



Case No. SCSL-2003-01-T

THE PROSECUTOR OF
THE SPECIAL COURT
V.
CHARLES GHANKAY TAYLOR

TUESDAY, 12 JANUARY 2010
9.42 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:

Mr Simon Meisenberg
Ms Sidney Thompson

For the Registry:

Mr Gregory Townsend
Ms Rachel Irura
Ms Zainab Fofanah

For the Prosecution:

Ms Brenda J Hollis
Mr Mohamed A Bangura
Ms Maja Dimitrova

For the accused Charles Ghankay
Taylor:

Mr Courtenay Griffiths QC
Mr Morris Anyah
Mr Terry Munyard

1 Tuesday, 12 January 2010

2 [Open session]

3 [The accused not present]

4 [Upon commencing at 9.42 a.m.]

09:43:14 5 PRESIDING JUDGE: Good morning. We will 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 and we are joined by our case manager
09:43:44 10 Maja Dimitrova.

11 PRESIDING JUDGE: Thank you. Yes, Mr Anyah.

12 MR ANYAH: Good morning, Mr President. Good morning, your
13 Honours. Good morning, counsel for the Prosecution.
14 Representing the Defence this morning, Terry Munyard and myself
09:43:58 15 Morris Anyah. Mr President, as your Honours can see, Mr Taylor
16 is not here and I don't know if the Court wished to make a remark
17 about that but we certainly do wish to make a remark about that.

18 PRESIDING JUDGE: We don't know much about why he isn't
19 here. I heard something about transport problems, but what can
09:44:19 20 you tell us, Mr Anyah?

21 MR ANYAH: Well, I have no further information than you
22 have, Mr President. We usually consult with our client every
23 morning as a matter of practice and we were here before 9 o'clock
24 and Mr Munyard sought to consult with him and when he spoke with
09:44:37 25 the ICC security officer outside the courtroom attempts to reach
26 those who usually bring him to the room adjacent to the courtroom
27 were fruitless, and as we stand now before the Court, we have no
28 information about the whereabouts of our client. As is also
29 evident Mr Griffiths is not here, and we typically would seek the

1 permission or authority of Mr Taylor to proceed, and I am unable
2 to do so. I do have Mr Griffiths's authority to proceed and I am
3 ready to proceed, but I think in the first instance we need to
4 find out where Mr Taylor is.

09:45:13 5 PRESIDING JUDGE: Yes, I agree with that, Mr Anyah.

6 Ms Hollis, I don't know whether you wanted to add anything.

7 MS HOLLIS: We have not even the information that
8 your Honours and the Defence have, so we have nothing to add.

9 PRESIDING JUDGE: Thank you. Well, just for the record,
09:45:30 10 it's almost 9.45 now and the accused, Mr Taylor, is not in court.
11 There is very little information as to why that is. All the
12 judges have been told is that there was some transport problems.
13 So we have no option now but to adjourn the Court until such time
14 as we hear something positive about the accused.

09:46:03 15 We will adjourn for now.

16 [Break taken at 9.46 a.m.]

17 [Upon resuming at 10.17 a.m.]

18 [The accused present]

19 PRESIDING JUDGE: Well, Mr Anyah, have you heard anything
10:18:52 20 more as to the delay caused to bringing your client to Court this
21 morning?

22 MR ANYAH: Yes, Mr President. I should firstly say that
23 Mr Taylor has authorised us to proceed in the absence of lead
24 counsel, Mr Griffiths.

10:19:10 25 We have spoken with Mr Taylor regarding the circumstances
26 why he arrived here out of time, so to speak, and indications are
27 that it implicates the movement of detainees from the ICC
28 detention centre to the Courthouse. Out of some caution, and
29 perhaps respect for the Dutch security services, to go into the

1 amount of detail I wish to it might be necessary to go into a
2 private session, because I might touch upon the timing of
3 movement of detainees and so on. I leave it in your discretion.
4 I am prepared to speak about the matter in public, but in these
10:19:53 5 instances it sometimes is appropriate to do so in private.

