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SCSL-11-01-T
(267-296)

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SPECIAL COURT FOR SIERRA LEONE

TRIAL CHAMBER II

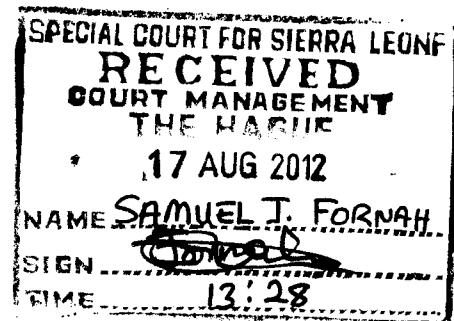
Before: Justice Teresa Doherty, Single Judge

Registrar: Binta Mansaray

Case No.: SCSL-2011-01-T

Date: 21 June 2012

Filed: 16 August 2012



PROSECUTOR

v.

Eric SENESE

JUDGEMENT IN CONTEMPT PROCEEDINGS

Independent Counsel:
William L. Gardner

Counsel for Bangura:
Ansu B. Lansana

I, Justice Teresa Doherty, Single Judge of the Special Court for Sierra Leone (“Special Court”);

MINDFUL of the “Decision on the Report of Independent Counsel” filed on 24 May 2011;¹

MINDFUL of the “Order in Lieu of Indictment” filed against Eric Senessie on 24 May 2011;²

MINDFUL of Article 17 of the Statute of the Special Court for Sierra Leone (“Statute”) and Rules 77 and 88 of the Rules of Procedure and Evidence (“Rules”);

RECALLING that on 21 June 2012, I rendered an oral judgement in this matter;

DO HEREBY RENDER the aforesaid Judgement in writing:

RELEVANT LEGAL PRINCIPLES

1. Rule 77 of the Rules sets out a regime to be followed in cases of contempt of court before the Special Court relating to a defined list of acts. Paragraph (A) of the Rules states that:

The Special Court, in the exercise of its inherent power, may punish
for contempt any person who knowingly and wilfully interferes with
its administration of justice.

2. As this provision notes, the basis for this Rule is the inherent power of the Special Court to deal with cases of contempt before it. Indeed, it is well established that a court courts has an inherent jurisdiction to ensure that its administration of justice is not obstructed, prejudiced or abused.³

DELIBERATIONS

3. The Accused, Eric Koi Senessie was indicted on four counts that he knowingly and wilfully interfered with the Special Court’s administration of justice by offering a bribe to four witnesses who had given evidence before this Court, and five counts that he knowingly and wilfully

¹ SCSL-04-16-ES.

² SCSL-04-16-ES.

³ *Independent Counsel v. Margaret Fomba Brima et al.*, SCSL-2005-02, Sentencing Judgement in Contempt Proceedings, 21 September 2005, para. 11.

interfered with the Special Court's administration of justice by attempting to otherwise interfere with witnesses who had given evidence before this Court, as follows:

- (1) Mohamed Kabbah, one count of offering a bribe and one count of attempting to influence, both on or about 26 and 29 January and 3 February 2011
- (2) TF1-274, one count of offering a bribe on or about 3 February 2011, and two counts of attempting to influence on or about 3 February and late February 2011;
- (3) TF1-516, one count of offering a bribe on or about 1 February 2011;
- (4) TF1-585, one count of offering a bribe, and one count of attempting to influence, both on or about 27 January 2011; and
- (5) Aruna Gbonda, one count of attempting to influence on or about 29, 30 and 31 January 2011.

In all counts it was charged that he did so with the intent that they should recant their evidence given in the case of *The Prosecutor v. Taylor*.

4. The Accused categorically denied any contact with any of these five persons at the relevant times and denied each allegation. He attacked the credibility of each witness. Through his Counsel he submitted that his "accusers" colluded together in a plan engineered by TF1-274 to have the Prosecutor of the Special Court re-locate them and when the scheme "back-fired," the "co-Accused" decided to sacrifice the Accused Senessie whom they used as a "conduit." I note that the co-Accused to whom he referred are, in fact, the five witnesses.
5. It is not in dispute that each of the five Prosecution witnesses gave evidence for the Prosecutor in *The Prosecutor v. Taylor* case in The Hague. TF1-516 and TF1-516 gave evidence under protective measures and their names and details could not be revealed. A third Witness, TF1-274, sought and was granted protective measures in this case. Whether those protected witnesses themselves maintained their anonymity given by the protection orders was challenged by the Accused.

A. Counts 1 and 2

6. The first witness to give evidence was Mohamed Kabbah. He stated that he was a neighbour of the Accused now and during the Sierra Leonean Civil War. He testified that in January 2011 the Accused visited his house whilst he was absent. He subsequently met the Accused, who asked him how much he had been paid, "in relation to the travel that you did to The Hague." Kabbah responded that he only had been given a subsistence allowance, and that he did not sign a contract with the Special Court. The Accused told him that others said they were paid and "some were even grumbling" that the Prosecution did not fulfil promises made to them.
7. The Accused then told Kabbah that a Mr. Prince Taylor had given him (the Accused) a mission to talk to them - he did not define who "them" was - because "we did not have any benefit from our travels." Mr. Senessie further informed Kabbah that if he (Kabbah) agreed to return to The Hague and change his evidence given in Court they - again, undefined - "were ready to give us money and in dollars, [and] that they would boost us, even."
8. Kabbah argued that he did not go to testify in The Hague for money. He testified that Senessie mentioned that he was talking to four other Prosecution Witnesses who were also staying in Kailahun. Senessie told Kabbah that "they should help the Pa," that is, Charles Taylor, who had been helped them during the war. Kabbah told the Accused he was going to consider this and would "give him a feed-back later," because he knew the Defence had no right to talk to him without going through WVS or OTP and he had "a place to report him."
9. Kabbah did in fact report this action to the WVS, whom he contacted on the 27 January 2011 by phone. He spoke to Magnus Lamin, an investigator who had contacted Kabbah earlier to enquire about his security. Approximately two days after the conversation with the Accused, the Accused returned and told Kabbah he wanted to hear from him, but again Kabbah did not give a response and said he was thinking it over.

