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SCSL-12-02-PT
(450-453)

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SPECIAL COURT FOR SIERRA LEONE

TRIAL CHAMBER II

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

Registrar: Binta Mansaray

Case No.: SCSL-12-02-PT

Date: 10 January 2013

INDEPENDENT
COUNSEL

v.

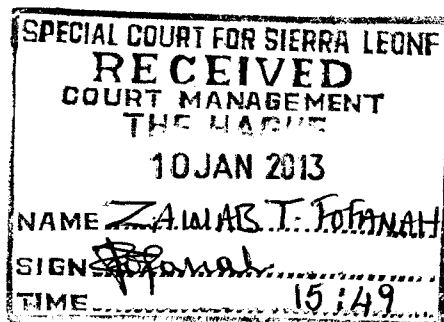
Prince TAYLOR

PUBLIC

DECISION ON DEFENCE APPLICATION TO MAKE PUBLIC THE CONFIDENTIAL – UNDER
SEAL SUBMISSION OF CONFIDENTIAL REPORT OF THE INDEPENDENT COUNSEL

Independent Counsel:
William L. Gardner

Counsel for the Accused:
Rodney Dixon



I, Justice Teresa Doherty, acting as a Single Judge of Trial Chamber II of the Special Court for Sierra Leone (“Special Court”);

SEISED of the application by Defence Counsel received via email on 9 January 2013 “that the Chamber lift the confidentiality for only the Defence in respect of three documents that are currently confidential which the Defence requires for trial preparation. Could you kindly convey this request to Judge Doherty in order that the matter could be dealt with swiftly. I can of course file a motion if required” (“Application”).¹

NOTING that the application included “The Report of the Independent Counsel of 12 April 2011 which dealt with his investigation of Mr. Prince Taylor, his findings and the manner in which he put the case against Mr. Taylor”² but did not give any detailed grounds for seeking the orders or explanation for the delay in making the application.

NOTING Independent Counsel’s Response via email received on 9 January 2013 wherein Independent Counsel stated that Defence Counsel had asked for copies of the report and that he had provided him with the fact portion that comprised an account of what the Accused had told and that he had “declined to provide the report in its entirety because (he) felt it included “work product”” and a confidential report to the Court.

RECALLING a Direction sent by email on 4 January 2012 from a Legal Officer of the Special Court for Sierra Leone to Counsel and Interested Parties on my behalf wherein it was stated:

“Justice Doherty will be at the Special Court in The Hague from 8-10 January 2013 before travelling to Freetown and given the date scheduled for opening of the trial and the fact that she has given liberty to apply she instructs me that she will accept urgent oral applications at the Court. Such oral applications may be conveyed to the judge by electronic means through (named legal officers) by e-mail contact.”

RECALLING the “Confidential – Under Seal Submission of Confidential Report of Independent Counsel” (“Report of 12 April 2011”).³

¹ Electronic communication dated 8 January 2013 received on 9 January 2013

² Referring to Confidential – Under Seal Submission of Confidential Report of Independent Counsel SCSL03-01-T-1240.

³ SCSL03-01-T-1240.

COGNISANT of the provisions of Article 17 of the Statute of the Special Court for Sierra Leone ("Statute") and Rules 7, 54, 66, 70, 73 and 75 of the Rules of Procedure and Evidence ("Rules") and Art. 4(B) of the "Practice Direction on Filing Documents before the Special Court for Sierra Leone".

NOTING and NOTWITHSTANDING that Defence counsel must have been aware of the existence of Report of 12 April 2011 for some months, that liberty to apply related only to the parties to the Further Decision on Independent Counsel's Second Motion for *Subpoena Ad Testificandum*⁴ and the provisions of Rules 7 and 73 of the Rules consider this application in the light of the impending trial date and the rights of an Accused enshrined in Art 17 of the Statute.

CONSIDERING that Rule 70(A) provides that ... "reports, and other internal documents prepared ... in connection with the investigation or preparation ... are not subject to disclosure ..." but that it is not appropriate, without full argument, to rule if the Report of 12 April 2011 is "work product" which is not subject to disclosure or notification.

CONSIDERING FURTHER that the Report of 12 April 2011 contains statements and opinion that are for the assistance of the Trial Chamber in considering its decision which are not relevant to this Accused, and are confidential to the Trial Chamber, but that it also contains a record of interview with the Accused and other references to him.

HEREBY ORDERS that the following portions of the Report of 12 April 2011 subject to the redactions specified be disclosed by the Manager of Court Management Section to Defence Counsel for the Accused:

1. Page 1, para. 4 -the introductory name at line 1 and all that part commencing on line 5 "3 days ... role" on page 2, line 4;
2. Page 5, line 1- the name be redacted and substituted with "TFI 585" and the sentence on line 1/2 "TFI 585 ... her" be disclosed;
3. Page 6, paras 4 (commencing "Prince Taylor") 5, 6; page 7, paras 1, 2 and 3 but the comment in brackets on page 7, para. 3 line 3 be redacted;
4. Page 7, para. 5- first sentence "The day after Taylor's interview ... "account";
5. Page 8, para. 4- insert at the beginning of line 1 "Senessie stated that" and disclose from "Fornie ... name on it" at line 3;
6. Page 9, para. 3- redact the name in para. 3 and substitute "TFI 585" and disclose from line 1 "TFI 585 ... to speak to her " at line 5; and
7. Confidential Annexes A, B and C of the Report.

REMIND Counsel of the duty to make timely applications in accordance with the Rules

⁴ Further Decision on Independent Counsel's Second Motion for *Subpoena Ad Testificandum* SCSSL -12-02-PT- 041 filed 4 January 2013

Done at The Hague, The Netherlands, this 10th day of January 2013.

Doherty J.

Justice Teresa Doherty
Single Judge

[Seal of the Special Court for Sierra Leone]

