



Case No. SCSL-2003-01-T

THE PROSECUTOR OF
THE SPECIAL COURT
V.
CHARLES GHANKAY TAYLOR

THURSDAY, 12 NOVEMBER 2009
9.30 A.M.
TRIAL

TRIAL CHAMBER II

Before the Judges:

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

For Chambers:

Ms Erica Bussey

For the Registry:

Ms Rachel Irura
Mr Benedict Williams

For the Prosecution:

Ms Brenda J Hollis
Mr Mohamed A Bangura
Mr Christopher Santora
Ms Maja Dimitrova

For the accused Charles Ghankay
Taylor:

Mr Courtenay Griffiths QC
Mr Morris Anyah
Ms Fatiah Balfas
Mr Simon Chapman

1 Thursday, 12 November 2009

2 [Open session]

3 [The accused present]

4 [Upon commencing at 9.30 a.m.]

09:30:09 5 PRESIDING JUDGE: Good morning. We'll take appearances,
6 please.

7 MS HOLLIS: Good morning, Mr President, your Honours,
8 opposing counsel. This morning for the Prosecution, Brenda J
9 Hollis, Mohamed A Bangura, Christopher Santora and our case
09:32:10 10 manager Maja Dimitrova.

11 PRESIDING JUDGE: Thank you. Mr Griffiths.

12 MR GRIFFITHS: Good morning, Mr President, your Honours,
13 counsel opposite. For the Defence today, myself Courtenay
14 Griffiths, with me Mr Morris Anyah of counsel. Also with us
09:32:25 15 today are Mr Simon Chapman, legal assistant, and Ms Fatiah
16 Balfas, legal assistant.

17 PRESIDING JUDGE: Thank you, Mr Griffiths. Just before we
18 begin, Mr Taylor, it's my duty to remind you that you are still
19 bound by your declaration to tell the truth.

09:32:43 20 DANKPANNAH DR CHARLES GHANKAY TAYLOR:

21 [On former affirmation]

22 MS HOLLIS: Mr President, as we had indicated yesterday
23 when we asked that we be allowed to adjourn a little early, we
24 did discuss the effect of the ruling yesterday on our
09:33:04 25 cross-examination organisation and approach, in light of the
26 ruling that, as we understand it, until a decision is made on
27 formal submissions we could make no use of material that is not
28 already before your Honours or marked for identification.

29 The use of such material is integrated into most of our

1 cross-examination structure and so we began discussions as to the
2 possible approaches we might take pending a decision on the
3 formal submissions and how we might be able to protect the
4 integrity and efficiency of our cross-examination, but would it
09:33:49 5 be possible to go forward with some aspects of our
6 cross-examination to avoid or to minimise delay.

7 We began those discussions last night into possible ways we
8 could proceed. We are unable today to proceed because it will
9 require disassembling sections of our cross-examination structure
09:34:14 10 if that is possible. So I must say most unfortunately that we
11 are simply not in a position to continue today. We certainly do
12 not want to delay these proceedings. We have attempted in any
13 way possible for us to move them along but we also feel a need to
14 ensure the integrity and efficiency of our cross-examination.

09:34:41 15 Based on that what we would ask the Court is that we be
16 allowed Monday to come to the Court in a position to either
17 proceed on portions of our cross-examination or to make
18 applications for appropriate relief. We apologise for finding
19 ourselves in this position but we simply feel it would be
09:35:03 20 inappropriate and irresponsible for us to proceed today without
21 making some further determinations.

22 So that is our position in relation to proceeding today.
23 We do have one other matter we would like to raise in terms of
24 the formal submissions. If you wish me to do that now or if you
09:35:27 25 wish to wait for that.

26 PRESIDING JUDGE: I think we'll deal with this matter that
27 you've just raised first before we move on.

28 Mr Griffiths, before us, for reasons that you are familiar
29 with, is an application to adjourn until Monday morning and

1 perhaps there may be further applications then. What's your
2 attitude?

