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SCSL-03-01-A
(10460 - 10464)

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SPECIAL COURT FOR SIERRA LEONE

IN THE APPEALS CHAMBER

Before: Justice Shireen Avis Fisher, Presiding
Justice Emmanuel Ayoola
Justice George Gelaga King
Justice Renate Winter
Justice Jon M. Kamanda
Justice Philip Nyamu Waki, Alternate Judge

Registrar: Ms. Binta Mansaray

Date: 5 December 2012

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

Public

**DECISION ON URGENT MOTION FOR RECONSIDERATION OR REVIEW OF
“SCHEDULING ORDER”**

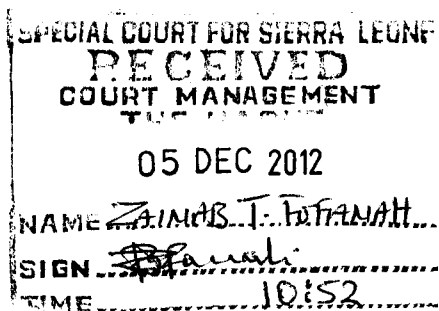
Office of the Prosecutor:

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
Mr. C man Kenny

Defence Counsel for the Accused:

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

Case No. SCSL-03-01-A



5 October 2012

THE APPEALS CHAMBER of the Special Court for Sierra Leone (“Special Court”);

SEIZED OF “Public with Public Annexes A-C and Confidential Annex D Urgent Motion for Reconsideration or Review of ‘Scheduling Order’” (Motion)¹, filed by the Defence on 4 December 2012 in which it requests that the “Scheduling Order” (“Impugned Order”)² issued by the Pre-Hearing Judge on 30 November 2012 be reconsidered or reviewed or overturned, and that oral arguments be scheduled for a reasonable time after a decision on the Defence Motion to File Additional Evidence Pursuant to Rule 115” (“Defence Rule 115 Motion”);³

NOTING the “Prosecution’s Response to the Defence’s Urgent Motion for Reconsideration or Review of ‘Scheduling Order’” (“Response”)⁴ dated 4 December 2012, in which the Prosecution submits that it “joins the Defence in requesting reconsideration or, in the alternative, review of the Impugned Order”;

RECALLING that in the Impugned Order, the Pre-Hearing Judge ordered that the oral hearing of the appeals will be held on 6 and 7 December 2012;

CONSIDERING the Defence submissions that reconsideration or review is necessary in the interests of justice; having regard to the pending Defence Rule 115 Motion and to avoid any appearance of prejudice to the Parties by reason of the volume of material recently put on record;

ALLOWS the Motion and **ORDERS** the rescheduling of the oral hearing of the appeals,

DECLARES that the oral hearing of the appeals will commence at 10:00am on 22 January 2013,

¹ *Prosecutor v. Taylor*, SCSL-03-01-A-1356, Public with Public Annexes A-C and Confidential Annex D Urgent Motion for Reconsideration or Review of “Scheduling Order”, 4 December 2012 (“Motion”).

² *Prosecutor v. Taylor*, SCSL-03-01-A-1355, Scheduling Order, 30 November 2012 (“Impugned Order”).

³ *Prosecutor v. Taylor*, SCSL-03-01-A-1352, Public with Public Annexes A-E, G-K and Confidential Annex E Defence Motion to Present Additional Evidence Pursuant to Rule 115, 30 November 2012 (“Defence Rule 115 Motion”).

⁴ *Prosecutor v. Taylor*, SCSL-03-01-A-1357, Prosecution Response to the Defence’s “Urgent Motion for Reconsideration or Review of ‘Scheduling Order’” (“Response”), 4 December 2012.

FURTHER DECLARES that all other matters pertaining to questions from the Bench, the Parties' submissions on issues and timing during the oral hearing as contained in the Impugned Order remain the same.

HEREBY INFORMS the Parties that, subject to adjustments where appropriate, the timetable for the appeal hearing shall be as follows:

22 January 2013

Morning: Prosecution's Submissions on Stated Issues

Afternoon: Taylor's Submissions on Stated Issues

23 January 2013

Morning: Prosecutor's Response; Taylor's Response

Afternoon: Prosecutor's Reply; Taylors's Reply

Justice Shireen Avis Fisher appends a Dissenting Opinion.

