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SCSL-12-02-A
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SPECIAL COURT FOR SIERRA LEONE

APPEALS CHAMBER

Before: A Bench of the Appeals Chamber

Registrar: Ms. Binta Mansaray

Case No: SCSL-12-02-A

Date filed: 22 February 2013

THE INDEPENDENT COUNSEL

v.

PRINCE TAYLOR

PUBLIC

NOTICE OF APPEAL

Independent Counsel:

William L. Gardner

Counsel for Prince Taylor:

Rodney Dixon

SPECIAL COURT FOR SIERRA LEONE
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Introduction

1. The Defence for Mr. Prince Talyor files this Notice of Appeal pursuant to Article 20 of the Statute and Rules 77(J) and 108 against the Judgement in Contempt Proceedings, rendered on 25 January 2013 and filed on 11 February 2013 (“Judgement in Contempt Proceedings”¹), and the Sentencing Judgment, rendered on 8 February 2013, filed on 14 February 2013 and transmitted to the parties on 15 February 2013 (“Sentencing Judgment”²)

Background to proceedings

2. Mr. Prince Taylor was charged under Rule 77(A)(iv) with offering bribes and otherwise interfering with five Prosecution witnesses who had given evidence before the SCSL in the case against Mr. Charles Taylor. It was alleged he instructed Mr. Eric Senessie to contact these witnesses to offer them bribes to recant their testimonies in late January and early February 2011. He was also charged with instructing Mr. Senessie to provide false information to the Independent Counsel in the investigation of the present contempt case on or about 26 March to 6 April 2011.
3. Mr. Taylor was convicted by the Trial Chamber of five counts of “otherwise interfering” with witnesses through the instructions it was found he gave to Mr. Eric Senessie (namely, Counts 2, 4, 7, 8 and 9).
4. The Chamber found that Mr. Taylor “otherwise interfered” with (i) four Prosecution witnesses, Mohamed Kabba, TFI-274, TFI-585, and Aruna Gbonda (not TFI-516, for which he was only charged with bribery) by instructing Mr. Senessie to contact them to recant the testimonies (Counts 2, 4, 7, and 8), and (ii) Mr. Senessie by instructing him to give false information to the Independent Counsel on or about 26 March to 6 April 2011 in the investigation of the present contempt case (Count 9).
5. Mr. Taylor was acquitted of all counts of offering bribes to the same Prosecution witnesses who had given evidence before the SCSL in the case against Mr. Charles

¹ SCSL-12-02-T-480-535.

² SCSL-12-02-T-536-550.

Taylor through the instructions he had allegedly given to Mr. Senessie (namely, Counts 1, 3, 5, and 6).

6. At his trial, the Trial Chamber heard evidence from only one witness, Mr. Eric Senessie, called by the Independent Counsel. The evidence of the five Prosecution witnesses who had given evidence in Mr. Senessie's earlier trial was admitted by agreement and they were not recalled to testify in Mr. Taylor's trial.
7. Following earlier his trial, Mr. Senessie was convicted on 21 June 2012 by the same Trial Chamber for the same incidents as well as for offering bribes to the Prosecution witnesses.³ Even though Mr. Senessie was convicted of offering bribes to the witnesses, Mr. Taylor was not convicted of doing so through instructions to Mr. Senessie. The Chamber found Mr. Senessie's evidence that he was instructed by Mr. Taylor to bribe the witnesses to be incredible.⁴ The Chamber held that Mr. Taylor's instruction to Mr. Senessie only extended as far as directing him to contact the witnesses, but not to bribing them.
8. Mr. Senessie admitted at his sentencing hearing on 4 July 2012 that he had committed the offences of bribing and interfering with the witnesses, and for the first time he blamed Mr. Taylor for instructing him to do so.⁵ As a result, the Independent Counsel sought to charge Mr. Taylor for all of the same offences, including bribery. Mr. Taylor was indicted by the Trial Chamber on 4 October 2012.⁶ Mr. Taylor would not have been charged in the absence of Mr. Senessie's statements at his sentencing hearing. The Chamber had previously found when it indicted Mr. Senessie on the basis of the evidence of the five Prosecution witnesses that there was *insufficient* evidence to charge Mr. Taylor.⁷
9. The Independent Counsel accepted that Mr. Senessie was his key witness and that his case stood or fell on Mr. Senessie's testimony.
10. All of the evidence relied on by the Defence for Mr. Taylor was agreed by the Independent Counsel and thus admitted in written form as uncontested evidence. The

³ SCSL-11-01-T-27.