3 MR GRIFFITHS: Well, Mr President, your Honours, we oppose
4 this application and we oppose it for a number of reasons.

09:35:58 5 First of all, in our submission, this Court ought to bear
6 in mind the history of these proceedings. The indictment against
7 Mr Taylor was signed as long ago as March 2003, unsealed in June
8 of that year. This man was arrested in March 2006 and has been
9 in custody ever since. He has given evidence over the course of
09:36:24 10 four months. And also prior to that the Defence provided the
11 Prosecution with an opening brief setting out the nature of the
12 case we would be bringing on behalf of Mr Taylor. So in our
13 submission the Prosecution have had ample time to get their
14 tackle in order.

09:36:47 15 It seems to us for the Prosecution, led by experienced and
16 able counsel, to have predicated, as it would appear, all of
17 their cross-examination upon the basis of material which they had
18 not introduced during the currency of their case, seems to me at
19 the very least irresponsible and it seems to us, given the
09:37:18 20 breadth of this case, there must be issues which the Prosecution
21 can cross-examine on without the need to introduce all of this
22 new material. Because it seems to us a large number of documents
23 have been introduced during the course of the Prosecution case,
24 many of those documents allegedly found or sourced from the RUF.
09:37:43 25 Documents which the Prosecution claim implicate Mr Taylor.

26 My question is quite simple: Why can't the
27 cross-examination commence today on those matters and then in due
28 course, dependent upon your Honours' decision, if your Honours
29 rule in favour of the Prosecution, then this additional

1 cross-examination based on that can proceed.

2 But it seems to us this man has been in custody for a long
3 time and the Prosecution have had a great deal of time in which
4 to prepare for this cross-examination. And it seems to us, even
09:38:20 5 though it's just a day, that the principle involved is much too
6 grave and fundamental for it not to be opposed by us, so that's
7 our submission.

8 PRESIDING JUDGE: Thank you, Mr Griffiths. Do you wish to
9 reply, Ms Hollis?

09:38:39 10 MS HOLLIS: Thank you for the opportunity, Mr President.
11 This Defence certainly didn't concern itself with how long this
12 accused had been in custody when they asked for months of delay
13 before they began their case. We are asking for one day so that
14 on Monday we can determine in what way we can proceed, having
09:39:01 15 integrated into our cross-examination materials that we believed,
16 based on past decisions in this Court, the Special Court for
17 Sierra Leone, we would be allowed to use to impeach this witness.

18 We do not believe that we have acted irresponsibly.
19 Indeed, we have worked very hard during the cross-examination,
09:39:24 20 listening to these months of testimony, to ensure that we had
21 packages that we believed were focused and precise and dealt with
22 the issues that were raised by this direct examination, which was
23 allowed to be very broad, very open and was allowed to proceed in
24 ways that were very favourable to this accused and very relaxed.

09:39:52 25 So we find it a bit of interest and concern that at this
26 point in time the Defence would raise an issue about proceeding
27 in a timely fashion given the present circumstance. We believe
28 we are acting responsibly, both in terms of our obligations in
29 this case, which include the right to cross-examine in an

1 efficient manner and an effective manner, and taking into account
2 your Honours' decision yesterday and how we may accommodate that
3 decision in light of the way we have structured our
4 cross-examination.

09:40:29 5 So we believe that our request is perfectly reasonable. We
6 do not believe that it will result in a denial of this accused of
7 a timely proceeding, especially in light of the many delays that
8 have been granted to the Defence, and we would ask that your
9 Honours allow us this time that we have requested. That will be
09:40:52 10 a separate issue on Monday if we feel we need additional time.
11 Today we are asking for one day and we have indicated what our
12 programme would be on Monday, one of two things, and we would ask
13 that you grant that request.

14 PRESIDING JUDGE: Thank you, Ms Hollis. We'll just pause
09:41:12 15 for a moment.

16 [Trial Chamber conferred]

17 PRESIDING JUDGE: Ms Hollis, you had another matter you
18 wanted to mention. We should hear it now just in case there's
19 some connection to the first matter. This was about our order
09:42:44 20 yesterday for formal submissions; is that correct?

