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SCSL-12-02-PT
(393-397)

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THE SPECIAL COURT FOR SIERRA LEONE

Trial Chamber II

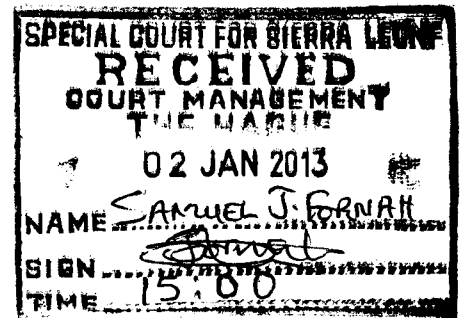
Before: Justice Teresa Doherty, Single Judge

Registrar: Ms. Binta Mansaray

Date: 2 January 2013

Case No.: SCSL-12-02-PT

INDEPENDENT COUNSEL
V.
PRINCE TAYLOR



PUBLIC

SUBMISSIONS IN COMPLIANCE WITH SINGLE JUDGE'S DECISION ON
INDEPENDENT COUNSEL'S SECOND MOTION FOR *SUBPOENA AD TESTIFICANDUM*

Independent Counsel:
Mr. William L. Gardner

Counsel for the Accused:
Mr. Rodney Dixon

Interested Parties:
Mr. Courtenay Griffiths, QC
Ms. Logan Hambrick

I. INTRODUCTION

1. On 21 December 2012, the Single Judge ordered¹ pleadings in the trial of *Independent Counsel v. Prince Taylor* to be served on Courtenay Griffiths, QC and Logan Hambrick (“Interested Parties”), both former members of the Charles Taylor Defence Team before the Special Court for Sierra Leone. The pleadings at issue were a confidential request for *subpoenas ad testificandum* for the two to give evidence in the trial involving another former member of the defence team, investigator Prince Taylor.²
2. The premise of Independent Counsel’s request was that subpoenas were warranted because Griffiths and Hambrick could provide “highly relevant evidence regarding Defendant Prince Taylor’s unlawful efforts to contact Charles Taylor prosecution witnesses and influence Eric Senessie to assert an untruthful defence as to those witnesses”.³ Independent Counsel claimed that the Interested Parties had a “unique” relationship with Prince Taylor and that their testimony “will expose, or at the very least has ‘a good chance’ of exposing, the Defendant’s wrongdoing”.⁴
3. The Single Judge thus ordered Griffiths and Hambrick “to inform the Court and Independent Counsel if they are willing to co-operate and answer the questions of Independent Counsel by written answer to be filed with Court Management Services on or before Wednesday 2 January 2013”.⁵

¹ *Independent Counsel v. Prince Taylor*, SCSL-12-02-PT-34, Decision on Independent Counsel’s Second Motion for *Subpoena ad Testificandum*, 21 December 2012 (“Order”).

² *Independent Counsel v. Prince Taylor*, SCSL-12-02-PT-25, Confidential Independent Counsel’s Second Motion for *Subpoenas ad Testificandum*, 4 December 2012 (“Motion”). This document was reclassified as public and served on Griffiths and Hambrick on 21 December 2012.

³ Motion, para. 1.

⁴ Motion, para. 27.

⁵ Order, p. 8.

4. The Interested Parties note that the Appeals Chamber of the Special Court for Sierra Leone observed a judicial recess between 17 December 2012 and 4 January 2013.⁶ They further note that the time between Christmas and New Years Day is routinely observed as a non-working holiday period.
5. Despite the intervening holiday period and in accordance with the Single Judge's Order, Griffiths and Hambrick hereby inform the Court that they are willing to co-operate and answer the questions of Independent Counsel, as long as the issues do not pertain to matters covered by legal professional privilege, stemming from their representation of Charles Taylor. The Independent Counsel is welcome to liaise with Griffiths and Hambrick further in this respect.
6. Further, the Interested Parties would like Independent Counsel and the Single Judge to take note of the submissions below.