10. On the third occasion Kabbah saw the Accused, he came with another person, also a Prosecution witness. In their presence, the Accused tried to contact Prince Taylor by phone but was unsuccessful. The other person became annoyed because he had travelled a long distance. The Accused said to both of them that he had spoken to Prince Taylor and produced a draft letter in which each purported to invite Taylor to visit. Before anything further transpired the Accused became aware that Special Court Investigators had become involved and told Kabbah this. Kabbah subsequently spoke to TF1-516, another witness and complainant, telling him that Senessie had been in contact and had sought to persuade him to recant his evidence.
11. On the 30 January 2001, Kabbah made a statement to Investigator Lamin. This report was recorded in writing by Lamin and tendered as Exhibit P 1. Whilst the content is self-serving of Mohamed Kabbah's evidence, the record clearly shows that he made the complaint on the 30 January. I find that Kabbah lodged a complaint with Lamin on the 30 January 2011 alleging a contact from Senessie. Following the contact with the Investigator, Kabbah and others were advised not to have any further contact with the Accused and no further conversations took place between Kabbah and the Accused.
12. On cross-examination Kabbah was challenged that, notwithstanding his evidence that he was paid only a subsistence allowance by the Special Court, he returned to Kailahun from The Hague with a new motorbike. He denied this and subsequently said that the motorbike belonged to his employer. The Accused was later to say in his own evidence that Kabbah had purchased the motorbike and leased it to his employer. Kabbah also confirmed in his written statement in Exhibit P1 that he had met with TF1-516, TF1-516 and Aruna Gbonda. He denied telling people that he had testified in The Hague, observing that "the world knows" that he testified.
13. It was put in cross-examination to Kabbah that both he and Senessie were members of the Revolutionary United Front Party (RUF) and that he was instrumental in deposing Senessie's

position as District Chairman of the RUFP for Kailahun District. The witness denied being instrumental in deposing Senessie but conceded that they had met at the party office and that he (Kabbah) was appointed as Secretary in 2010, that is, several months after the times alleged in the indictment.

14. On the face of it, this line of questioning appears irrelevant. However, I note the submission by Defence Counsel that these allegations against Senessie were in fact a plot to blame Senessie when Kabbah and other complainants were not re-located by the Prosecution. Giving the time difference between the lodging of the complaints with WVS and the party politics in question, I do not find any relationship that supports the allegation that they are in some way connected.
15. It was also put to Kabbah in cross-examination that “the entire issue of wanting to go back to The Hague to recant testimony” did not emanate from Senessie, but was a plan “to switch sides with the Defence” because the Prosecution had not rewarded him. This was convincingly denied by Kabbah.
16. In his own evidence, the Accused alleged that Kabbah, TF1-274, TF1-516 and TF1-516 had plotted against him whilst they were all members of the Revolutionary United Front (RUF) and the war was on-going. During the war the machinations of these four led to the Accused and his brothers being arrested and being sent to the frontlines with, he stated, an intention to execute him there. The Accused stated that he hid but his brothers were killed. This allegation of an older dispute was not put to any of the Prosecution Witnesses.
17. Senessie went on to deny meeting Mohamed Kabbah on 26 January 2011, or talking to him. He agreed that they lived close together in the same area but stated that the allegation was baseless and incredible. The Accused described the relationship within the RUFP (recorded erroneously in oral judgement transcript as RUF) as “not cordial,” and stated that Kabbah would have deposed him had there been a convention. It is not apparent from the evidence of the Accused when exactly he says these political machinations took place. In any event, given

the dates stated by Kabbah which had not been refuted, as already stated, I do not consider that they had any connection at all with the complaints made by Kabbah.

18. Kabbah in his testimony was at times surly and had to be instructed not to laugh; however, he was clear in his evidence and convincing in his description of his indignation regarding Senessie's talk of payments that should have been made to him by the Prosecution. I find the proposition that he was not paid what he was promised by the Prosecution and the suggestion that he received enough funds to buy a motorbike inherently contradictory. I find Kabbah's statement - that if he were to return to The Hague and say that his evidence was a lie, how would others regard him, how would the world regard him? - as a consistent statement of his attitude to recanting his evidence.
19. I have no doubt that on or about 26 January 2011 at Kailahun Eric Senessie visited Mohamed Kabbah and asked him to "change all evidence we have given in court and [sic] were ready to give us money and dollars." I find that this approach was made and that the words spoken by Senessie were intended to convey to Kabbah that if he recanted his previous evidence he would be paid. I further find that Senessie again visited Kabbah for a second and third occasion, asked him to consider the previous offer and attempted to persuade him to sign a document to bring Prince Taylor - who was stated to be member of the Defence for Charles Taylor - to Kailahun. I also find that these conversations were intended to influence Kabbah, a witness who had given testimony, to recant his previous testimony. Accordingly, I find the accused guilty of Count 2 of the Order in Lieu of the Indictment of knowingly and wilfully interfering with the administration of justice of the Special Court.
20. I am satisfied on the evidence that the Accused Eric Senessie deliberately approached Witness Mohamed Kabbah, and by his actions and words clearly indicated to Kabbah that he was aware that Kabbah had given evidence and wanted Kabbah to recant that evidence. I therefore find that when Senessie offered a bribe to Kabbah, he did so with the intention of interfering with



the Special Court's administration of justice by having Kabbah recant. Accordingly, I find that he knowingly and wilfully interfered with the witness Kabbah, who had given evidence in the proceedings of *The Prosecutor v. Taylor* and find that the Accused is guilty of Count 1 of the Indictment.