⁴ Judgement in Contempt Proceedings, paras 211-212.

⁵ SCSL-11-01-T-20.

⁶ SCSL-12-02-012-023.

⁷ Decision on the Report of the Independent Counsel, 24 May 2011, SCSL-03-01-T-37571-37576, page 3.

evidence of Mr. Senessie's former lawyer, Lawyer X⁸, was admitted as part of the Defence case in this way as agreed evidence. His evidence directly undermined the credibility of Mr. Senessie's evidence on crucial questions of fact, but was nevertheless admitted with the agreement of the Independent Counsel who elected not to cross-examine him.

11. The evidence of three international lawyers who gave character evidence about Mr. Taylor was also admitted by agreement between the parties and was not subjected to cross-examination.
12. The Trial Chamber sentenced Mr. Taylor to two years of imprisonment for each of the convictions on Counts 2, 4, 7, and 8 and to two and a half years of imprisonment for Count 9. The Chamber ordered that each term of imprisonment should be served concurrently.

Grounds of Appeal

13. The Defence relies on the following grounds of appeal against the Judgement in Contempt Proceedings:
 - **Ground 1:** The Trial Chamber committed errors of law and fact in convicting Mr. Taylor of Counts 2, 4, 7, 8 and 9 by relying on portions of the testimony of Mr. Eric Senessie, a single witness, when (i) these portions of his evidence were uncorroborated by reliable and independent evidence, (ii) the Chamber had previously found Mr. Senessie to be a liar and had convicted him of bribing and interfering with the five Prosecution witnesses, (iii) even after Mr. Senessie claimed to be telling the whole truth in Mr. Taylor's trial, the Chamber nevertheless found that portions of his testimony on highly relevant and directly related questions of fact were *incredible* (including its finding that Mr. Senessie's evidence that he was instructed by Mr. Taylor to offer bribes to the witnesses was not credible⁹), and (iv) there were numerous reasons to find Mr. Senessie to be an incredible and unreliable witness on the evidence, who had an incentive to lie about Mr. Taylor's involvement in order to seek to reduce his prison sentence, which should have been taken into account by the

⁸ This is the pseudonym given to the witness on the order of the Trial Chamber.

⁹ Judgement in Contempt Proceedings, paras 211-212 and also see for example paras. 169 and 177.

Chamber in exercising special caution in its assessment of the evidence of a proven liar.

- Ground 2: The Trial Chamber committed errors of law and fact in convicting Mr. Taylor on the basis that portions of Mr. Senessie's testimony were not rebutted by the Defence.
- Ground 3: The Trial Chamber committed errors of law and fact in finding that Mr. Senessie's evidence should not be rejected on account of the conflicting evidence between Lawyer X and Mr. Senessie, and in making findings about the *agreed* evidence of Lawyer X without there being any foundation in the evidence for such findings.
- Ground 4: The Trial Chamber committed an error of law and fact in placing no weight at all on the evidence of Mr. Taylor's character, admitted by agreement by the parties, in assessing whether on the evidence in the trial as a whole it was probative of Mr. Taylor's guilt or innocence.

14. The Defence relies on the following grounds of appeal against the Sentencing Judgement:

- Ground 5: The Trial Chamber's sentence of two and half years of imprisonment in respect of Count 9 was excessive and disproportionate in all of the circumstances of the case.
- Ground 6: The Trial Chamber's sentence of two years of imprisonment for each of Counts 2, 4, 7, and 8 was excessive and disproportionate in light of the circumstances of the case and the sentences imposed for contempt convictions in other cases.

Ground 1

15. The Defence submits that the Trial Chamber committed both errors of law and fact in convicting Mr. Taylor on the basis of Mr. Senessie's evidence.

