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SCSL-03-01-T  
(30707-30709)

30707



## SPECIAL COURT FOR SIERRA LEONE

### TRIAL CHAMBER II

**Before:** Justice Julia Sebutinde, Presiding Judge  
Justice Richard Lussick  
Justice Teresa Doherty  
Justice El Hadji Malick Sow, Alternate Judge

**Registrar:** Binta Mansaray

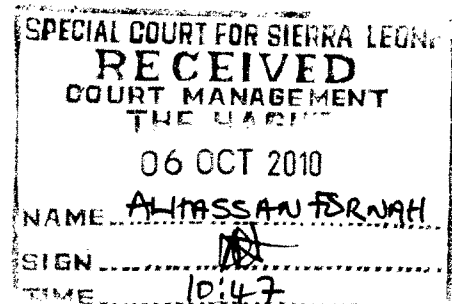
**Case No.:** SCSL-03-1-T

**Date:** 6 October 2010

PROSECUTOR

v.

Charles Ghankay TAYLOR



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DECISION ON DEFENCE MOTION TO EXCLUDE EVIDENCE FALLING OUTSIDE THE SCOPE OF  
THE INDICTMENT AND/OR THE JURISDICTION OF THE SPECIAL COURT FOR SIERRA LEONE

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**Office of the Prosecutor:**

Brenda J. Hollis  
Leigh Lawrie  
Kathryn Howarth

**Counsel for the Accused:**

Courtenay Griffiths, Q.C.  
Terry Munyard  
Morris Anyah  
Silas Chekera  
James Supuwood

TRIAL CHAMBER II (“Trial Chamber”) of the Special Court for Sierra Leone (“Special Court”);

SEISED of the “Defence Motion to Exclude Evidence Falling Outside the Scope of the Indictment and/or the Jurisdiction of the Special Court for Sierra Leone”, filed on 24 September 2010 (“Motion”),<sup>1</sup> wherein the Defence submits that much of the ex-temporal and ex-territorial evidence adduced in the case is irrelevant to the Indictment or falls outside the jurisdiction of the Special Court and should be excluded from the Trial Chamber’s consideration of the evidence when it retires to consider judgement, and requests the Trial Chamber to:

- (i) exclude Prosecution evidence which falls outside the temporal scope of the Indictment and/or the jurisdiction of the Court, or impose limits on the scope to which such evidence may be taken into consideration;
- (ii) exclude Prosecution evidence of crimes committed in locations within Sierra Leone not pleaded in the Indictment, or impose limits on the scope to which such evidence may be taken into consideration;
- (iii) exclude Prosecution evidence of crimes committed outside of Sierra Leone and impermissibly admitted pursuant to Rule 93 or other Rules;<sup>2</sup>

NOTING the “Prosecution Response to Defence Motion to Exclude Evidence Falling Outside of the Scope of the Indictment and/or the Jurisdiction of the Special Court for Sierra Leone”, filed on 29 September 2010 (“Response”),<sup>3</sup> wherein the Prosecution opposes the Motion and submits that it should be dismissed in its entirety on the basis that it is, at least in part, *res judicata*, and is otherwise untimely, insufficiently specific and contrary to the accepted international jurisprudence,<sup>4</sup> and argues that evidence outside of the scope of the Court’s jurisdiction and/or the Indictment is admissible for a wide variety of purposes including to:

- (i) provide the context in which the offences are said to have been committed;
- (ii) prove the existence of a joint criminal enterprise, command and control, *de facto* authority over a subordinate, and the *mens rea* of the Accused;
- (iii) establish by inference the elements (in particular, criminal intent) of criminal conduct occurring during the Court’s jurisdiction;

<sup>1</sup> SCSL-03-01-T-1086.

<sup>2</sup> Motion, paras 1, 4, 28.

<sup>3</sup> SCSL-03-01-T-1093.

<sup>4</sup> Response, paras 1-9, 20.




- (iv) demonstrate a deliberate or consistent pattern of conduct, which can then be relied upon to establish specific offences, including a campaign of terror, and/or modes of liability charged in an indictment; and/or
- (v) prove the chapeau requirements of Articles 2, 3 and 4 of the Statute;<sup>5</sup>

NOTING ALSO the “Defence Reply to Prosecution Response to Defence Motion to Exclude Evidence Falling Outside of the Scope of the Indictment and/or the Jurisdiction of the Special Court for Sierra Leone”, filed on 5 October 2010 (“Reply”);<sup>6</sup>

COGNISANT of the provisions of Articles 1 and 17 of the Statute of the Special Court for Sierra Leone (“Statute”) and Rules 89, 93, and 95 of the Rules of Procedure and Evidence (“Rules”);

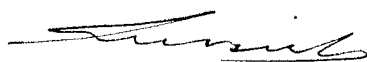
CONSIDERING that the issues raised by the Defence are matters for the Trial Chamber to determine at the end of the trial when it deliberates on the final judgement after having considered the totality of the evidence tendered into the record;

FINDING therefore that the Motion is premature at this stage of the trial and that the said issues are more appropriately addressed by the parties in the final trial Briefs and/or closing arguments;

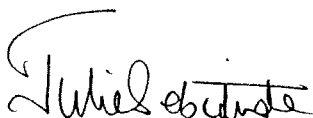
PURSUANT to Rule 73(A) of the Rules;

HEREBY DISMISSES THE MOTION.

Done at The Hague, The Netherlands, this 6<sup>th</sup> day of October 2010.

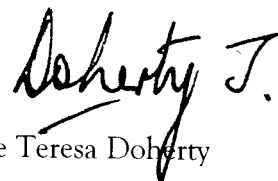


Justice Richard Lussick

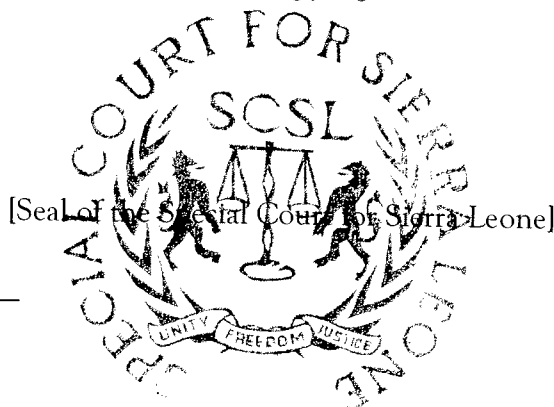


Justice Julia Sebutinde

Presiding Judge



Justice Teresa Doherty



<sup>5</sup> Response, paras 10-18.

<sup>6</sup> SCSL03-01-T-1100.