B. Counts 7 And 8

21. The Accused is indicted for knowingly and wilfully interfering with the administration of justice by offering a bribe to Protected Witness TF1-585 in return for recanting her testimony in the trial of *The Prosecutor v. Taylor* on 27 January 2011, and of a further count of knowingly and wilfully interfering with the Court's administration of justice by interfering with Witness TF1-516 to have her recant her previous testimony. I say, in parenthesis, that I now deal with the allegations involving TF1-585, though they are not the successive count of the Indictment, because TF1-585 was the next witness to give evidence.
22. Witness TF1-516 gave evidence before the Court. It is common ground between both the Accused and the witness that they have a family connection. The witness stated that the Accused is her uncle and that their relationship was good over some years until "lately."
23. The Witness stated that the Accused entered her home when many other people were present. He told her he had come to see her and that the Defence had sent him to meet "us." The Accused also stated that the Defence knew of her background and had sent him so that she would go and change what she had said in The Hague and state that she had been forced to testify. He promised her money and relocation. The Accused further conveyed to her that she was a person that the Taylor Defence team had intended to meet but the Prosecutor had "moved fast and took her up." If "they" could change her statement, there would be "money for us, a lot of money." The Accused also told her that the Defence had planned for them and that there was a lot of money and "they could live their lives with it." TF1-585 further averred

that Senessie told her that he had a document which he wished her to sign and would show it to her if she agreed.

24. This initial meeting took place on 27 January 2011. TF1-585 had been informed by Court officials that she was to have no contact with lawyers and if there was a security threat, she should call WVS. She told Senessie to give her time to think. Her intention was to contact WVS but she did not have an immediate phone connection available and so she was unable to do so until two or three days later, when WVS called her. At this point, she informed officials that she had a problem and was afraid to go to her house.
25. The Accused came and met her a few days later and brought with him a written document. He informed her that this was the letter that he had brought for her to sign. She asked him to read it and he read it out to her, and then gave her a pen to sign it. She protested, stating that signing this document would show she had agreed. When she inquired, the Accused informed her that the letter had been sent by the Defence and, more specifically, by Prince Taylor. She again protested and the Accused offered to connect her with Prince Taylor so that she may speak to him. She did not sign the letter and the Accused took it away.
26. The Accused came later in the evening bringing a phone, made a call, and passed the phone to her. TF1-585 heard a voice on the phone, and the speaker confirmed that he had sent Senessie and that what they were doing was "out of the law." He asked her for her phone number, she gave him her number, and the man undertook to call her, but did not do so ever again.
27. The Witness reported the incident to a Special Court Investigator, Magnus Lamin. Prosecution Exhibit P2 shows that a statement was recorded from TF1-516 on 29 and 30 January 2011 and 1 February 2011. I again note that the contents of the statement which records her allegation against Senessie are self-serving, but the dates of the statements are a matter of record and show that she lodged a complaint on 29 January and recorded the statement on 29 and 30 January and 1 February 2011. This corroborates her version of when these events occurred.

28. The Witness further testified that in the second conversation with Senessie, when he came to her house with the document, she recorded her conversation with him using her mobile phone. Hence, all that was said between them, including the wording of the document that she was asked to sign, was recorded on her mobile phone's memory card. She testified that she subsequently gave the memory card to Magnus Lamin, who in turn made a transcript of the record on the card.
29. The memory card and the conversation recorded on it were played in Court and admitted as evidence. Voices can clearly be heard, and Witness TF1-516 has testified that she recorded this conversation and that the voices are hers and Eric Senessie's, who was speaking to her. The admission of the memory card and the transcript prepared by Magnus Lamin are the subject of a separate ruling in which the Court held that only part of the transcript was admissible.
30. The Accused continued to dispute in his evidence-in-chief and cross-examination that the voice was his. He testified that he did not speak to TF1-585 and that he did not say the words recorded by her. Through his counsel's submission, he said that there was no one to identify the voice as an expert.
31. I remind myself, as mentioned in the interlocutory ruling, that where voice identification is an issue, the Jury, in this case the Court, should warn itself of the terms set out in *R. v. Turnbull*.⁴ There is a special need for caution before convicting an Accused when the reliance is on the correctness of the identification of the perpetrators. The Court examines the circumstances of the identification, the distance between the witness and the Accused, whether they knew each other before, whether this was a recognition rather than an identification, and the time they were together. Recognition is considered to be more reliable than identification of a stranger, although mistakes can be made. I apply these criteria to the facts before me.

⁴ *R. v. Turnbull and others* [1976] 63 Cr. App. R. 132.

32. I am satisfied on the evidence of both TF1-516 and the Accused that they knew each other over many years and had a close family relationship. There was a time during the war when they were not living in the same community, but I am satisfied on the Accused's evidence that TF1-585 returned to Kailahun and that they knew each other well. I am also satisfied that TF1-585 and the Accused were in close proximity when the recorded conversation was made, and that she was able to clearly identify the Accused and to see him and to hear his words, which were simultaneously recorded. For that reason, I have no doubt that the Accused spoke to TF1-585 in the terms that have been transcribed and admitted into evidence in Prosecution Exhibit P4. Those words were as follows:

To: The Charles Taylor Defence Counsel:

I want to take this opportunity to call upon the Defence of the above Council [sic]. That I am certainly ready to defend Charles Taylor in the Special Court in The Hague; all what I said last before The Special Court for Sierra Leone was maliciously arranged and to deceive you by a Special Defence Department for Special Court beyond reasonable condition which made me to agree with to give false evidence against Charles Taylor of which these promises were not fulfilled. It is not my cooperation and confidence, but I swear to defend Charles Taylor before the Special Court. You are welcome/Call me or come to my location for any discussion.

33. TF1-516 stated that this visit and the exchange between herself and the Accused took place a few days after she made a statement to the investigators. I accept that it occurred after 1 February 2011.
34. On a date after this interaction between her and the Accused, (TF1-585 did not specify the date,) the Accused went to speak to her and told her that "one of us whom he had met" had called the Court and told the Court of their meetings. He asked her to contact him if the Prosecution called her. She did not meet with the Accused thereafter.
35. In cross-examination she was asked and confirmed the family relationship between herself and the Accused. She noted that their town was a small one, that they both attended her sister's wedding, and that the Accused represented the family of the bride. She confirmed she visited

Senessie's house not, as put, on 9 February 2011 but on the times when the document was produced and the recording of their conversation was made. She conceded that there were others present when she called, including the daughter of the Accused, but denied Mohamed Kamara was present. She conceded it was on this occasion when she asked for Prince Taylor's number, which she said she wanted for evidence. She denied making a call to Prince Taylor on her own phone, having explained that the SIM card was missing. She insisted that Senessie made the call.