6 PRESIDING JUDGE: It's not going to endanger any protected
7 witness, is it?

8 MR ANYAH: Certainly not. Not in our case, and I could
9 proceed if your Honours so desire.

10:20:11 10 What we do know is that several months ago a circumstance
11 arose at the detention centre where the Dutch security services
12 who are responsible for transporting detainees attempted to move
13 both Mr Taylor and another detainee in what could be termed as
14 the same convoy; that is, they would take Mr Taylor down from his
10:20:37 15 cell to a waiting vehicle, have him placed in the vehicle, he
16 would be handcuffed upon being taken downstairs, and his ability
17 to use the telephone would be discontinued, and he would have to
18 sit in the vehicle for sometimes up to half an hour while they
19 would go upstairs and bring a second detainee and place the
10:21:01 20 second detainee in another vehicle and attempt to move both
21 detainees simultaneously to the Courthouse.

22 Mr Taylor and the other detainees lodged complaints to the
23 ICC chief of detention. Assurances were given to them that this
24 mode of transportation would no longer be employed because of the
10:21:23 25 discomfort it posed to the detainees being handcuffed in a van
26 and sitting there for thirty minutes while another detainee was
27 brought from his cell to another vehicle.

28 This morning the Dutch security services attempted to
29 repeat the same mode of transportation. They took Mr Taylor

1 down. For those not in Holland the temperature is about perhaps
2 30 degrees Fahrenheit. They attempted to place him in this
3 vehicle in handcuffs, and he would have had to have sat in the
4 vehicle for at least half an hour in the cold, and Mr Taylor had
10:22:02 5 refused and additional arrangements had to be made.

6 Now, the disconcerting part of all of this is that the time
7 at which Mr Taylor was taken downstairs was at about 8.30 this
8 morning. He had no means of communication with counsel. No
9 member of the Registry, as far as I am aware of, were contacted
10:22:25 10 by the security services to indicate that this was the state of
11 affairs, and so even when we were here in Court assembled at
12 about 9.35, we had no idea where our client was. We didn't know
13 if he was on the way here; we just knew there were difficulties
14 occasioned by transportation issues, and so that's very
10:22:48 15 disconcerting to all of us.

16 I should make one additional point that is not on the
17 record, but this touches upon Mr Taylor's efforts to be here and
18 present at these proceedings.

19

10:23:01 20 {Redacted}

21

22 Bearing that in mind and asking him at age 61 to sit in a
23 van for thirty minutes in the cold, handcuffed while another
24 detainee is being brought from upstairs, all to get him to the
10:23:37 25 courthouse we find is unacceptable. So I don't think that the
26 delay could in any way be attributed to the conduct of our
27 client.

28 Assurances were given by the relevant detention centre
29 personnel. They breached those assurances. After several months

1 of the same practice of transporting the detainees separately to
2 the courthouse, they reinstated the problematic mode of
3 transportation today and as a consequence we are now at 10.25
4 past the hour and almost an hour late for the commencement of the
10:24:09 5 court session. In sum and substance that's what we know.

6 PRESIDING JUDGE: Thank you, Mr Anyah. Ms Hollis, I will
7 give you a chance to say something if you want to but I am aware
8 you didn't know any of the circumstances this morning.

9 MS HOLLIS: The Prosecution has nothing to contribute,
10:24:27 10 Mr President.

11 PRESIDING JUDGE: Thank you. Well, it's very concerning to
12 the Court that close on an hour, 55 minutes, has just been
13 completely wasted because the accused, Mr Taylor, has not been
14 produced to the Court. But in fairness to security, we haven't
10:24:53 15 heard their side of it, so we will direct the Acting Registrar
16 through the head of The Hague sub-office to provide a report on
17 exactly what happened this morning and ways to avoid it in the
18 future.

19 Now, as for the conduct of the case this morning, we note
10:25:17 20 that Mr Taylor, who is now in court, has given his consent for
21 the case to proceed in the absence of lead counsel, Mr Griffiths.
22 That leads us to the next problem we have and that is with the
23 LiveNote system. The last the judges were told is that it's not
24 just the LiveNote system, but the whole of the Special Court
10:25:49 25 network is down.

26 Madam Court Manager, is that still the position?

27 MS IRURA: Your Honour, the court network seems to be
28 fluctuating but presently I have been able to connect to LiveNote
29 although it's coming in spurts, but I would be able to probably

1 broadcast my LiveNote if that could be of assistance, although
2 that would mean that I wouldn't be able to use my screen for
3 other purposes such as transcripts, but I would be able to
4 broadcast my LiveNote and if participants were to press PC-1 they
10:26:29 5 would be able to view LiveNote, although right at this moment I
6 need to use it briefly to convey your directive and then I can
7 broadcast it.

