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SCSL-03-01-T
(31089-31092)

31089



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

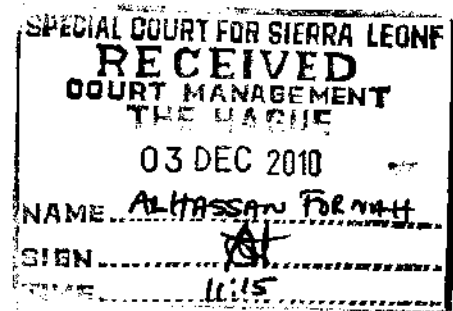
Case No.: SCSL-03-1-T

Date: 3 December 2010

PROSECUTOR

v.

Charles Ghankay TAYLOR



**DECISION ON PUBLIC WITH ANNEX A DEFENCE MOTION FOR RECONSIDERATION OF
DECISION ON DEFENCE MOTION REQUESTING AN INVESTIGATION INTO CONTEMPT OF
COURT BY THE OFFICE OF THE PROSECUTOR AND ITS INVESTIGATORS**

Office of the Prosecutor:

Brenda J. Hollis
Leigh Lawrie

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 Annex A Defence Motion for Reconsideration of Decision on Defence Motion Requesting an Investigation into Contempt of Court by the Office of the Prosecutor and its Investigators”, filed on 15 November 2010 (“Motion”);¹ wherein the Defence requests that the Trial Chamber reconsider its “Decision on Public with Confidential Annexes A-J and Public Annexes K-O Defence Motion Requesting an Investigation into Contempt of Court by the Office of the Prosecutor and its Investigators” (“Decision”), dated 11 November 2010,² on the grounds that the Decision is fundamentally hostile to the fair trial rights of the Accused, and that clear errors in reasoning permeate the Decision,³ including;

- (i) a failure to appreciate the inherent responsibility of the Court as an arbiter of justice to safeguard the Accused’s rights;⁴ and
- (ii) the application of disparate and unfair legal standards to Defence evidence in support of its allegations *vis-à-vis* Prosecution evidence in rebuttal to the allegations;⁵

NOTING the “Prosecution Response to Public with Annex A Defence Motion for Reconsideration of Decision on Defence Motion Requesting an Investigation into Contempt of Court by the Office of the Prosecutor and its Investigators”, filed on 19 November 2010 (“Response”),⁶ wherein the Prosecution submits that the Motion should be dismissed on the basis that the Defence has failed to

¹ SCSL03-01-T-1123.

² SCSL03-01-T-1118. An oral decision dismissing the Motion, with written reasons to follow, was rendered by the Trial Chamber on 22 October 2010. See *Prosecutor v. Taylor*, SCSL03-01-7, Transcript 22 October 2010, p. 48338.

³ Motion, paras 2-3.

⁴ Motion, paras 3, 11-23.

⁵ Motion, para. 3, 24-25

⁶ SCSL03-01-T-1125.

establish that there has been a clear error of reasoning in the Decision, or that reconsideration is necessary to prevent an injustice;⁷

NOTING ALSO the “Defence Reply to ‘Public Prosecution Response to Public with Annex A Defence Motion for Reconsideration of Decision on Defence Motion Requesting an Investigation into Contempt of Court by the Office of the Prosecutor and its Investigators”, filed on 26 November 2010 (“Reply”);⁸

RECALLING that the Trial Chamber ordered the Defence to file all its remaining motions by 24 September 2010,⁹

FINDING, however, that it would be in the interests of justice to consider the Motion notwithstanding that it was filed after this deadline;

COGNISANT of the provisions of Article 17 of the Statute of the Special Court for Sierra Leone (“Statute”) and Rule 73 of the Rules of Procedure and Evidence (“Rules”);

CONSIDERING that it is within the inherent jurisdiction of the Trial Chamber to reconsider one of its own decisions in the case of a clear error of reasoning¹⁰, or where new material circumstances have arisen since the decision was issued which justify reconsideration in order to avoid injustice;¹¹

CONSIDERING FURTHER that the decision to reconsider is a discretionary one;¹²

⁷ Response, paras 1, 12.

⁸ SCSL-03-01-T-1128.