36. It was put to the witness in cross-examination that she visited Senessie's house in May 2010 to offer her sympathy on the death of Senessie's son. She agreed but could not recall those who were allegedly present. She denied telling those present that she had been to The Hague to give evidence in the Charles Taylor trial. I put no weight on either of these matters; given the lapse of time it is understandable she did not recall precisely who was present. I understand the challenge as to whether she told those present she had been in The Hague is a challenge to her credibility. Given that it was almost a year between the meetings that gave rise to this indictment and the meeting in 2010, I find no connection between these incidents other than to confirm the Accused and TF1-585 had a long-standing family relationship. These visits are not a foundation for events in January and February 2011 and if the Witness did say she was in The Hague, it is not reason to ask her or any witness to recant evidence. If anything, it indicates that the Accused was aware that TF1-585 was a witness in the *Taylor Trial*.
37. TF1-585 was also challenged, and the Accused gave evidence on, a family wedding that took place in March 2011. I have noted above that she agree that she did attend this event, as did the Accused. Given that the wedding was at least one month after she reported her allegations against the Accused and given that there were other people present, I do not see why, as the Accused says in evidence, she should have been too afraid to come. The bride was her sister and others were present. I do not consider that this affects her credibility.

38. The Accused also says in his evidence in chief that TF1-585 came to his house on 8 February 2011, i.e., a week after she reported to the Court. He did not meet her that day but saw her the following day. TF1-585 asked for the phone number of Prince Taylor and asked Senessie for use of his phone.
39. The Accused contends that he lent her his phone. He testified that the witness went outside, and on her return to the veranda returned both the card that she had borrowed from the Accused with Taylor's number and his phone to him. The Accused did not hear the call. The witness informed the Accused that she had met TF1-274, who wanted her to sign a document that he had prepared, as she had an "interest in this as well." The Accused referred her to TF1-274 and she then left.
40. In cross-examination, TF1-516 stated that it was Senessie who placed the call and that she agreed to speak to Prince Taylor. The Accused sought to corroborate his version of events by adducing evidence from Jessica Kadi Senessie, his daughter, who testified that in February 2011, TF1-585 visited her home when her father was absent. TF1-585 returned the following day and asked for Prince Taylor's number and for help with the use of the Accused phone. She dialled a number, moved away from the witness and the witness heard her call her name and say 585. Jessica Kadi Senessie testified that TF1-585 subsequently returned the card and the phone to the Accused.
41. I am satisfied on the evidence of all three witnesses that TF1-585 visited the home of the Accused at a date on or about 8 or 9 February 2011 and that a phone call was made to Prince Taylor. At issue is who initiated the phone call. It is clear that the phone call was made, and that it was made about one week after TF1-585 had already been spoken to by the Accused and after she had reported this to investigators. I find her explanation, that she intended to acquire further evidence, is more consistent with the report she made to WVS, which I find was made

on 28 and 29 January and 1 February. Whether she initiated the phone call or the Accused initiated the phone call cannot detract from that clear sequence of events.

42. The Witness Jessica Kadi Senessie also persisted in giving, in what appeared to be well-rehearsed detail, testimony of the relationship between TF1-585 and the Accused and their contact prior to 27 January 2011. I have already found that this was not in dispute, but the persistence of Jessica Senessie in reciting it, despite being told it was not the answer to questions that were asked, did not impress me with Jessica's credibility.
43. I find on the evidence that Senessie approached TF1-585 and spoke to her seeking recantation of her evidence in the *Taylor* trial and informing her that if she would change her statement in Court there would be money, a lot of money, has been proved beyond reasonable doubt. It is corroborated by the recording which I have found is of the Accused's own voice. I find that on her evidence the Accused wilfully and knowingly interfered with the Special Court's administration of justice by offering a bribe to TF1-585 to recant her evidence and that he is in violation of Rule 77 (A) (iv) of the Rules. Accordingly, I find him guilty of contempt of the Special Court and of Count 7.
44. I further find that the attempt to persuade TF1-585 to sign a document in which she would say that her previous evidence was maliciously arranged to deceive is a wilful and knowing interference with the witness by trying to persuade her to recant her testimony given in the trial of Charles Taylor. Accordingly, I find the Accused guilty of knowingly and wilfully interfering with TF1-585 on or about 27 January 2011 so that she might recant her previous testimony in the proceedings of *The Prosecutor v. Taylor*, and I find him guilty of Count 8.

C. Count 9

45. The Accused is further indicted on one count of knowingly and wilfully interfering with the Special Court's administration of justice on 29, 30 and 31 January 2011 by attempting to

influence Aruna Gbonda's testimony in the case of *The Prosecutor v. Taylor* and to recant his testimony in that trial.

46. The Prosecutor called Aruna Gbonda, who confirmed that he had testified in the *Taylor* trial for the Prosecution and he that is now living in Talia, in the Kailahun District. Gbonda testified that he is a farmer, and he is an elderly man who made it clear throughout his evidence that he is unable to read and write. He knew and had seen the Accused Eric Senessie, and testified that the Accused went to his house when Gbonda was absent, leaving a message with his wife that he, Senessie, would return.
47. The Accused returned the following evening and the Accused said to him "Chief Aruna, it looks like you will be returning to The Hague." The Accused went on to say that "they" "were supposed to give him money and they did not do so but when he returns the money will be given to him." The Accused told him that it was Prince Taylor's people who would give the money when he returned. The Witness responded that he would repeat what he had already said in the *Taylor* trial and the Accused then said "no, they wanted me to go, they wanted me to go and change that." The Witness refused.
48. The Accused returned and each time would talk about "the same thing." There was a time when he came with a document that he asked Gbonda to sign and explained that if the Witness were to sign this document, he would be asking Prince Taylor to come and talk to the Witness. The Witness referred to somebody named Kabbah and stated that they should take the document to Kabbah to see if Kabbah signed it and then the Witness would state what he had in his mind.
49. The following morning, Gbonda went to Kabbah's house, the Accused was there, and the Witness asked the Accused to speak to the person who had sent him so the Witness himself could hear the voice and know who had sent the Accused to him. The Accused used his phone, but no one responded to the call. The Witness stated he had been fooled and that he was very

angry to be taken from home for this. I note that the Witness Kabbah described another person being present when there was an attempt to contact Prince Taylor by the Accused and that that other person became very angry. I find that Mr. Gbonda was the person Kabbah was referring to and that this is corroborative of both witnesses' version of events.