8 PRESIDING JUDGE: Thanks, Madam Court Manager. I would
9 appreciate it if you would send that directive to the head of The
10:26:53 10 Hague sub-office and then do I understand that you will be ready
11 to broadcast the transcript from then on or do you need some
12 time?

13 MS IRURA: Your Honour, unfortunately my LiveNote also now
14 seeming to be scrambling, so I think we would need to re-look the
10:27:19 15 network problem that we are facing.

16 PRESIDING JUDGE: All right. Thank you, Madam Court
17 Manager.

18 MS HOLLIS: Mr President, if I could just add, I had
19 switched to PC-1 to see if I could get the transcript there and
10:27:34 20 it continues to stop and start and stop and start, so there are
21 obviously problems with that remedy as well, and we can get
22 nothing on our computers either.

23 PRESIDING JUDGE: Thank you, Ms Hollis. Well, in view of
24 the technical problems, we are going to adjourn for a brief
10:29:03 25 amount of time and, Madam Court Manager, we would be obliged if
26 you would join us in our room for a few moments, please. We will
27 go off the Bench now. Mr Taylor, yes?

28

29 {Redacted}

1 {Redacted}

2

3 We will now order that any reference this morning to

4 Mr Taylor's {redacted} be redacted from the public

10:31:32 5 record. We would also order those members of the public who have

6 heard what was said about {redacted}

7 {redacted} not to repeat it in public.

8 We will adjourn now.

9 [Break taken at 10.30 a.m.]

10:08:33 10 [Upon resuming at 11.26 a.m.]

11 PRESIDING JUDGE: Well, here we are. It's 26 past 11 and
12 we haven't heard one word of evidence today. As everybody knows,
13 we resumed from recess yesterday and we have had problems ever
14 since. We know what happened over the recess was that the

11:28:03 15 Special Court office was moved to the STL and I understand, and I
16 could be wrong, that there are problems with the cable from
17 there. I am also told that there are problems with the Dutch
18 service provider and I am further told that wiring was done over
19 the recess to prepare this Court for hearings under the ICC
11:28:36 20 jurisdiction. I understand there's problems with that wiring.

21 But more in tune with the present problems is the Court
22 Manager who has been monitoring the situation today, so I will
23 ask Madam Court Manager if she could bring us up to date on the
24 existing problems as she has been told.

11:29:05 25 MS IRURA: Your Honour, on behalf of the Registry, the
26 present situation is that we are experiencing problems with the
27 Dutch service provider who are receiving an intermittent signal.
28 As a result LiveNote functions and goes on and off, as well as
29 our drives on the SCSL network because that is also affected by

1 the drives. For these purposes I was able to broadcast for a
2 while my LiveNote but then I also succumbed to the technical
3 problems because of the SCSL network and hence would not be able
4 to effect, for example, redactions in the event that there was
11:29:53 5 one. I think that is the position on behalf of the Registry,
6 your Honour.

7 PRESIDING JUDGE: All right. Well, from what I understand,
8 the stenographer is still available and the proceedings will also
9 be recorded by audio recorder. It will mean of course that we
11:30:17 10 will be proceeding without any written record, we won't be able
11 to refer electronically to any documents and I am not sure how
12 the broadcast to the public is affected. But I will hear from
13 the parties. I know this causes difficulties in presentation of
14 your cases as well.

11:30:49 15 Ms Hollis, you are in the process of cross-examining at the
16 moment. How do you find your situation now?

17 MS HOLLIS: Well, the door is firmly locked and bolted
18 against us in terms of access to anything, Mr President. So it
19 would be very difficult for us to proceed. Of course we can
11:31:07 20 attempt it if your Honours wish, but it would cause considerable
21 difficulty for us.

22 PRESIDING JUDGE: I understand. Thank you. Mr Anyah?

23 MR ANYAH: Our situation is no better, Mr President. My
24 screen, as I look at it, the monitor is frozen essentially. I
11:31:24 25 cannot access the Defence's unique drive on the overall court
26 hard drive and I therefore cannot access any electronic
27 documents, transcripts of prior proceedings and the like. I have
28 called our case manager to see if hard copies or binders could be
29 delivered but I am told that the court's telephone system is

1 having difficulties so she cannot call transport to bring the
2 binders to us and frankly I don't think it would be in the
3 interest of our client for us to attempt to proceed.