16. The Trial Chamber erred in law in its interpretation and application of the relevant jurisprudence which makes it permissible for a chamber to reject a witness' testimony in part and yet accept other parts of the witness' testimony:

- *First*, the Chamber wrongly found that there was no rule that "a court may or shall disregard an entire testimony for reasons of credibility and/or reliability".¹⁰ In criminal proceedings it is always open to the trier of fact to disregard the evidence of any witness as a whole on the grounds that the evidence is incredible and unreliable. This error invalidates Mr. Taylor's convictions as the Chamber should have disregarded Mr. Senessie's evidence in its entirety given that it was so riddled with lies and inconsistencies and was directly contradicted by the evidence of the five Prosecution witnesses and Lawyer X which had been admitted in writing by agreement.
- *Second*, the relevant jurisprudence places great emphasis on the need for independent corroboration and for the utmost caution to be exercised if any part of a witness' testimony is to be relied on to convict an accused when other parts of the witness' testimony have been rejected.¹¹ The Chamber misdirected itself as to the application of these legal principles when assessing the evidence. Having found Mr. Senessie to be an incredible witness in part, the Chamber failed to assess the rest of his evidence with the utmost caution and failed to rely on it only if genuinely corroborated by reliable and independent evidence. Mr. Taylor's convictions are all based on the Chamber's reliance on only part of Mr. Senessie's evidence in the absence of any reliable and independent corroborating evidence. Having found that Mr. Taylor should be acquitted of the bribery charges because Mr. Senessie's evidence was incredible and uncorroborated, the Chamber erred in finding that he could nevertheless be convicted of otherwise interfering with the witnesses on Mr. Senessie's evidence about the same instructions he allegedly received

¹⁰ Judgement in Contempt Proceedings, para. 141.

¹¹ Judgement in Contempt Proceedings, paras. 141-144.

from Mr. Taylor which was similarly uncorroborated by independent evidence.

17. The Defence submits that the Chamber committed errors of fact in finding that the testimony of Mr. Senessie could be relied on to support a conviction beyond reasonable doubt when he had been found to be liar in his previous trial and again found to be an incredible witness in part in Mr. Taylor's trial, and particularly given that there was no reliable and independent corroboration for his testimony:

- The evidence that the Chamber did identify as corroborating Mr. Senessie's account either itself originated from Mr. Senessie and was thus self-serving or did not directly support Mr. Senessie's allegations and was equally consistent with a finding of innocence. In respect of Count 9, for example, the Chamber found that Mr. Senessie's evidence that he had been instructed by Mr. Taylor to provide false information to the Independent Counsel was corroborated by the fact that Mr. Senessie did not attend a meeting with the Independent Counsel.¹² The fact that Mr. Senessie did not attend a meeting does not corroborate the allegation made by Mr. Senessie that he did not attend the meeting because he was told to do so by Mr. Taylor. The fundamental question of whether he was in fact instructed by Mr. Taylor still comes back to an assessment of Mr. Senessie's evidence only, without any independent evidence to corroborate what he actually claims happened. The same is true of each piece of evidence the Chamber sought to rely on as corroborating evidence for each of the Counts.¹³ The evidence in relation to the payment of Le200,000 on 1 February 2011, similarly, all comes from Mr. Senessie; there is no independent corroboration of Mr. Senessie's claim that these monies were paid to him by Mr. Taylor for his transport to the locate the witnesses.¹⁴ Moreover, Mr. Senessie had claimed in his evidence that Mr. Taylor had promised to pay him \$500 to contact the witnesses and that the Le200,000 was given as an immediate payment for his transport to locate them. The Chamber found his evidence about the \$500 to be incredible¹⁵, yet the Chamber nevertheless held that he could be believed about the payment of Le200,000.

¹² Judgement in Contempt Proceedings, para. 195.

¹³ The findings that are challenged are at paras 152-158, 164-166, 168-170, 182-183, 185-195, 201-203, and 205-208 of the Judgement in Contempt Proceedings. The Defence will address each of these findings in the Appellant's submissions.

¹⁴ Judgement in Contempt Proceedings, paras 165-166.

¹⁵ Judgement in Contempt Proceedings, paras. 211-212.