50. Initially Gbonda did not contact Special Court personnel because he had been told the Court was closed, but subsequently they "summoned" him and he went and explained the conversation that he had with the Accused.
51. The Independent Counsel has tendered a document through the witness which the witness identified as his statement, and on which the witness recognised his thumb print. The document records that the witness made a statement to WVS Investigators on 31 January 2011. The document was tendered as Prosecution Exhibit 5. I find the date of these records corroborative of the witness's statement that he reported to the Court officials on or about 31 January 2011.
52. After Gbonda signed his statement with WVS, the Accused returned to speak to him, stating that he had been "exposed" to the Court. The Witness told him not to ask about that and they had no further conversation.
53. The witness stated that any time he met Senessie he (Senessie) would start this topic, even when there were a lot of people around. Whether there was a crowd or not he talked about the witness changing his statement. Several times in the course of his evidence, the Witness insisted that he was not a fool, and his evidence clearly conveyed that he did not trust Senessie.
54. The witness also gave evidence of people coming on a motorbike to say that a Mr. Patrick, who was head of mining, had come and "we can give you your own share of the money so that you can start some business." He testified that Mr. Patrick, later named as Patrick Bangura, was a member of the RUF and involved with RUF mining during the war. The Witness was not happy with this proposition and refused to go, notwithstanding his wife's anger at his refusal to

do so. The Witness did not know if there was any connection between the Accused and Mr. Patrick and I do not find that there is sufficient evidence to connect this incident with the approaches the Accused made to Gbonda.

55. In cross-examination, the Witness was asked whether he was a member of the RUFP. He denied this and denied visiting Senessie. In particular, he denied visiting Senessie in January 2011 nor did he know where Senessie's house was located, but stated that they met at Kabbah's house. The Witness testified that he went to Kabbah's house and repeated what he had said in chief: that Senessie tried to contact Prince Taylor, that he would not sign any document, and that he considered Senessie was trying to fool him.
56. The Accused in his evidence stated that he knew Gbonda well, and that Gbonda told him he had been to The Hague and testified for the Prosecution. The Accused stated that Gbonda told him that Gbonda felt "they" would give him some good amount of money and even re-locate him, otherwise he would not have gone. The Accused testified that "He was grumbling all over the place." I note that this was not put to Aruna Gbonda in cross-examination.
57. The Accused also said that Gbonda had come to his house, did not find him, and returned the following day, apparently on 12 February - when the Accused was still absent - and asked his son Fick Senessie for the Accused's phone number, which the boy gave him. The Accused stated that the boy saw the number dialled and heard Gbonda say "Mr. Senessie, have you sent that document to Prince Taylor that TF1-274 gave you?" The Accused then told Gbonda on the phone to go to TF1-274. The Accused denied telling Gbonda to recant his testimony, and added that he did not know the "Charles Taylor Defence" and did not work for them.
58. The child Fick Senessie, a boy younger than thirteen - his age as stated by the Accused - said that he knew Aruna Gbonda, that Gbonda came to his home looking for his father, but that he did not know the time or the date that Gbonda came. His father, the Accused, was absent so Gbonda did not meet his father. Gbonda came again the following day when again his father

was absent. Then Gbonda asked for the Accused's phone number. Gbonda insisted it should be an Africell number and then asked for the Airtel number. I note that this was not put to Gbonda in cross-examination.

59. Fick Senessie testified that Gbonda called the Accused on his phone and asked if he had sent a document to Prince Taylor. It is not apparent to me if Gbonda had a phone, as he was not asked this. Fick Senessie did not know the details of the date or year when this visit was made but from the Accused's evidence it was after the date Gbonda had made his statement to Court investigators.
60. When I asked the child witness to describe Gbonda, he stated that he was short and black in complexion. I would not have described Mr. Gbonda as short, certainly he was not tall, and it was only with prompting that the boy said Gbonda was old, an elderly man. Given that Gbonda clearly stated his own illiteracy and the fact that it was never clarified if he had a mobile phone, I am very skeptical of this evidence. It appears to have been adduced to challenge the credibility of Gbonda. However, I do not consider that it rebuts the evidence of events that occurred on on about 20 January 2011, when Senessie came to Gbonda's home and asked him to recant his evidence. This also does not rebut the evidence of a meeting at Kabbah's house, which I find is corroborated by Kabbah. The witness Gbonda was emphatic, even vehement, in his recollection of those incidents. I find as a fact that they did occur and the witness's credibility was not impeached on the facts.
61. In any event, if Gbonda did call upon the Accused it was some ten or eleven days after Aruna Gbona had already filed a complaint with investigators from the Special Court alleging that Senessie had come to him and asked him to recant his testimony. I find the Accused's denial of that contact to be unconvincing. Not only was the Witness Aruna Gbonda a clear and credible witness but the record of his report to WVS corroborates that he made his complaint well before the time Senessie said he wanted to sign a paper. I do not accept the submission that all



of the witnesses, including Gbonda, were in a conspiracy against the Accused. This was not put to Gbonda and Gbonda made it clear that he would not seek re-location. Given his age and circumstances, I believe he would not want to leave his home.

62. I find that Senessie did approach Aruna Gbonda on or about the 28 January and on the 29 January spoke to him again at Kabba's house all with a view to attempting to have Aruna Gbonda recant the testimony he gave in the case of *The Prosecutor v. Taylor* in The Hague. Accordingly, I find the Accused guilty of knowingly and wilfully interfering with the administration of justice of the Special Court by influencing Aruna Gbonda to recant the evidence he had given in the case of *The Prosecutor v. Taylor*, and accordingly I find him guilty of Count 9.

