

059)

SCSL-12-02-A
(118-123)

118



SPECIAL COURT FOR SIERRA LEONE

APPEALS CHAMBER OF THE SPECIAL COURT

Before: Justice Emmanuel Ayoola, Presiding
Justice Renate Winter
Justice Jon Moadeh Kamanda

Registrar: Ms. Binta Mansaray

Date filed: 25 March 2013

THE INDEPENDENT COUNSEL

v.

PRINCE TAYLOR

(Case No. SCSL-12-02-A)

PUBLIC

APPELLANT'S RESPONSE TO THE "INDEPENDENT COUNSEL'S URGENT MOTION FOR CLARIFICATION REGARDING THE DEADLINE FOR FILING SUBMISSIONS IN RESPONSE TO APPELLANT'S SUBMISSION FOR APPEALS AGAINST CONVICTION AND SENTENCE"

Independent Counsel:
Mr. William L. Gardner
Mr. Benjamin Klein

Counsel for Prince Taylor:
Mr. Rodney Dixon

Principal Defender
Ms. Claire Carlton-Hanciles

SPECIAL COURT FOR SIERRA LEONE	
RECEIVED	
COURT MANAGEMENT	
THE HAGUE	
25 MAR 2013	
NAME	ZAINAB T. FOFANAH
SIGN	<i>Zainab T. Fofanah</i>
TIME	13:05

Introduction

1. The Defence for Mr. Prince Taylor ("Appellant") files this Response to the "Independent Counsel's Urgent Motion for Clarification Regarding the Deadline for Filing Submissions in Response to Appellant's Submission for Appeals Against Conviction and Sentence" filed on 18 March 2013.¹
2. The Respondent submits that the Appellant has not complied with the applicable Practice Directions on the filing of documents and authorities that should have accompanied the "Appellant's Submissions for Appeals Against Conviction and Sentence" ("Appellant's Submissions"). The Respondent, therefore, requests urgent clarification about the date for the filing of his submissions in response to the Appellant's Notice of Appeal and the Appellant's Submissions.
3. The Respondent confirms that the Appellant filed his Notice of Appeal on 22 February 2013. He raises no issues in respect of this Notice. The Respondent states that he received an email from the Appellant's Counsel on 15 March 2013 which explained that the Appellant had filed the Appellant's Submissions with the Appeals Chamber that afternoon and which attached a copy of these Submissions to the email. The Respondent states that he then received these Submissions from Court Management on 18 March 2013.²
4. The Appellant confirms that the Appellant's Submissions were filed with the Court on Friday, 15 March 2013.³ The stamp from Court Management on this document confirms that the Appellant's Submissions were received by Court Management on 15 March 2013 at 4.15pm. The Appellant was advised by Court Management on 15 March 2013 that the Appellant's Submissions were received on that date, and that the Submissions would be circulated on Monday morning, 18 March 2013 as they had been received after 4pm on 15 March 2013. As a courtesy, the Appellant's Counsel sent a copy of the Appellant's Submissions to the Respondent by email on Friday, 15 March 2013 so that he would have a copy of the Submissions on 15 March 2013.⁴

¹ Independent Counsel's Urgent Motion for Clarification Regarding the Deadline for Filing Submissions in Response to Appellant's Submission for Appeals Against Conviction and Sentence, SCSL-12-02-56, 18 March 2013 (hereinafter "Respondent's Urgent Motion of 18 March 2013").

² Respondent's Urgent Motion of 18 March 2013, para. 3.

³ Appellant's Submissions for Appeals Against Conviction and Sentence. SCSL-12-02-A, 15 March 2013.

⁴ Respondent's Urgent Motion of 18 March 2013, Annex A.

5. The Respondent has not raised any issues concerning the filing of these Submissions, but has, as set out below, alleged that the Appellant has not complied with the applicable Practice Directions on the documents and authorities that should have accompanied these Submissions. The Respondent intends to file his response to the Appellant's Submissions, as he is of course entitled to do, and seeks clarification about the date by when his response must be filed.

