray Tarlue (dated 21 June 2000), and Prince Kaidii (10 July 2000) which, the Defence submits, shows that these high-ranking STF/AFRSL officers of Liberian nationality signed an oath of allegiance to the President of the Republic of Sierra Leone and promise to serve the SLA;¹³
- (j) Document DCT-460, titled “Situation Report” dated 17 October 2000 from Lt. Col. Tarlue of the Special Task Force Defence Headquarters, Cockerill North Wilkinson Road, Freetown, to the Commanding Officer, Special Task Force Defence Headquarters, Cockerill North Wilkinson Road, Freetown, which, the Defence submits, gives an indication of how much the SLA owed the various STF personnel;¹⁴
- (k) Document DCT-461, a Circular DHQ/SL/33/G dated 24 March 2000, from Col. T.S. Carew, Defence Headquarters, Cockerill North Wilkinson Road, Freetown, appending for distribution to the soldiers and officers of the Armed Forces of the Republic of Sierra Leone, a copy of the ECOWAS Final Communiqué of the Consultation Meeting of the Heads of State on the Mano River Union which, the Defence submits, further shows that the SLA considered the STF an integral part of the Army;¹⁵
- (l) Document described by the Defence as “the third and signature page of a letter apparently written to the NPRC Government by Major General David Bropleh, the Ex-ULIMO Combatants Leader” which, the Defence submits, shows that during the NPRC regime period, Bropleh was commanding ex- ULIMO fighters in cooperation with the Government of Sierra Leone;¹⁶

¹² Motion, paras 2, 20; Annex G.

¹³ Motion, paras 2, 21; Confidential Annex L.

¹⁴ Motion, paras 2, 22; Annex H.

¹⁵ Motion, paras 2, 23; Annex I.

¹⁶ Motion, paras 2, 24; Annex J.

NOTING the Defence submission that it seeks to admit the Defence Documents in order to develop the evidence already on record about the STF as well as to explain the presence and allegiance of “Liberian fighters” in Sierra Leone during the Indictment period;¹⁷

NOTING also the “Prosecution Objections to Public with Annexes A-J and Confidential Annexes K-L Defence Motion for Admission of Documents Pursuant to Rule 92bis – Special Task Force”, filed on 14 September 2010 (“Objections”),¹⁸ wherein the Prosecution opposes the admission of Defence Documents set out in Annexes H and J on the ground that those two documents do not satisfy the requirements of Rule 92bis(B) in that they are irrelevant to the purpose for which they are submitted;¹⁹

NOTING further that the Prosecution, while describing the proposed evidence generally as “unduly cumulative,”²⁰ does not oppose the admission of the remainder of the Defence Documents contained in Annexes A to G, Annex I and Confidential Annexes K to L;²¹

NOTING ALSO the “Defence Reply to Prosecution Objections to Defence Motion for Admission of Documents Pursuant to Rule 92bis – Special Task Force”, filed on 15 September 2010 (“Reply”);²²

COGNISANT of Rule 92bis which provides:

Rule 92bis: Alternative Proof of Facts

- (A) In addition to the provisions of Rule 92ter, a Chamber may, in lieu of oral testimony, admit as evidence in whole or in part, information including written statements and transcripts, that do not go to proof of the acts and conduct of the accused.
- (B) The information submitted may be received in evidence if, in the view of the Trial Chamber, it is relevant to the purpose for which it is submitted and if its reliability is susceptible of confirmation.
- (C) A party wishing to submit information as evidence shall give 10 days notice to the opposing party. Objections, if any, must be submitted within 5 days.

CONSIDERING that the effect of Rule 92bis is to permit in lieu of oral evidence, the reception of information, – assertions of fact (but not opinion) including, but not limited to, written statements

¹⁷ Motion, paras 8-10.

¹⁸ SCSL-03-01-T-1072.

¹⁹ Objection, paras 2, 4-6, 11.

²⁰ Objections, paras 7-10.

²¹ Objection, paras 3, 10, 12.

²² SCSL-03-01-T-1074.

and transcripts that do not go to proof of the acts and conduct of the Accused – if such facts are relevant and their reliability is “susceptible of confirmation;”²³

FINDING that Defence Documents DCT-460 and Annex J are relevant to the purpose for which they are submitted and that the issues raised by the Prosecution relating to the identity of the addressee, the date and the incompleteness of the document contained in Annex J are factors that go to the weight of the evidence rather than its admissibility;

SATISFIED that all Defence Documents meet the requirements of Rule 92bis(A) & (B) in that (i) they do not go to proof of the acts and conduct of the Accused, (ii) are relevant to the purpose for which they are submitted, and (iii) their reliability is susceptible of confirmation;

PURSUANT to Rule 26bis, 73(A), 89(C) and 92bis of the Rules;

HEREBY GRANTS the Motion and admits the Defence Documents into evidence as follows:

- (1) Document DCT-451, titled “Comprehensive Nominal Roll of STF (Liberian) Dropped from the Sierra Leone Army since 12 November 2000, and Due for One-Off *Ex-Gratia* Cash Payment,” is admitted into evidence as Defence Exhibit D-454;
- (2) Document DCT-452, comprising hand-written notes²⁴, David Livingstone Mah Bropleh’s “Passport/Laissez-Passer Application Form” and “Curriculum Vitae” is admitted into evidence as Defence Exhibit D-455;
- (3) Document DCT-453, a cover letter STF/HQ/SL/22/A dated 1 July 2000, from Lt. Col. Siaka S. Kiawu, Administration Officer STF, Office of the Special Task Force Defence Headquarters, Cockerill North Wilkison [sic] Road, Freetown, to Defence Headquarters, Cockerill North Wilkinson Road, Freetown,” requesting payment for hotel bills for the months of June and July 2000, for rooms occupied by B/General David L. Bropleh, Commanding Officer of the STF and Senior Officers of the Command is admitted into evidence as Defence Exhibit D-456;

²³ *Prosecutor v. Norman, Fofana and Kondewa*, SCSL-2004-14-AR73, Fofana – Decision on Appeal Against “Decision on Prosecution’s Motion for Judicial Notice and Admission of Evidence, 16 May 2005, para. 26.

²⁴ The Trial Chamber notes that although the Motion refers to “hand-written notes”, none were in fact included in the Confidential Annex K.

- (4) Document DCT-454, a letter STF/HQ/SL/02/A dated 30 April 2000, from General David L. Bropleh, Commanding General STF, Headquarters Special Task Force, Grafton, to the CDS(AG), Defence Headquarters, Cockerill North Wilkinson Road, Freetown, titled "Ref: Pending Issues," in which Bropleh is requesting payment to various STF units in Port Loko and Grafton and money for food provisions for STF troops at Grafton is admitted into evidence as Defence Exhibit D-457;
- (5) Document DCT-455, titled "Situation Report and Request" dated 24 August 2000 from Lt. P. Kaidii, STF Commander, Charlie Coy HQ, Ops Mayosor, 1 SLA BDE, Port Loko, to the Commanding Officer, Special Task Force Defence Headquarters, Cockerill North Wilkinson Road, Freetown is admitted into evidence as Defence Exhibit D-458;
- (6) Document DCT-456, titled "Special Task Force - AFRSL KIA'S and N/D'S Nominal Roll From 1995-2001 As At November 200" is admitted into evidence as Defence Exhibit D-459;
- (7) Document DCT-457, a cover letter STF/DHQ/SL/26/A dated 17 August 2000, from Lt. S.S. Kiawu, Administration Officer, STF, Office of the Special Task Force Defence Headquarters, Cockerill North Wilkinson Road, Freetown, to the SO-1 Admin, Defence Headquarters, Cockerill North Wilkinson Road, Freetown, titled "Nominal Roll - STF PERS," and comprehensive Nominal Roll of STF/SL personnel stationed at Grafton and 1 SLA Brigade, Port Loko in August 2000 is admitted into evidence as Defence Exhibit D-460;
- (8) Document DCT-458, titled "Special Task Force - AFRSL, Attestation Form/Area of Deployment, DHQ-SL," listing the names, nationality, date of enlistment, position, and area of deployment of STF/AFRSL members is admitted into evidence as Defence Exhibit D-461;
- (9) Document DCT-459, comprising the "Special Task Force Attestation Forms (DHQ-SL)" of David Bropleh (dated 10 June 2000), Siaka Kiawu (dated 21 June 2000), Amos Tarr (dated 21 June 2000), Gray Tarlue (dated 21 June 2000), and Prince Kaidii (10 July 2000) is admitted into evidence as Defence Exhibit D-462;
- (10) Document DCT-460, titled "Situation Report" dated 17 October 2000 from Lt. Col. Tarlue of the Special Task Force Defence Headquarters, Cockerill North Wilkinson Road,

Freetown, to the Commanding Officer, Special Task Force Defence Headquarters, Cockerill North Wilkinson Road, Freetown, is admitted into evidence as Defence Exhibit D-463;

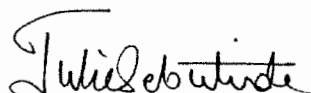
(11) Document DCT-461, a Circular DHQ/SL/33/G dated 24 March 2000, from Col. T.S. Carew, Defence Headquarters, Cockerill North Wilkinson Road, Freetown, appending for distribution to the soldiers and officers of the Armed Forces of the Republic of Sierra Leone, a copy of the ECOWAS Final Communiqué of the Consultation Meeting of the Heads of State on the Mano River Union is admitted into evidence as Defence Exhibit D-464;

(12) Document described by the Defence as “the third and signature page of a letter apparently written to the NPRC Government by Major General David Bropleh, the Ex-ULIMO Combatants Leader” is admitted into evidence as Defence Exhibit D-465;


Done at The Hague, The Netherlands, this 17th day of September 2010.



Justice Richard Lussick



Justice Julia Sebutinde
Presiding Judge



Justice Teresa Doherty

[Seal of the Special Court for Sierra Leone]