D. Count 6

63. As noted above, I am dealing with the evidence in the sequence in which the witnesses were called.
64. The Accused is further indicted on one count that he knowingly and wilfully interfered with the Special Court's administration of justice by offering a bribe to protected witness TF1-516 in return for the witness recanting his testimony in *The Prosecutor v. Taylor* trial.
65. TF1-516 gave evidence that he had testified in the *Taylor* case under protective measures. However, he later found out that there had been an announcement at the school in which he worked that he had travelled to The Hague to give evidence. This perturbed him.
66. In the current trial, he testified that he was contacted by Mohamed Kabbah who told him that the Accused had approach him and that he (Kabbah) should withdraw his statement. TF1-516 counselled Kabbah that this "is a dangerous business," and that they had both testified under oath. TF1-516 testified that Senessie came to him and tried to talk to him, saying that he (TF1-516) should withdraw his statement in Court. TF1-516 refused, and said he was not interested. TF1-516 said he was "hostile" but the Accused "insisted he would come back." TF1-516 agreed



speak to Senessie only if they spoke on another topic, otherwise he should not contact him any further. He suggested the Accused give him a mobile phone and remain at a distance. In the second conversation, the Accused said he worked for the Defence and if TF1-516 agreed to do what was asked he would give TF1-516 money, or a link with people who would give him money, but he did not specify an amount. The Witness refused, adding he respected himself and would not undertake such a venture.

67. The witness met two investigators of the Special Court and gave them a statement. He recognised and acknowledged the statement – admitted as Exhibit P6. It is dated 18 February 2011 and states TF1-516 was contacted by Senessie on 1 February 2011. The report is self-serving, but is corroborative of the evidence that a report was made to WVS concerning the Accused. The witness was advised to stop any communications with the Accused, but the Accused called at the witness's home leaving a message that he wished to talk to TF1-516.
68. In cross-examination it was put to the witness that he told Gennah Kpundeh, a friend and colleague, that he was going to The Hague. The Witness, however, could not recall doing so. It was further put to the witness that he called Kpundeh from Lungi Airport in Freetown, from Brussels, and from The Hague. The Witness conceded calling a Joe Sallya from Lungi Airport, but not Kpundeh. He also denied calling Kpundeh from Brussels or The Hague. Given the evidence of Mr. Thomas Akinbobola on procedures for travel of witnesses, I accept the evidence of TF1-516 that he did not call from Brussels. In any event, these matters arose some two or three years prior to the contact with Senessie. If this evidence and that of Kpundeh, who was called by Defence, was intended to impeach the credibility of TF1-516 it has not succeeded.
69. It was put to TF1-516 in cross-examination that he was at the school in which he worked on 4 February 2011 when the Accused arrived. The witness agreed and said Senessie called him. The witness could not recall the detail of a conversation about a mobile phone but again stated

that he had told Senessie to give him a phone and to “remain at distance.” His own mobile had been stolen.

70. He also denied contact with TF1-274. He also denied giving evidence in *The Prosecutor v. Taylor* for financial reward. He stated that he missed his school to the extent that he did not even wait for settlement of his travel costs before returning to Kailahun. He testified that he went to the police if he had security issues.
71. Notwithstanding the tenure of the questions put to him in cross-examination, the Accused testified that he went to the same school on 4 February 2011 to pay school fees, and produced a receipt. I have no doubt the Accused did go to the school to pay school fees, but this did not preclude his meeting TF1-516. In fact, the Accused went on to say he met with TF1-516 and that it was TF1-516 himself who said that he and TF1-274 had prepared a document to be sent to Prince Taylor. I note that the Accused’s evidence is the first mention of Prince Taylor in relation to TF1-516. I also note that the suggestion that TF1-516 was instrumental in a conspiracy to have the Accused killed during the war or a conspiracy blame him when a scheme to get money from OTP backfired were not put to TF1-516.
72. Witness Genna Kpundeh, a fellow teacher and friend of TF1-516, gave evidence of phone calls from Lungi Airport, Brussels and The Hague. I have already dealt with that evidence. He testified that he saw the Accused and TF1-516 talking but did not know what was discussed. He “saw” TFI -516 asking the Accused for a mobile phone. Despite the close friendship that both TF1-516 and Kpundeh share he was quite insulting of TF1-516 integrity. I did not find Kpundeh a convincing witness but he did serve to corroborate what TF1-516 said, i.e. that he asked Senessie for a mobile phone.
73. I find TF1-516 a calm, measured and careful witness. I would go as far as saying he was the most straightforward of all those witnesses who appeared in this case. I found his evidence credible and compelling. Prosecution Witnesses, if anything, tended to corroborate him.

74. I find Senessie did to go TF1-516 on or about 1 February and asked him to recant his evidence, and said there would be money or a link to get money. He followed this with visits to TF1-516's home. I find the Accused made these visits and the offer with the intention of having TF1-516 recant his evidence. Accordingly, I find that the Accused knowingly and wilfully interfered with the Special Court's administration of justice by offering a bribe to Witness TF1-516, who gave testimony in *The Prosecutor v. Taylor* case in return for recanting his evidence, and I find him guilty of Count 6.

E. Counts 3, 4 and 5

75. The Accused is indicted on three counts relating to Witness TF1-274: (1) of knowingly and wilfully on or about 30 February 2011 interfering with the Court's administration of justice by offering a bribe and re-location to Witness TFI -274 who had given testimony in the *Prosecutor v Taylor* in return for recanting his evidence; (2) of knowing and wilfully interfering with the Court's administration of justice by otherwise interfering with a witness by attempting to influence TF1-274, who had given testimony in the case of *The Prosecutor v Taylor*, to recant his previous evidence; and (3) of knowingly and wilfully on or about late February 2011 interfering with the Special Court's administration of justice by otherwise interfering with a witness by attempting to influence TF1-274, a witness who had given testimony in *Prosecutor v Taylor*, to recant his evidence. TF1-274 gave evidence, he was cross-examined, and the Accused gave evidence in rebuttal and called Witness JP Kombeh.
76. TF1-274 testified that he had been in the RUF during the war and is presently working as a journalist. He is employed by a radio station. I note that this was also the evidence of the Accused and Mr. Kombeh. The witness was originally living in Bo and was then transferred to Kailahun, and the witness also confirmed that he testified for the Prosecution in the case of *The Prosecutor v. Taylor* in The Hague. He knows the Accused "very well" and has known him for more than fifteen years, including during the war. Whilst they were not together throughout

the war, he testified that the Accused never did anything wrong or anything good to him and he likewise did not do anything good or anything bad to the Accused.