The requirements of the applicable Practice Directions

6. As set out in the Appellant's Submissions, the Appellant has submitted that the most recent Practice Direction on Structure of Grounds of Appeal before the Special Court of 1 July 2011 is applicable, as it states that it applies to all "appeals from final judgments of a Trial Chamber".⁵ The Independent Counsel has relied on this Practice Direction as well. He submits that the Appellant has failed to comply with this Practice Direction in that the Appellant's submissions do not include (i) a table of contents and (ii) a book of authorities.⁶
7. The Respondent has also referred to the Practice Direction on Filing Documents before the Special Court of 27 February 2003 (and last amended on 16 January 2008) and submitted that the Appellant has not complied with this Practice Direction in that the Respondent has not been provided with the referenced transcripts and exhibits from the trial proceedings below and from the trial of *Prosecutor v Senessie*, Case No. SCSL-2011-01-1.⁷
8. The Respondent has not referred to the Practice Direction for Certain Appeals before the Special Court of 30 September 2004. The Appellant requests (as set out in the Appellant's Submissions) that in the event that this Practice Direction applies (and takes precedence over the Practice Direction of 1 July 2011), the Appeals Chamber should in the interests of justice and fairness, and pursuant to Article VII of this Practice Direction, accept the Appellant's Submissions as duly filed with the Notice of Appeal and, given that the Respondent had not as yet filed any response, the

⁵ Practice Direction on the Structure of Grounds of Appeal Before the Special Court, 1 July 2011, p. 1.

⁶ Respondent's Urgent Motion of 18 March 2013, paras. 8-9.

⁷ Respondent's Urgent Motion of 18 March 2013, paras. 4-5.

Appeals Chamber should permit the Respondent to submit his response to the Notice of Appeal and the Appellant's Submissions.⁸

9. The Appellant submits that the Appellant's List of Document and Authorities filed with the Appellant's Submissions on 15 March 2013 does comply with the Practice Direction on Filing Documents before the Special Court of 27 February 2003. It has listed each of the documents and authorities relied on by the Appellant and provided URL internet addresses for each of the non-SCSL authorities as provided for in Article 7(D). There is no requirement that the copies of the transcripts and exhibits relied on in an appeal should be filed with the submissions. The record for the appeal shall be provided to the Appeals Chamber in accordance with Rule 110. In the event that the Practice Direction for Certain Appeals before the Special Court of 30 September 2004 applies, Articles 15-17 sets out the procedure for compiling the record of appeal for distribution to the Appeals Chamber.
10. The Respondent of course has copies of all of the transcripts and exhibits from the trial proceedings below, and there should be no impediment to him preparing his submissions in response to Appellant's Submissions.
11. Moreover, the Respondent has a list of all of the authorities relied on by the Appellant with internet links for each to be able to have access to the authorities for the purposes of preparing his response. There should be no reason for the Respondent being in a position in which he is unable to prepare and file his response. In the event that the Appellant is required in addition to file a book of authorities as specified in the Practice Direction of 1 July 2011, the Appellant would request that he is permitted to do so and will file such a book of authorities immediately.⁹ Similarly, the Appellant can file a table of contents for the submissions immediately.
12. In accordance with this Practice Direction of 1 July 2011 and Rule 112, the Respondent's submissions "shall be served on the other party or parties and filed with the Registrar within fourteen days"¹⁰ of the filing of the Appellant's Submissions. In the event that the Practice Direction for Certain Appeals before the Special Court of 30 September 2004 is applicable, the Respondent has 10 days to file his response. As

⁸ See SCSL-11-02-A-168-171, as referred to in the Appellant's Submissions, in which the Appeals Chamber waived the procedural irregularities in the interests of justice and fairness.

⁹ See, as above, SCSL-11-02-A-168-171.

¹⁰ SCSL, Rules of Procedure and Evidence, Rule 112.

indicated in the Appellant's Submissions, the Appellant has no objection to the Respondent being permitted to file his response within 14 days, or within such time as determined by the Appeals Chamber.

Conclusion

13. The Appellant submits that he has complied with the applicable Practice Directions, but that in the event that any further documentation and authorities need to be filed with the Appellant's Notice of Appeal and Appellant's Submissions, the Appellant requests leave to do so and will so file immediately. The Respondent should be permitted to file his response within a time limit to be determined by the Appeals Chamber.

Dated 25th March 2013



Rodney Dixon
Counsel for Mr. Prince Taylor

Index of Authorities

1. Independent Counsel v Prince Taylor, SCSL-2012-02-A

Appellant's Notice of Appeal, SCSL-12-02-A, 22 February 2013

Appellant's Submissions for Appeals Against Conviction and Sentence. SCSL-12-02-A, 15 March 2013

2. SCSL Documents:

SCSL, Rules of Procedure and Evidence

SCSL, Practice Direction on Filing Documents before the Special Court, 27 February 2003 (last amended 16 January 2008).

SCSL, Practice Direction for Certain Appeals before the Special Court, 30 September 2004

SCSL, Practice Direction on the Structure of Grounds of Appeal Before the Special Court, 1 July 2011