- Further, the Chamber erred in relying on the evidence of the five Prosecution witnesses as being corroborative.¹⁶ Their evidence did not independently corroborate Mr. Senessie's account. Their evidence about Mr. Taylor's "involvement" had all come from Mr. Senessie telling them that it was Prince Taylor who wanted to speak and meet with them. Once again, whether this was true or not depends entirely on whether Mr. Senessie was to be believed. There was no evidence from these five witnesses that Mr. Taylor ever met with them, and the evidence about TFI-585 speaking on the telephone to a person she assumed was Prince Taylor is all based on her being told by Mr. Senessie that she was speaking to Mr. Taylor.¹⁷ There was no evidence from her or any other evidence that the person was in fact Mr. Taylor. She never recognised or identified the voice as being Mr. Taylor's, she never spoke to the person who made the call again, and the person never identified himself to her. Again, it comes back to Mr. Senessie alone. The Chamber also failed to take into account the extent to which Mr. Senessie's evidence about his meetings and discussions with the five witnesses was directly contradicted by the very evidence of these witnesses.¹⁸
- The Defence submits that the Chamber erred in placing any reliance for the truth of its contents on Exhibit P1, a filing made on behalf of Mr. Senessie by his Defence Counsel, Mr. Lansana, which purported to outline the evidence that Mr. Taylor would give if he was called as a Defence witness for Mr. Senessie.¹⁹ The document was not signed or attested to in any way by Mr. Taylor and its contents were disputed by Mr. Taylor at his trial. Once again, the evidence about the contents of this document comes entirely from Mr. Senessie. It cannot serve as evidence to corroborate Mr. Senessie's evidence when it is itself evidence that emanates from him. All roads lead back to Mr. Senessie. There was no independent and reliable evidence to corroborate Mr. Senessie's account.

¹⁶ Judgement in Contempt Proceedings, paras. 151-158, 187, and 201-208.

¹⁷ See transcript of testimony of TFI-585 from Mr. Senessie's trial that as admitted in Mr. Taylor's case at pp. 51-53 (transcript of 11 June 2012).

¹⁸ For example, see Judgement in Contempt Proceedings, paras 162-164 and closing submission of Defence, transcript of 18 January 2013 .

¹⁹ Judgement in Contempt Proceedings, paras. 153, 164, and 201-208. See also transcript of 18 January 2013, pp. 433-435 when the P1 was admitted in evidence. The Defence stated clearly that it could not be relied on as a "statement" made by Mr. Taylor or used for the truth of its contents.

- The Trial Chamber erred in not assessing Mr. Senessie's evidence with special caution in light of the findings adverse to his credibility, taking into account that he had an incentive to fabricate evidence in order to seek to reduce his sentence, and given the numerous reasons to question his credibility and reliability on the evidence.²⁰
- A prime illustration (and there are many others) is that the Chamber did not take into account, and accord any weight to, the fact that Mr. Senessie had lied to the Chamber about the cheque for Le30,000 (Exhibit J6). He said that he had told the Independent Counsel about the cheque in his November 2012 interview but had asked the Independent Counsel not to record this fact in his interview notes as he did not have the cheque with him at the interview.²¹ The Independent Counsel stated clearly for the record that if he had been told about the cheque by Mr. Senessie during the interview he would have recorded it in his interview notes, and that there was no record of the cheque having been mentioned in his notes.²² It was also plainly evident from the emails that the Independent Counsel had sent to the Defence when he was given the cheque on 9 January 2013, just before the start of the trial that this was the first time (9 January) that he had been told about the cheque.²³ The only reasonable inference to be drawn was that Mr. Senessie had lied to the Chamber. However, the Chamber wrongly stated that Mr. Senessie had replied in cross-examination that "he did not have evidence, therefore, he did not inform the Independent Counsel of it [the cheque]".²⁴ The record of the evidence is precisely the opposite; that he did inform the Independent Counsel of the cheque at his November 2012 interview. The Chamber perpetuated this error in its finding that Mr. Senessie's "explanation for not telling Independent Counsel in his record of interview about the Le30,000 cheque" is "unconvincing".²⁵ His evidence was that he *did* tell Independent Counsel about the cheque when he was interviewed in November 2012. The Independent Counsel has stated for the record that if Mr. Senessie had told him about the cheque in this interview that it would have been recorded in his notes, and that it is not recorded in his notes. Although the Chamber did find

²⁰ Judgement in Contempt Proceedings, para. 147.

²¹ Transcript of 16 January 2013, pp. 378-390.

²² Transcript of 17 January 2013, pp. 449-456. The notes of interview were admitted as Exhibit D3.

²³ The emails were admitted as Exhibit D4.