77. TF1-274 testified that he met the Accused at JP Kombeh's house in the evening. Kombeh's house was a local place of relaxation and drinks were available for sale. This is confirmed by both the Accused and Kombeh's evidence and I find that it is not in dispute that Kombeh's house was a local venue for the sale of drinks and for social meetings.
78. Senessie met TF1-274 when a group of people were present. They initially spoke of politics, and then the Accused asked TF1-274 to speak to him. They moved away from the house and off the veranda. The Accused asked him if he produced "any authentic document during his testimony in The Hague." There was an exchange between them concerning what was meant by that, and the Accused told TF1-274 there was something he wanted to know. TF1-274 rebuffed him, and said they would talk the following day. These events occurred on 2 February 2011 and the Accused and TF1-274 met the following evening at the same place.
79. The Accused called TF1-274 and told him that he was one of "the Defence for Charles Taylor." He had been "ear-marked" to look for people who had testified, so that they would go and change what they said in The Hague. The Accused told TF1-274 that "they" misused him (TF1-274), and that "those people" were supposed to do things for him but did not. If TF1-274 would agree to change what he had said in The Hague, it would be possible for him to live in another country. He further stated if TF1-274 agreed, "they" would start giving him money every month. He emphasised that he really wanted him to go to The Hague to retract, and asked if he would do so because he had been previously been "misused." TF1-274 said the Accused "used a lot of adjectives" to describe the way TF1-274 had been abandoned and how the Defence is able to take care of them.
80. TF1-274 also testified that the Accused also informed TF1-274 that other witnesses who had testified had been contacted. Among these one, whose name was unclear to TF1-274, was

subsequently named in writing as Aruna Gbonda. The Accused proceeded to tell TF1-274 that he had spoken to up to four people asking them to go and recant what they had said in The Hague. The Accused went further and stated that these four had accepted and that he, the Accused, was looking for TF1-274 to recant what he had already said. TF1-274 testified that he again rebuffed Senessie, saying he had come to hear the music and enjoy himself but did so, in fact, because he wanted to understand what the Accused "was up to." TF1-274 asked the Accused to stop tormenting him and left.

81. Two days later, TF1-274 called Special Court investigators and informed them of the "situation" and exactly what Senessie and he had discussed. Among the matters reported to the investigators was the Accused's statement made to TF1-274 that he was "in the contact with a person for this entity" and that the Accused had tried to contact Prince Taylor.
82. When the Accused and TF1-274 met the following evening at JP Kombeh's building, the Accused produced a phone and asked TF1-274 to talk to the person who had sent him (Senessie.) The Accused gave TF1-274 the phone, he called, and spoke to a person who said he did not have credit, and so the phone went dead. There was no further communication. On that occasion, TF1-274 was not informed that the person speaking was Prince Taylor. That information did not come to him until the third meeting. TF1-274 testified that the Accused told him then that he had been sent to "look for us" by a Defence man whom he named as Prince Taylor in order to talk so that "we can go and change what we had said."
83. TF1-274 stated that he had been contacted by Prince Taylor before, in 2006 or 2007, and that he had reported this to the OTP. He did not recognise Prince Taylor's voice on the night in question.
84. Two days later the witness reported the incident to Special Court Investigator Joseph Saffa and Saffa informed him that people would be sent to take care of him. The Prosecution has tendered a document - Exhibit P8 - which states that on 17 February the witness made a

statement concerning the meetings with the Accused on 2 and 3 February 2011. As with other statements, I consider them self-serving, but they are corroborative of the fact that the Witness complained of contact by the Accused and had lodged a complaint on or before 17 February 2011.

85. The Witness identified a further document tendered into evidence as Exhibit P9, dated 17 February 2011, recording the details of a meeting between the Accused and himself on 10 February 2011 at his office. The Accused then revealed that the person he spoke to on the phone was Prince Taylor. In his oral evidence TF1-274 did not refer to a meeting at his office. However, he did state, as I have already recited, that the Accused told him the person on the phone was Prince Taylor.
86. In cross-examination TF1-274 was questioned with respect to testimony that he had given. It was put that he had initiated the contact and that he was the one who wanted to speak to Prince Taylor, and he had requested the information from the Accused. It was further put that he called Prince Taylor on 3 February 2011. The Witness described this as “a black lie” and denied calling Taylor.
87. The Accused gave direct evidence that not only did TF1-274 ask for the number to call Prince Taylor but actually did call him at JP Kombeh’s and also brought a document, which he wanted delivered to Taylor in Bo. This document was in a sealed envelope. The Accused did not see the contents of the envelope and, as he did not go to Bo himself, gave the envelope to another person for delivery. He further stated that TF1-274 was agitated when he saw the Accused still at Kombeh’s house and asked about the delivery of that envelope.
88. The Defence also called JP Kombeh as a witness. Kombeh is the owner of the premises where the Accused has a room and where people can use the premises, including the veranda, as a relaxation and social place. Mr. Kombeh’s sister sells drinks to people who come there. Mr. Kombeh confirmed that he is there every day sitting on his veranda and talking to everyone who



came by. TF1-274 acknowledged that Mr. Kombeh's premises were close to his work place and it is the place where he and others spend time. TF1-274 also stated that he has respect for Mr. Kombeh.

