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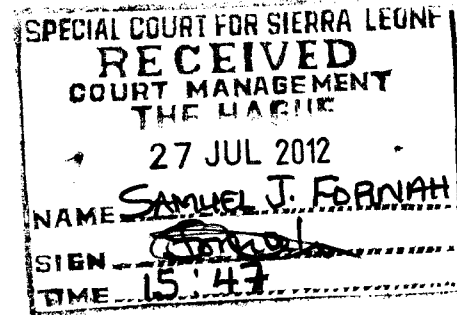
**SPECIAL COURT FOR SIERRA LEONE
OFFICE OF THE PROSECUTOR**

IN THE APPEALS CHAMBER

Before: Justice Shireen Avis Fisher, Pre-Hearing Judge

Registrar: Ms. Binta Mansaray

Date filed: 27 July 2012



THE PROSECUTOR

Against

CHARLES GHANKAY TAYLOR
(Case No. SCSL-03-01-A)

PUBLIC

**PROSECUTION REPLY TO DEFENCE RESPONSE TO PROSECUTION CONSOLIDATED
MOTION PURSUANT TO SCHEDULING ORDER FOR WRITTEN SUBMISSIONS
REGARDING RULES 111, 112 AND 113**

Office of the Prosecutor:

Ms. Brenda J. Hollis
Mr. Nicholas Koumjian
Mr. Mohamed A. Bangura
Ms. Nina Tavakoli
Ms. Leigh Lawrie
Mr. Christopher Santora
Ms. Kathryn Howarth
Ms. Ruth Mary Hackler
Ms. Ula Nathai-Lutchman
Mr. James Pace
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Defence Counsel for the Accused:

Mr. Morris Anyah
Mr. Eugene O'Sullivan
Mr. Christopher Gosnell
Ms. Kate Gibson
Ms. Magda Karagiannakis

I. INTRODUCTION AND SUBMISSIONS

1. In accordance with the Pre-Hearing Judge's "Scheduling Order for Written Submissions Regarding Rules 111, 112 and 113" ("Scheduling Order"),¹ both parties filed their respective consolidated motions on 24 July 2012. On 25 July 2012, the Prosecution filed its "Response to Defence Motion for Extensions of Time and Page Limits Pursuant to Rules 111, 112 and 113" ("Prosecution Response"), addressing the submissions in the Defence motion.²
2. On 26 July 2012, the Defence filed what it captioned "Defence Response to Prosecution Consolidated Motion Pursuant to Scheduling Order for Written Submissions Regarding Rules 111, 112 and 113" ("Defence Response").³ The Prosecution files this Reply to the purported Defence Response.
3. The Defence Response contains no substantive response addressing the issues raised in the Prosecution consolidated motion,⁴ thereby depriving the Prosecution of the ability to file any substantive Reply. By refraining from filing a substantive response, the Defence has waived the right to file such a response.
4. Paragraph 2 of the Defence Response states, "The Defence is of the view that arguments raised in the Prosecution Consolidated Motion are amplified significantly by those in the Prosecution Response and, accordingly, that the Defence's reply to the Prosecution Response would provide the most efficient way of addressing all relevant issues. Nothing further seems, therefore, necessary in this response".
5. Regardless of the merit of the Defence assertion regarding amplification – which is without merit, the Defence seems to intend to incorporate what would properly be its substantive response to the Prosecution consolidated motion into its Reply. This procedural irregularity should not be allowed. First, the Defence has waived its right to file a response. In addition, as made clear by the Scheduling Order, the Defence

¹ Scheduling Order for Written Submissions Regarding Rules 111, 112 and 113, SCSL-03-01-A-1303, 20 July 2012.

² Prosecution Response to Defence Motion for Extensions of Time and Page Limits Pursuant to Rules 111, 112 and 113, SCSL-03-01-A-1307, 25 July 2012.

³ Defence Response to Prosecution Consolidated Motion Pursuant to Scheduling Order for Written Submissions Regarding Rules 111, 112 and 113, SCSL-03-01-A-1308, 26 July 2012.

⁴ See e.g. *Prosecutor v. Ndayambaje et al.*, ICTR-98-42-AR73, Decision on Joseph Kanyabashi's appeal against the Decision of Trial Chamber II of 21 March 2007 concerning the Dismissal of Motions to Vary his Witness List, 21 August 2007, para. 11.

Reply must be limited to addressing the Prosecution Response.⁵ This limitation is consistent with established jurisprudence that a reply should be limited to addressing arguments contained in the opposing party's response.⁶ Finally, to allow the Defence to incorporate a response to the Prosecution consolidated motion into the Defence Reply would unfairly and unjustly deny the Prosecution its right of reply. Such inequality between the parties in the filing of their submissions would not be appropriate.

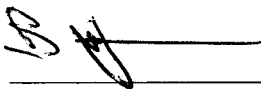
II. CONCLUSION

6. To avoid inequality and unfairness to the Prosecution, the Prosecution respectfully requests that the Pre-Hearing Judge:
 - (a) in the sound exercise of her discretion, only consider those portions of the Defence Reply which address arguments contained in the Prosecution Response, and not consider those submissions in the Defence Reply which seek to address the Prosecution consolidated motion, which submissions have been waived and would be beyond the proper scope of a Reply; or, in the alternative,
 - (b) allow the Prosecution to reply to the purported Defence "Reply". Such a remedy would further delay a decision setting out the time limits for written appellate submissions, however.

Filed in The Hague,

27 July 2012

For the Prosecution,



Brenda J. Hollis
The Prosecutor

⁵ Scheduling Order, p. 3.

⁶ *Nahimana et al., v. Prosecutor*, ICTR-99-52-A, Decision on Appellant Jean-Bosco Barayagwiza's Motion for Leave to Present Additional Evidence Pursuant to Rule 115, 5 May 2006, paras. 8, 15; *Prosecutor v. Miroslav Bralo*, IT-95-17-A, Decision on Prosecution's Motion to Strike and on Appellant's Motion for Leave to File Response to Prosecution Oral Arguments, 5 March 2007, paras. 13, 14.

INDEX OF AUTHORITIES**SCSL Cases*****Prosecutor v. Taylor, SCSL-03-01-A***

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<http://www.icty.org/x/cases/bralo/acdec/en/070305.pdf>