²⁴ Judgement in Contempt Proceedings, para. 159.

²⁵ Judgement in Contempt Proceedings, para. 169.

Mr. Senessie's account "unconvincing", it failed to take into account that it had been deliberately misled by Mr. Senessie. Instead, the Chamber found on the basis of his evidence about the cheque that he was telling the truth that these payments were used by Mr. Taylor to control Mr. Senessie²⁶ (and the cheque was used as "corroboration" for the fact that Mr. Senessie visited Mr. Taylor on his way to his trial in June 2012, when the sole evidence about the cheque came from Mr. Senessie himself²⁷).

18. The Defence submits that no reasonable trier of fact could have been certain to the criminal standard of beyond reasonable doubt to convict Mr. Taylor on the basis of Mr. Senessie's evidence. The errors committed by the Trial Chamber have therefore occasioned a miscarriage of justice, and the Appeals Chamber is requested to reverse the convictions against Mr. Taylor on all counts.

Ground 2

19. The Defence submits that the Trial Chamber erred in law in its interpretation and application of the fundamental principle that no adverse inference should be drawn from the fact that an accused elected not to testify in his defence. The Chamber repeatedly relied on the fact that no evidence had been presented by the Defence to rebut allegations made by Mr. Senessie as a factor in favour of finding that portions of Mr. Senessie's evidence were credible and reliable.²⁸ These findings were used by the Chamber to convict Mr. Taylor. This error should be found to have invalidated the convictions as the Chamber relied on Mr. Taylor's silence to bolster the credibility of Mr. Senessie's evidence.
20. The Defence further submits that the Trial Chamber committed an error of fact in finding that a failure to rebut Mr. Senessie's allegations meant that they were credible. No reasonable trier of fact could have made these findings in light of the very serious questions about Mr. Senessie's credibility and the findings to that effect. This error has thus occasioned a miscarriage of justice which should be rectified by the Appeals Chamber reversing the convictions against Mr. Taylor.

²⁶ Judgement in Contempt Proceedings, para. 170.

²⁷ Judgement in Contempt Proceedings, para. 186.

²⁸ Judgement in Contempt Proceedings, paras. 156, 158, 165, 166, 167, 168, 177, 187, 189, 193, and 202.

Ground 3

21. The Trial Chamber concluded that it did not “reject Senessie’s evidence on the basis of the conflicting evidence between Lawyer X and Senessie”.²⁹
22. The Defence submits that Trial Chamber committed errors of law and fact in reaching this conclusion and in making findings about Lawyer X’s evidence (i) which had no foundation in the evidence, and (ii) without at least affording Lawyer X the opportunity to provide his evidence in respect of the matters about which findings were to be made.
23. Lawyer X gave evidence, *inter alia*, about being appointed as Mr. Senessie’s lawyer before the SCSL and meeting with him on 14 July 2011 at the SCSL, the day before his initial appearance for this case.³⁰ Before this meeting on 12 July 2011, Lawyer X had spoken with the Independent Counsel who had made an offer of a plea bargain if Mr. Senessie was prepared to testify against Mr. Taylor. Lawyer X informed Mr. Senessie of this offer at their meeting on 14 July. Following their discussions, an endorsement was signed by Mr. Senessie (Exhibit D5(c)). Lawyer X represented Mr. Senessie at his initial appearance, but withdrew from the case thereafter. Mr. Lansana was appointed as counsel for Mr. Senessie at Mr. Senessie’s request.
24. As acknowledged by the Chamber³¹, Lawyer X’s evidence was central to Mr. Senessie’s credibility. Mr. Senessie claimed, *inter alia*, in categorical terms that Lawyer X tried to force him to plead guilty and that they argued over this matter, that Lawyer X had not discussed at all with him Lawyer X’s potential professional conflict, that Lawyer X had stated that he could not represent Mr. Senessie due to other work commitments, that Lawyer X had forced him under duress to sign the endorsement, but that Mr. Senessie had insisted on changing the last paragraph of the endorsement and had himself written down the words that should be inserted (which were to the effect that he may consider the Independent Counsel’s offer). Each of these allegations was denied by Lawyer X in his statement, and many other allegations made by Mr. Senessie were directly disputed by Lawyer X.