21 MS HOLLIS: That is correct, Mr President, and we would
22 simply ask that the Court set an expedited filing schedule on
23 that matter. It was raised through a Defence objection, but our
24 understanding of the decision is that your Honours are looking to
09:43:04 25 the Prosecution to make the initial formal submission on the
26 matter. If we are wrong about that, please let us know. But if
27 it is the Prosecution who is to make the initial formal
28 submission, we would be prepared to file that by close of
29 business on Tuesday, given that today we are finalising and

1 filing the submission on the contact between accused and Defence
2 counsel.

3 So we would ask that we be allowed to file it, if we are
4 the moving party, on Tuesday by close of business and that we
09:43:41 5 have an expedited filing schedule for any response and reply,
6 which we would suggest you would mean a response by Monday, the
7 23rd, which would also give four duty days and then a reply,
8 depending on when we were served, by perhaps midday on Wednesday,
9 the 25th, or notice that no reply would be filed so that your
09:44:09 10 Honours would have it as soon as possible. In conjunction with
11 that, we will be asking for an expedited decision on the matter.
12 So that was the second thing we wished to raise.

13 PRESIDING JUDGE: Well, look, firstly, let there be no
14 doubt that the Prosecution will be the moving party. As we said
09:44:27 15 yesterday, we consider that the Prosecution should be called upon
16 to justify the presentation of this fresh evidence at this late
17 stage by filing submissions by way of formal motion.

18 We did not put any expedited conditions on that order,
19 Ms Hollis. The reason being that this is a very important matter
09:44:59 20 and it has the potential to affect, I would imagine, a great
21 portion of the Prosecution's cross-examination, and that's why we
22 wanted the matter from the point of view of the Prosecution and
23 also the Defence, we wanted it to be properly researched with all
24 relevant jurisprudence and that's why we did not impose any
09:45:25 25 expedited conditions on our order yesterday. But, nevertheless,
26 now that we've heard you, your fresh submissions today, we'll
27 consider it. Thank you for that, Ms Hollis.

28 Did you have anything to say on that second leg of
29 Ms Hollis's submissions?

1 MR GRIFFITHS: On the second leg, Mr President, whilst we
2 appreciate the important nature of the particular question at
3 issue here, at the same time, we don't want to delay matters and
4 we would be acceptable to expedited filing regimes so far as that
09:46:06 5 motion is concerned. So far as the timetable suggested by my
6 learned friend, we would be agreeable to that.

7 PRESIDING JUDGE: Thank you, Mr Griffiths.

8 [Trial Chamber conferred.]

9 PRESIDING JUDGE: There's just one matter the Bench needs
10 to deliberate. It won't be long, but we'll need to go off the
11 Bench for about ten minutes. So we'll adjourn very briefly.

12 [Break taken at 9.46 a.m.]

13 [Upon resuming at 10.10 a.m.]

14 PRESIDING JUDGE: There are two matters before us for
10:11:13 15 decision. The first one is an application by the Prosecution for
16 an adjournment until next Monday morning.

17 Now, we would emphasise that we are concerned that the
18 trial is not delayed unnecessarily, but at the same time we
19 appreciate that the Prosecution does require a little time in
10:11:41 20 view of our ruling yesterday. We therefore grant the Prosecution
21 application for an adjournment until next Monday morning.

22 The second application is an application for expedited
23 filing in relation to the formal motion mentioned in our decision
24 yesterday. We make the following orders in that regard which are
10:12:13 25 not opposed by the Defence: Namely, the motion itself is to be
26 filed by close of business Tuesday, 17 November; any response is
27 to be filed on or before close of business Monday, 23 November;
28 and any reply is to be filed on or before close of business
29 Wednesday, 25 November.

1 Having said that, we will now adjourn until 9.30 Monday
2 morning and, Mr Taylor, I'm obliged to caution you that there is
3 an order that you are not to discuss your evidence with any other
4 person. Thank you. We'll adjourn.

10:13:14

5 [Whereupon the hearing adjourned at 10.13 a.m.
6 to be reconvened on Monday, 16 November 2009 at
7 9.30 a.m.]

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WITNESSES FOR THE DEFENCE:

DANKPANNAH DR CHARLES GHANKAY TAYLOR

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