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SCSL-11-01-I  
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**SPECIAL COURT FOR SIERRA LEONE**

**TRIAL CHAMBER II**

Before: Justice Teresa Doherty, Presiding Judge  
Single Judge, Trial Chamber II

Registrar: Binta Mansaray

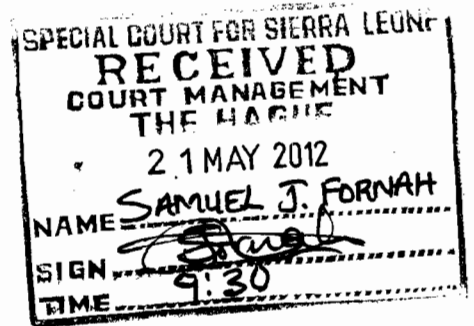
Case No.: SCSL-2011-01-I

Date: 21 May 2012

PROSECUTOR

v.

Eric SENESSIE



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PUBLIC

**PRE-TRIAL BRIEF OF PROSECUTOR**

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**Office of Independent Counsel:**  
William L. Gardner

**Counsel for Eric Senessie:**  
Ansu Lansana

**Office of the Principal Defender:**  
Ms. Claire Carlton-Hanciles

**PRE-TRIAL BRIEF OF PROSECUTOR**

**I. INTRODUCTION**

1. Pursuant to the Court's May 1, 2012 Scheduling Order,<sup>1</sup> and Rule 73 *bis* of the Rules of Procedure and Evidence, Prosecutor William Gardner respectfully submits this pre-trial brief.

**II. SUBMISSIONS**

2. In its May 24, 2011 Decision on the Report of the Independent Counsel,<sup>2</sup> the Court issued an Order in Lieu of Indictment against Defendant Eric Senessie, charging him with nine counts of violating Rule 77 of the Rules of Procedure and Evidence by attempting to bribe four witnesses and attempting to influence four witnesses; together, the nine counts involve five different witnesses.<sup>3</sup> The factual issues are straightforward: whether Senessie “[k]nowingly and wilfully interfer[ed] with the Special Court’s administration of justice by offering a bribe...” to witnesses (Counts 1, 3, 6, and 7) and whether he “[k]nowingly and wilfully interfer[ed] with the Special Court’s administration of justice by otherwise interfering with a witness who has given evidence in proceedings before a chamber...” (Counts 2, 4, 5, 8, and 9).<sup>4</sup> The legal issues are equally straightforward: whether the Prosecution can establish the three elements of each offense. These elements are: the act itself; the requisite “knowing and wilful” intent requirement; and the fact that each witness gave testimony before a trial chamber.

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<sup>1</sup> *Prosecutor v. Senessie*, Case No. SCSL-2011-01-I, Scheduling Order for a Pre-Trial Conference Pursuant to Rule 73*bis*, 01 May 2012.

<sup>2</sup> *Prosecutor v. Taylor*, Case No. SCSL-03-1-T, Decision on the Report of the Independent Counsel, 24 May 2011.

<sup>3</sup> *Id.*, Annex A: Order in Lieu of Indictment.

<sup>4</sup> *Id.*, Annex A: Order in Lieu of Indictment, pp. 1-3.

3. In its Scheduling Order, the Court directed the Prosecution to address four additional points set forth in Section 2(i)-(iv).<sup>5</sup> Paragraphs 4 through 7 of this brief address each of these points in turn.
4. Section 2(i): No admissions have been made by either side that the Prosecution is aware of.
5. Section 2(ii): The Prosecution contemplates that Senessie will contest whether the unlawful approaches to each defendant were in fact made, and therefore whether the elements of each offense have been proven.
6. Section 2(iii): The Prosecution intends to call the following six witnesses in its direct case (more may be called in rebuttal, if necessary and permitted) and provides with respect to each of the six witnesses their names and any pseudonyms, a summary of the facts to which each witness will testify, and the estimated length of time for the direct examinations:
  - i. Witness Mohamed Beretay Kabba, aka "Tourist," will testify that Eric Senessie came to his home on January 26 and 29, 2011 and told Kabba that if he would consent to return to The Hague to recant his trial testimony, there would be a good cash reward for him. Kabba will further testify that approximately 3 days after January 29, 2011, Senessie came to see him again. This time, Senessie tried to arrange a telephone call between Kabba and a man named Prince Taylor so that Taylor could come and speak to Kabba himself. Kabba's direct testimony should take approximately two hours.