²⁹ Judgement in Contempt Proceedings, para. 181. The specific findings that are challenged are at paras. 172-181.

³⁰ His statement was admitted into evidence as Exhibit D5.

³¹ Judgement in Contempt Proceedings, para. 180.

25. The Chamber's findings sought to diminish the clear contradictions between Lawyer X's evidence, which had not been contested by the Independent Counsel, and the allegations made by Mr. Senessie, many of which were very serious. By way of illustration,

- The Chamber emphasised that the discussions between Lawyer X and Mr. Senessie had been in English which is not Mr. Senessie's first or second language. Yet, Mr. Senessie never once said in his evidence that he did not understand in any way what Lawyer X was saying. Lawyer X never pointed to language being a problem in any way in his statement.
- The Chamber found that Mr. Senessie could have misunderstood Lawyer X informing him about the Independent Counsel's offer of a plea bargain as advice to plead guilty. Yet, Mr. Senessie strenuously asserted in his evidence that Lawyer X wanted him to plead guilty and forced him to sign the endorsement which was an acknowledgment of guilt. Lawyer X in his statement made it plain that they discussed the Independent Counsel's offer, as is recorded in his notes, and that he never at any stage sought to convince Mr. Senessie to plead guilty. On the contrary, Mr. Senessie's own evidence is that he included a final paragraph in the endorsement that he would enter a plea of not guilty but that he may wish to reflect further on the matter. There could be no doubt that he had signed an endorsement on his instructions which stated that he would *not* plead guilty.
- The Chamber stated that Lawyer X made it clear that he could not continue to act in the case unless Mr. Senessie signed the endorsement. Yet, Lawyer X did not say in his statement that he could not act if the endorsement was not signed. He stated clearly that the endorsement reflected their discussions and that Mr. Senessie signed it voluntarily. None of this evidence was challenged by the Independent Counsel.

26. The Chamber erred in making these findings which had no foundation in the evidence. Moreover, the Chamber failed to take into account the glaring contradictions between the evidence of Lawyer X and Mr. Senessie. Mr. Senessie repeatedly claimed in categorical terms that Lawyer X had sought to get him to plead guilty and that he had not discussed at all with him the potential professional conflict.

These allegations were refuted in the clearest terms by Lawyer X. The Defence submits that no reasonable trier of fact could ever have found that Mr. Senessie was a credible witness when his allegations were flatly denied by Lawyer X whose evidence had not been disputed by the Independent Counsel.

27. Furthermore, the Chamber erred in making its findings without hearing Lawyer X's evidence on the matters about which it sought to make these findings. For example, Lawyer X could have given evidence about whether language was in any way a barrier in their discussions during the meeting. He could have given evidence about whether there was any misunderstanding that could have led Mr. Senessie to believe that he was being advised by Lawyer X to plead guilty or in respect of the Chamber's erroneous finding about Lawyer X not continuing in the case if the endorsement was unsigned. The Chamber and parties should at least have questioned Lawyer X about these matters before any findings could be made in respect of them.
28. Lawyer X's evidence is critical not only to Mr. Senessie's credibility in general, and the extent of the lies he was prepared to tell before the Trial Chamber, but also to the specific allegation made by Mr. Senessie that he was instructed and controlled in every way by Mr. Taylor in this case, and that he had acted "like a sheep".³² The Chamber relied on this evidence to convict Mr. Taylor of having instructed Mr. Senessie to interfere in the administration of justice. Furthermore, Lawyer X's evidence demonstrated in the submission of the Defence that Mr. Senessie was keeping his options open on whether falsely to put the blame on Mr. Taylor. On Lawyer X's evidence Mr. Senessie had specifically instructed him that he should remove the final paragraph of the endorsement which had stated that he did not wish to assist with any prosecution of Prince Taylor and that Mr. Taylor had done "nothing wrong".³³ Instead, Mr. Senessie included the paragraph which only stated that he would plead not guilty at his initial appearance but that he may wish to consider his position further thereafter.³⁴ The Defence submitted that this conduct was inconsistent with him being instructed by Mr. Taylor to protect him (Mr. Taylor) at all costs, as it left open the possibility of falsely placing all the blame on Mr. Taylor at a later stage, as Mr. Senessie did in Mr. Taylor's trial to seek to reduce his term of imprisonment.

