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SCSL-03-01-T
(18312-18315)

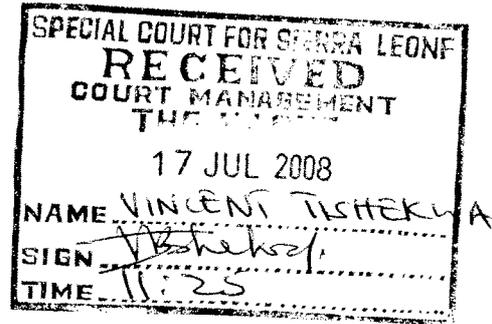
18312

SPECIAL COURT FOR SIERRA LEONE
OFFICE OF THE PROSECUTOR
Freetown – Sierra Leone

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

Registrar: Mr. Herman von Hebel

Date filed: 17 July 2008



THE PROSECUTOR

Against

Charles Ghankay Taylor

Case No. SCSL-03-01-T

PUBLIC

PROSECUTION MOTION FOR LEAVE TO CALL TF1-036 TO GIVE EVIDENCE-IN-CHIEF & CROSS-EXAMINATION *VIVA VOCE*

Office of the Prosecutor:
Ms. Brenda J. Hollis
Ms. Leigh Lawrie

Counsel for the Accused:
Mr. Courtenay Griffiths Q.C.
Mr. Andrew Cayley
Mr. Terry Munyard
Mr. Morris Anyah

I. INTRODUCTION

1. The Prosecution submits this motion under Rule 73 of the Rules of Procedure and Evidence of the Special Court for Sierra Leone (“**Rules**”).
2. On 14 March 2008, the Prosecution filed a Notice under Rule 92*bis* regarding its intention to request that the prior trial transcripts and related exhibits of witness TF1-036 from the RUF Trial be admitted into evidence in the current proceedings.¹ In this Notice, the Prosecution stated that it would not seek to examine-in-chief the witness concerned should the prior trial transcripts be admitted into evidence.² The Notice also advised that the Prosecution sought to admit *parts* only of TF1-036’s prior testimony into evidence and wished to exclude those sections which concerned *inter alia* evidence of the acts and conduct of the Accused.³ Accordingly, portions of the transcripts provided with the Notice were redacted on this basis. Further, one exhibit admitted through this witness in the RUF trial was also excluded on the basis that it concerned evidence going to proof of the acts and conduct of the Accused.⁴
3. On 31 March 2008, the Defence filed their objections to the admission of the prior testimony of TF1-036 into evidence in the current proceedings without the opportunity to cross-examine the witness.⁵ In replying to the Defence’s objections, the Prosecution requested that any cross-examination of TF1-036 ordered by the Chamber be limited to relevant areas of inquiry not covered by the prior cross-examination.⁶
4. On 15 July 2008, the Chamber issued its Decision on *inter alia* the Notice and ordered that:

“the prior trial transcripts and related exhibits relating to the testimony of TF1-036 ... be admitted into evidence pursuant to Rule 92*bis* provided

¹ *Prosecutor v. Taylor*, SCSL-03-01-T-438, “Public with Confidential Annexes A & B Prosecution Notice under Rule 92*bis* for the Admission of the Prior Testimony of TF1-036 into Evidence”, 14 March 2008 (“**Notice**”).

² Notice, para. 19.

³ Notice, para.17.

⁴ RUF Exhibit No. 40.

⁵ *Prosecutor v. Taylor*, SCSL-03-01-T-449, “Public, with Confidential Annex A Defence Objection to Prosecution Notice under Rule 92*bis* for the Admission of the Prior Testimony of TF1-036 into Evidence”, 31 March 2008.

⁶ *Prosecutor v. Taylor*, SCSL-03-01-T-458, “Confidential Prosecution Reply to “Defence Objection to Prosecution Notice under Rule 92*bis* for the Admission of the Prior Testimony of TF1-036 into Evidence”, 7 April 2008, para. 16 & 17.

the Prosecution ... make the said Witness available for cross-examination by the Defence;”⁷

II. APPLICATION

5. In order to expedite the proceedings, the Prosecution had determined it would forego leading the evidence precluded by Rule 92*bis*. In light of the fact that the Defence will be allowed unrestricted cross-examination of the witness, the Prosecution is no longer of the view that submission of the Prosecution evidence via Rule 92*bis* will achieve sufficient efficiency to forego calling the witness *viva voce* to elicit the additional relevant evidence proscribed by that Rule. In addition, recent evidentiary developments in this case require additional information not covered in the RUF trial from this witness. Therefore, in light of the Decision and these recent evidentiary developments, the Prosecution has determined it can best present the evidence of this witness *viva voce* and as a consequence does not intend to present its evidence-in-chief from TF1-036 via Rule 92*bis*.

III. CONCLUSION

6. The Prosecution requests that it be permitted to call TF1-036 to give evidence entirely *viva voce*. On this basis, both the examination-in-chief and the cross-examination of TF1-036 would be conducted *viva voce*.

Filed in The Hague,

17 July 2008

For the Prosecution,



Brenda J. Hollis
Senior Trial Attorney

⁷ *Prosecutor v. Taylor*, SCSL-03-01-T-556, “Decision on Prosecution Notice under Rule 92*bis* for the Admission of Evidence Related to *Inter Alia* Kenema District And on Prosecution Notice under Rule 92*bis* for the Admission of the Prior Testimony of TF1-036 into Evidence”, 15 July 2008 (“**Decision**”), p. 6.

LIST OF AUTHORITIES

SCSL

Prosecutor v. Taylor, SCSL-03-01

Prosecutor v. Taylor, SCSL-03-01-T-438, “Public with Confidential Annexes A & B Prosecution Notice under Rule 92*bis* for the Admission of the Prior Testimony of TF1-036 into Evidence”, 14 March 2008

Prosecutor v. Taylor, SCSL-03-01-T-449, “Public, with Confidential Annex A Defence Objection to Prosecution Notice under Rule 92*bis* for the Admission of the Prior Testimony of TF1-036 into Evidence”, 31 March 2008

Prosecutor v. Taylor, SCSL-03-01-T-458, “Confidential Prosecution Reply to “Defence Objection to Prosecution Notice under Rule 92*bis* for the Admission of the Prior Testimony of TF1-036 into Evidence”, 7 April 2008

Prosecutor v. Taylor, SCSL-03-01-T-556, “Decision on Prosecution Notice under Rule 92*bis* for the Admission of Evidence Related to *Inter Alia* Kenema District And on Prosecution Notice under Rule 92*bis* for the Admission of the Prior Testimony of TF1-036 into Evidence”, 15 July 2008