⁹ *Prosecutor v. Taylor*, SCSL-03-01-T, Transcript 13 September 2010, p. 48323.

¹⁰ *Prosecutor v. Taylor*, SCSL-03-01-595, Decision on Public with Confidential Annexes B and E Urgent Prosecution Application for Reconsideration of Oral Decision Regarding Protective Measures for Witness TF1-215 or in the Alternative Application for Leave to Appeal Oral Decision Regarding Protective Measures for Witness TF1-215, 15 September 2008, p. 4; *Prosecutor v. Taylor*, SCSL-03-01-PT-125, Decision on Defence Motion to Set Aside and/or Reconsider Trial Chamber’s ‘Decision on Urgent Prosecution Motion for Immediate Protective Measures for Witnesses and for Non-Public Disclosure’ dated 13 September 2006, 5 October 2006, para. 24. See also *Prosecutor v. Norman, Fofana and Kondewa*, SCSL-04-14, Decision on Prosecution Appeal against the Trial Chamber’s decision of 2 August 2004 refusing Leave to File an Interlocutory Appeal, 17 January 2005, paras 31, 35.

¹¹ *Prosecutor v. Prlić et al.*, IT-04-74-T, Decision on Petković Defence Motion for Reconsideration of Certification to Appeal Order of 22 April 2009, p. 4; *Prosecutor v. Galić*, IT-98-29-A, Decision on Defence’s Request for Reconsideration,

FINDING that the Defence has neither demonstrated a clear error of reasoning in the Decision nor established that new material circumstances have arisen since the issuance of the Decision, which would warrant a reconsideration of the Decision in order to avoid injustice;

CONSIDERING ALSO that in any event the Motion is redundant as the Trial Chamber has granted the Defence leave to appeal the Decision in its “Decision on Defence Motion Seeking Leave to Appeal the Decision on the Defence Motion Requesting an Investigation into Contempt of Court by the Office of the Prosecutor and its Investigators”, which was filed on 3 December 2010;

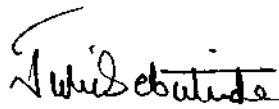
FOR THE ABOVE REASONS

DISMISSES the Motion.

Done at The Hague, The Netherlands, this 3rd day of December 2010.



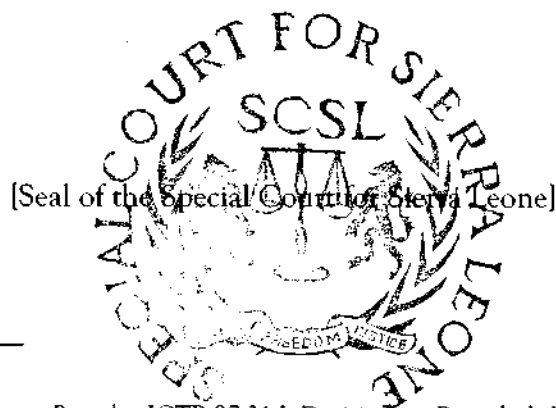
Justice Richard Lussick



Justice Julia Sebutinde
Presiding Judge



Justice Teresa Doherty



16 July 2004, pp. 3 and 4; *Prosecutor v. Renzaho*, ICTR-97-31-I, Decision on Renzaho's Motion to Reconsider the Decision on Protective Measures for Victims and Witnesses to Crimes Alleged in the Indictment, 9 November 2005, paras 20-21. See also *Prosecutor v. Norman, Fofana and Kondewa*, SCSL-04-14-T-507, Decision on Urgent Motion for Reconsideration of the Orders for Compliance with the Order Concerning the Preparation and Presentation of the Defence Case, 7 December 2005, paras 13-14.

¹² *Prosecutor v. Taylor*, SCSL-03-01595, Decision on Public with Confidential Annexes B and E Urgent Prosecution Application for Reconsideration of Oral Decision Regarding Protective Measures for Witness TF1-215 or in the Alternative Application for Leave to Appeal Oral Decision Regarding Protective Measures for Witness TF1-215, 15 September 2008, p. 4; *Prosecutor v. Delić et al.*, IT-96-21-Abis, Judgment on Sentence Appeal, 8 April 2003, para. 48.