89. Mr. Kombeh gave emphatic and detailed evidence of three consecutive visits to his premises by TF1-274 on the 1, 2 and 3 February 2011. He testified that TF1-274 spoke of the Special Court in derogatory terms as a "nonsense Court" and stated that he was going to recant his evidence. In Kombeh's presence he asked the Accused for Prince Taylor's phone number. Kombeh testified that TF1-274 returned the "following night," i.e. 2 February, and again asked the Accused for Taylor's phone number. On the 3 February, TF1-274 was given a card by the Accused and Kombeh heard TF1-274 calling someone and moving down the steps of the veranda to do so.
90. In cross-examination, TF1-274 acknowledged that there were many people present on the veranda of JP Kombeh's house and clearly presented a picture of a crowded and noisy social gathering. It was put to TF1-274 that when he was speaking to the unidentified person on the phone, he expressed dissatisfaction with the way the Prosecution had treated him and that he said he wished to retaliate for that treatment. He denied this, but it was not put to him that he moved away, as Kombeh testified, nor was he questioned about a document being sent to Prince Taylor in Bo or that he was agitated when he thought the Accused had not delivered it.
91. The combination of Mr. Kombeh's great precision in picking three evenings out of the 365 per year that he spends on his veranda causes me to call into question just how much he remembered and how much he embroidered.
92. In cross-examination, TF1-274 was challenged about his revelation that he gave evidence in The Hague, about his expectations from OTP, and on the fact that he made several very vocal statements of his dissatisfaction with the OTP's treatment of him. On the other hand, it was

also put to him that he had received enough money from giving evidence in the Court to enable him erect a building in Bo. This latter part of the challenge is inherently contradictory.

93. Revealing the identity of a person or a person's own identity or talking about what happened in The Hague is not tantamount to evidence of a witness's intention to recant or an invitation to others to assist a witness in recanting evidence. Likewise, cross-examination on prior contact with Prince Taylor in 2006, that is, before TF1-274 gave evidence in *The Prosecutor v. Taylor* case, is not probative of an intention to assist the Defence. These may be issues that go to credibility.
94. As noted, the Accused gave evidence of TF1-274 coming and asking him to deliver a document to Bo, and his agitation when he saw the Accused on the veranda of JP Kombeh's building and thought it had not been delivered. Again, this was not put to the witness. I have no evidence of the content of that document and if it was given, it was given after the approach by the Accused to TF1-274.
95. There have been several challenges to TF1-274's credibility in cross-examination. Defence Counsel competently put many issues, and I have examined those and the Accused's own evidence and that of JP Kombeh. TF1-274 was provocative in his demeanour, and at times he even became dramatic. His evidence was disjointed in parts. JP Kombeh was not a witness to the conversation between the Accused and TF1-274 on the 3 February, but clearly it is common ground that they both met at that time.
96. I consider Senessie's evidence of a plot against him and his attempt to portray the conversation with TF1-274 as not credible. I believe that he met TF1-274 on 2 February and again on 3 February and on 3 February made it clear to TF1-274 that money and relocation would be given to him if he recanted his evidence given in The Hague.
97. I further find that the Accused persisted in urging TF1-274 to reconsider, making various arguments and "agitating." TF1-274 was clear and unshaken in his evidence on these points. Accordingly, I find that the Accused on or about 3 February 2011 offered a bribe and re-

location to TF1-274 in return for recanting his evidence and accordingly I find him guilty of knowingly and wilfully interfering with the Special Court's administration of justice by offering a bribe to TF1-274 in return for recanting his testimony, and accordingly I find him guilty of Count 3.

98. I also find out that over and above the bribe and the offer of relocation the Accused persisted in trying to have TF1-274 agree to recant his evidence and that this amounted to attempting to influence TF1-274 to recant his previous testimony. I find that this amounts to knowing and wilful interference with the Court's administration of justice by seeking to attempt to influence a witness to recant his evidence his previous testimony in the Taylor trial. Accordingly, I return a verdict of guilty on Count 4.

99. As I have noted, TFI-274's evidence was at some points disjointed, and having reviewed it I am unable to pin-point any precise evidence of influence and attempting to influence in late February 2011. Accordingly, I return a verdict of not guilty on Count 5.

DISPOSITION

Count 1: GUILTY of knowingly and wilfully interfering with the Special Court's administration of justice by offering a bribe to Mohamed Kabbah, a witness who has given evidence in proceedings before Trial Chamber II in the proceedings of *The Prosecutor v. Taylor*, in violation of Rule 77(A)(iv);

Count 2: GUILTY of knowingly and wilfully interfering with the Special Court's administration of justice by otherwise interfering with Mohamed Kabbah, a witness who has given testimony before Trial Chamber II in the proceedings of *The Prosecutor v. Taylor*, in violation of Rule 77(A)(iv);

Count 3: GUILTY of knowingly and wilfully interfering with the Special Court's administration of justice by offering a bribe to TF1-274, a witness who has given testimony before Trial Chamber II in the proceedings of *The Prosecutor v. Taylor*, in violation of Rule 77(A)(iv);

Count 4: GUILTY of knowingly and wilfully interfering with the Special Court's administration of justice by otherwise interfering with TF1-274, a witness who has given testimony before Trial Chamber II in the proceedings of *The Prosecutor v. Taylor*, in violation of Rule 77(A)(iv);

Count 5: NOT GUILTY of knowingly and wilfully interfering with the Special Court's administration of justice by otherwise interfering with TF1-274, a witness who has given testimony before Trial Chamber II in the proceedings of *The Prosecutor v. Taylor*, in violation of Rule 77(A)(iv);

Count 6: GUILTY of knowingly and wilfully interfering with the Special Court's administration of justice by offering a bribe to TF1-516, a witness who has given testimony before Trial Chamber II in the proceedings of *The Prosecutor v. Taylor*, in violation of Rule 77(A)(iv);

Count 7: GUILTY of knowingly and wilfully interfering with the Special Court's administration of justice by offering a bribe to TF1-585, a witness who has given testimony before Trial Chamber II in the proceedings of *The Prosecutor v. Taylor*, in violation of Rule 77(A)(iv);

Count 8: GUILTY of knowingly and wilfully interfering with the Special Court's administration of justice by otherwise interfering with TF1-585, a witness who has given testimony before Trial Chamber II in the proceedings of *The Prosecutor v. Taylor*, in violation of Rule 77(A)(iv);

Count 9: GUILTY of knowingly and wilfully interfering with the Special Court's administration of justice by otherwise interfering with Aruna Gbonda, a witness who has given testimony before Trial Chamber II in the proceedings of *The Prosecutor v. Taylor*, in violation of Rule 77(A)(iv);

Given orally in Freetown, Sierra Leone on the 21st day of June 2012, and done at The Hague, The Netherlands, this 16th day of August 2012.

T. Doherty J.

Justice Teresa Doherty
Single Judge