4 PRESIDING JUDGE: I understand. Another added problem of
11:32:03 5 course is because the - this is my understanding and again I
6 could be wrong, but because the SCSL system is down, if we all go
7 back to our offices we possibly wouldn't be able to do anything
8 productive there either. I understand telephones are not working
9 and the system is down as well. So it's a totally impossible
11:32:29 10 situation in which to run a trial and, Madam Court Manager, if
11 you would please refer what I am going to say to the Acting
12 Registrar.

13 We direct the Acting Registrar as a matter of utmost
14 urgency to look into these technical problems so that we can get
11:32:54 15 on with the trial. I would appreciate an urgent report from the
16 Acting Registrar and some commitments as to being provided with a
17 viable system in which to continue this trial.

18 Now, as for today's proceedings, if I can just pause there,
19 I wish to talk to my colleagues.

11:33:26 20 [Trial Chamber conferred]

21 PRESIDING JUDGE: On our current position, I understand our
22 senior legal officer was told something by our technicians about
23 1 o'clock. What was that again?

24 MR MEISENBERG: I have talked to the technician and he told
11:34:11 25 me that the company would call him at 1 o'clock and give him an
26 update on the current situation, so at 1 o'clock we would be in a
27 better position to know whether we can proceed today or not.

28 PRESIDING JUDGE: Well, I think in the circumstances,
29 unless either of the parties have any other suggestions, we will

1 write off the rest of this morning and hope that if we come back
2 at 2.30 we might be able to at least salvage half a day of the
3 hearing. So are there any objections to that procedure?

4 MR ANYAH: None from the Defence, Mr President.

11:35:01 5 PRESIDING JUDGE: Ms Hollis.

6 MS HOLLIS: None from the Prosecution.

7 PRESIDING JUDGE: All right. I consulted the parties
8 obviously because I know the inconvenience this is causing to
9 everybody and I think in the circumstances we will proceed along
10 those lines. We will now adjourn and we will come back at 2.30
11 in the hope that we can proceed then.

12 [Lunch break taken at 11.34 a.m.]

13 [Upon resuming at 2.30 p.m.]

14 PRESIDING JUDGE: I'm sorry to say that the technical
14:33:30 15 problem that prevented us from proceeding this morning is still
16 with us. The head of The Hague's sub-office has been trying to
17 get some diagnosis and some time frame and he's here now. I'll
18 get him to read on to the record what he's learned from the
19 server company. Mr Townsend.

14:34:02 20 MR TOWNSEND: May it please the Trial Chamber. Your
21 Honours, I am here to report that according to our network
22 administrator the modems at both the ICC and at the STL where our
23 seven servers sit are not functioning and our reliance on Colt
24 Company to provide those functioning modems has put us in a
14:34:24 25 position where we're still waiting for a proper diagnosis and
26 once we have that we'll give a proper diagnosis, but we
27 understand it is the hardware, the two modems, that are
28 malfunctioning. As soon as we have that information we'll be in
29 a position to tell you when we'll be up again and we apologise

1 for the failure today.

2 PRESIDING JUDGE: Thank you. I think we're going to have
3 to adjourn until tomorrow morning. The reasons have been
4 abundantly stated in court earlier this morning. I'll give the
14:35:02 5 parties a chance to say anything further if they wish to.

6 Ms Hollis?

7 MS HOLLIS: The Prosecution has nothing further,
8 Mr President.

9 PRESIDING JUDGE: Thank you. Yes, Mr Anyah?

14:35:14 10 MR ANYAH: Yes, Mr President, neither do we. We have
11 nothing to add.

12 PRESIDING JUDGE: All right then. We'll adjourn court
13 until 9.30 tomorrow morning. Mr Taylor, for once you can leave
14 court without my giving you that warning about discussing your
14:35:33 15 evidence. 9.30 tomorrow morning.

16 [Whereupon the hearing adjourned at 2.35 p.m.
17 to be reconvened on Wednesday, 13 January 2010
18 at 9.30 a.m.]

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