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<sup>5</sup> *Prosecutor v. Senessie*, Case No. SCSL-2011-01-I, Scheduling Order for a Pre-Trial Conference Pursuant to Rule 73bis, at 2, 01 May 2012.

- ii. Witness TF1 - 274 will testify that on February 3, 2011, Senessie told him that if he agreed to recant his testimony at The Hague, the Taylor defence team would pay him – TF1-274 – money and relocate him to an overseas country. TF1-274 will further testify that Senessie came to see him on February 10, 2011 to tell him that a representative of the Taylor defence team would come to Kailahun to speak with him. Finally, TF1-274 will testify that in late February 2011, after he had given a statement to Prosecution investigators on February 17, 2011, Senessie attempted to persuade TF1-274 to deny to any “special investigators” who might come, that he—Senessie—had attempted to have TF1-274 recant his testimony at The Hague. TF1-274’s direct testimony should take approximately three hours.
- iii. Witness TF1-516 will testify that Senessie contacted him on February 1, 2011 and told him that if he agreed to recant his testimony at The Hague, the Taylor defence team would give him money. TF1-516’s direct testimony should take approximately two hours.
- iv. Witness TF1-585 will testify that on January 27, 2011, Senessie came to see her at her home and told her that if she would recant the testimony she had given at The Hague she would receive a financial benefit from the Taylor defence team. TF1-585 will further testify that when Senessie came to her house again on January 30, 2011 to get her to agree to meet with the Taylor defence team, she recorded on her mobile phone her conversation with Senessie. The Prosecution will move for the admission of TF1-585’s recording as well as a partial transcript thereof that she and Investigator Magnus Lamin made from the recording. TF1-585’s direct testimony will take approximately three hours.

- v. Witness Aruna Gbonda will testify that on three occasions in late January 2011—January 29, 30, and 31, 2011—Senessie came to see him about returning to The Hague to change his testimony. Gbonda met with investigators on January 31, 2011 and gave a statement. He will testify that on three subsequent occasions, Senessie told him that “someone” would come to speak to him about the statement he provided to the investigators and that he—Senessie—wanted Gbonda to deny the statement that he gave to investigators. Gbonda’s direct testimony will take approximately three hours.
  - vi. Witness Magnus Lamin will testify that he meet with TF1-585 after Senessie came to her house on January 30, 2011. Lamin will further testify that he listened to and transcribed TF1-585’s recording of her conversation with Senessie on that date. Lamin’s direct testimony will take approximately one hour.
7. Section 2(iv): The Prosecution intends to offer into evidence the following exhibits:
- i. A recording of witness TF1-585’s conversation with Senessie on January 20, 2011.
  - ii. A partial transcript of the recording of witness TF1-585’s conversation with Senessie on January 20, 2011.

The Prosecution does not anticipate that the Defence will have any objections to the authenticity of these exhibits.

8. The Prosecution further submits that it fulfilled its discovery obligations under Rule 66 of Rules of Procedure and Evidence during the last week of July 2011, and is ready for trial on June 11, 2012.

Respectfully Submitted,

WL Gardner

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William L. Gardner  
Independent Counsel

INDEX OF AUTHORITIES

Special Court for Sierra Leone Cases

**Prosecutor v. Taylor, Case No. SCSL-03-1-T**

*Prosecutor v. Taylor*, Case No. SCSL-03-1-T, Decision on the Report of the Independent Counsel, 24 May 2011

**Prosecutor v. Senessie, SCSL-2011-01-I**

*Prosecutor v. Senessie*, Case No. SCSL-2011-01-I, Scheduling Order for a Pre-Trial Conference Pursuant to Rule 73bis, 01 May 2012