³² See for example, Judgement in Contempt Proceedings, paras. 171, 185 and 192.

³³ See D5, para. 19.

³⁴ D5(c).

29. The errors in the Chamber's findings have thus occasioned a miscarriage of justice which should be rectified by the Appeals Chamber reversing Mr. Taylor's convictions, based as they are on the testimony of Mr. Senessie.

Ground 4

30. The Chamber admitted the evidence of three international lawyers for whom Mr. Taylor had worked before the SCSL. Their evidence addressed Mr. Taylor's character as a trustworthy, honest and reliable investigator (Exhibits D6, 7, and 8). This corroborated evidence was not challenged by the Independent Counsel.
31. The Chamber found that this evidence was not "probative of innocence or guilt of the Accused" and not "persuasive that, because the Accused has acted in an honest and upright manner in the past, I should assume he could not do anything wrong and, therefore preclude myself from fully considering and weighing the evidence adduced in this trial".³⁵
32. The Defence submits that the Trial Chamber erred in reaching this conclusion. The Defence never requested that the Trial Chamber should be precluded from considering and weighing the evidence adduced at trial on account of the evidence from the international lawyers. The Defence had submitted that such evidence should be weighed together with all of the evidence in trial as part of the Chamber's determination about guilt or innocence. The Chamber's approach to the character evidence was wrong as a matter of law and fact, resulting in the Chamber attaching no weight at all to this evidence. The Appeals Chamber is requested to assess this evidence in conjunction with its assessment of the evidence in light of the other grounds of appeal, and to reverse the convictions against Mr. Taylor.

Grounds 5 and 6

33. The Appellant submits that the length of the terms of imprisonment imposed by the Trial Chamber were excessive and disproportionate in the circumstances of the case and in comparison with other contempt cases.

³⁵ Judgement in Contempt Proceedings, para. 147.

34. The Appellant will rely on various submissions in support of these grounds, including:

- The Chamber erred in considering that there was no hierarchy in Rule 77 or on the facts of the case which could make certain forms of interference with witnesses more serious than other forms of interference.³⁶
- The Chamber failed to give sufficient weight to the fact that Mr. Taylor had been acquitted of all of the charges of offering bribes to witnesses, and had not instructed Mr. Senessie to bribe any witnesses.³⁷
- The Chamber was wrong to rely in sentencing Mr. Taylor on the finding that “money did ... come into this case, as Senessie said, ‘nothing is for nothing’ and he showed an awareness that the scheme would need funding”.³⁸ The Chamber had specifically found that this statement about “nothing is for nothing” did not come from Mr. Taylor and that Mr. Senessie’s evidence about being instructed by Mr. Taylor to offer bribes was incredible and could not be relied on.³⁹
- The Chamber erred in finding that the fact that Mr. Taylor’s trial proceeded in full before the Chamber must be regarded as an aggravating factor.⁴⁰
- The Chamber erred in finding as an aggravating factor that Mr. Taylor suggested that the Principal Defender might have connived with the Prosecution.⁴¹ The trial record shows that no such allegation was ever made by Mr. Taylor in his defence. This was an allegation made entirely by Mr. Senessie, which was not corroborated by any evidence.
- The Trial Chamber erred in not according any weight to the sentences imposed by other international courts for contempt which were substantially less than those imposed in Mr. Taylor’s case.⁴²

³⁶ Sentencing Judgment, paras 41-42.

³⁷ Sentencing Judgment, paras. 41-46, 52, and 55.

³⁸ Sentencing Judgment, paras.44- 45.

³⁹ Judgement in Contempt Proceedings, para. 211-212.

⁴⁰ Sentencing Judgment, paras. 46-49 and 52.

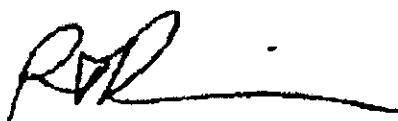
⁴¹ Sentencing Judgment, para. 50.

⁴² Sentencing Judgment, para. 55.

Conclusion

35. The Defence respectfully requests the Appeals Chamber to reverse all of the convictions against Mr. Taylor on the basis of these grounds of appeal. The full arguments in support of each ground will be set out in the Appellant's submissions.

Dated 22nd February 2013



Rodney Dixon
Counsel for Mr. Prince Taylor