II. SUBMISSIONS

7. The Interested Parties are astounded at the tone and accusations made against them by Independent Counsel. Having read the re-classified Motion, the parties are unclear whether they are being requested to give evidence as potential witnesses or whether they are somehow now suspects of a scheme imagined by Independent Counsel, with no evidential basis whatsoever. The Interested Parties object to the highly speculative nature of Independent Counsel's application for *subpoenas ad testificandum* and the attendant bad light it unfairly casts on them.
8. The Interested Parties submit that if Independent Counsel truly believes that either one of them had any involvement in the alleged misconduct of Prince Taylor, then evidentiary material should be provided to them forthwith. Absent such evidence, the Interested Parties expect that Independent Counsel will retract the prejudicial statements made in

⁶ *Prosecutor v. Charles Taylor*, SCSL-03-01-A-1370, Order Scheduling Judicial Recess, 11 December 2012.

the Motion⁷ and will desist from casting further spurious allegations in an attempt to obtain subpoenas and fish for evidence against the accused, Prince Taylor.⁸ If Independent Counsel does not clarify his position in respect of the Interested Parties, the Interested Parties, essentially then as accused individuals themselves, may have to take legal advice as to whether to invoke their right to silence.

9. The Interested Parties are concerned that since their time to make submissions in respect of the Independent Counsel's Motion fell during the holiday period, they did not have sufficient time to analyze and evaluate the serious accusations (baseless though they may be) leveled against them by Independent Counsel, and to consider the repercussions this may have on their ability to co-operate with him.
10. Additionally, given the complete dearth of evidence linking either Griffiths or Hambrick to the alleged actions of Prince Taylor, the Interested Parties query the Independent Counsel's decision to seek to interview and subpoena only them, where countless members of the defence team have worked in Sierra Leone with Prince Taylor over the years. To be sure, Griffiths and Hambrick were not the only two team members to have had "numerous interactions and discussions with the Defendant during their tenures at the SCSL",⁹ to have filed "a motion to recall four prosecution witnesses and hear evidence from Saleem Vahidy",¹⁰ to "have been aware of all matters related to the Defence team", or to have had "considerable contact" with Prince Taylor when he worked as an investigator.¹¹ There is no objective basis upon which the Independent Counsel could have singled them out for testimony. The Interested Parties note that this thwarts the

⁷ Motion, paras. 18-27.

⁸ Motion, para. 31 ("The relationship between the Defendant and the Defence Team has been at the heart of this matter since it first arose. It is long past the time for the sun to shine on it.") The Interested Parties submit that this is a clear fishing expedition.

⁹ Motion, para. 4.

¹⁰ Motion, para. 5.

¹¹ Motion, footnote 23.

“necessity” requirement of seeking a subpoena; the Independent Counsel has not demonstrated that the information sought is not obtainable through other means.¹²

11. To be absolutely clear, neither of the Interested Parties have any evidence regarding Defendant Prince Taylor’s allegedly unlawful efforts to contact prosecution witnesses in the case of Charles Taylor and to influence Eric Senessie to assert an untruthful defence as to those witnesses. Thus, the Interested Parties are curious as to why their testimony is being sought to this end; it certainly does not meet the “purpose” requirement for seeking a subpoena.¹³

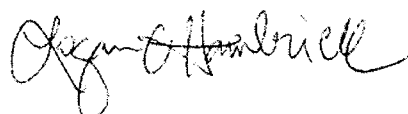
III. CONCLUSION

12. The Interested Parties hope this indication assists the Chamber and Independent Counsel.

Respectfully Submitted,



Courtenay Griffiths, Q.C.
Dated this 2nd Day of January 2013
London, United Kingdom



Logan Hambrick
Dated this 2nd Day of January 2013
The Hague, The Netherlands

¹² Motion, para. 11 (acknowledging that “The subpoena applicant must also demonstrate that the information sought from the witness is not obtainable through other means”), quoting *Prosecutor v. Norman*, SCSL-04-14-T-617, Decision on Motions by Moinina Fofana and Sam Hinga Norman for the Issuance of Subpoenas Ad Testificandum to HE Alhaji Dr Ahmed Tejan Kabbah, President of the Republic of Sierra Leone, 13 June 2006, para. 30.

¹³ Motion, para. 12 (acknowledging that “the subpoena applicant must show a ‘reasonable basis for the belief that the information to be provided by the prospective witness is likely to be of material assistance to the applicant’s case, or that there is at least a good chance that it would be of material assistance’...”).