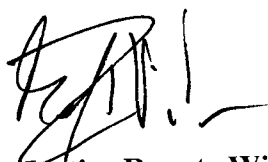
Done in The Hague, The Netherlands, this 5th day of December 2012



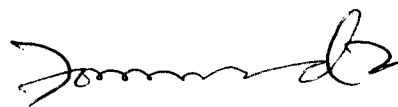
Justice Emmanuel Ayoola



Justice George Gelaga King



Justice Renate Winter



Justice Jon Kamanda



DISSENTING OPINION OF JUSTICE SHIREEN AVIS FISHER

1. I dissent from the Majority's decision to postpone the oral hearing in this appeal.
2. Since 31 August 2012, the Parties have been on notice that the oral hearing would be scheduled for 6 and 7 December 2012.¹ That is, the Parties had 95 days advance notice of the scheduled date of the oral hearing. The Motion was only filed on 4 December 2012, 92 days after notice was provided and 2 days before the scheduled hearing dates.²
3. The Parties were given the time and page limits necessary to make their appellate submissions. The Parties had the opportunity to fully set out all of their arguments and did not exhaust their page limitations.³
4. The Appeals Chamber is satisfied that further oral arguments are not necessary to supplement the written submissions,⁴ except as to six discreet issues of law raised by the Parties in their written submissions.⁵ These six issues were all identified in the Scheduling Order.⁶
5. The resolution of the pending motion pursuant to Rule 115 is irrelevant to the timing of the oral hearing.⁷ The Appeals Chamber has agreed that no oral arguments on Grounds 36, 37 and 38 are necessary at this time. The issue of the need for any additional submissions, as well as the need to schedule hearings for the presentation of evidence, will not arise until a determination is made on the Rule 115 motion, and thereafter the Parties may apply for permission to supplement their written and oral submissions if they feel it necessary.
6. The Defence for Charles Taylor attempted to avoid service of the Scheduling Order by simply refusing to accept the document served to them.⁸ That attempt is unavailing.

¹ *Prosecutor v. Taylor*, SCSL-03-01-A-1322, Pre-Hearing Judge, Notice Relevant to the Appeal Hearing, 31 August 2012.

² *Prosecutor v. Taylor*, SCSL-03-01-A-1356, Urgent Motion for Reconsideration or Review of "Scheduling Order", 4 December 2012 ("Motion").

³ *Prosecutor v. Taylor*, SCSL-03-01-A-1320, Appeals Chamber, Decision on Defence Motion for Reconsideration or Review of 'Decision on Prosecution and Defence Motions for Extension of Time and Page Limits Pursuant to Rules 111, 112 and 113' and Final Order on Extension of Time for Filing Submissions, 21 August 2012.

⁴ Rule 109(B)(ii)(a).

⁵ Rule 114(B).

⁶ *Prosecutor v. Taylor*, SCSL-03-01-A-1355, Pre-Hearing Judge, Scheduling Order, 30 November 2012 ("Scheduling Order").

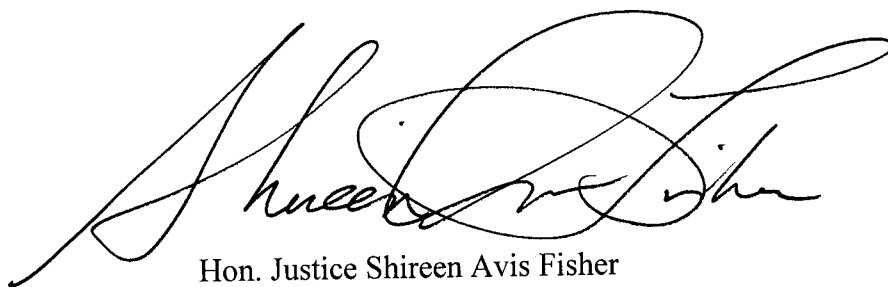
⁷ *Prosecutor v. Taylor*, SCSL-03-01-A-1353, Defence Motion to Present Additional Evidence Pursuant to Rule 115, 30 November 2012.

⁸ The relevant Proof of Service Form, of which judicial notice under Rule 94 is taken as a record produced by the Court, records that the Defence refused service of the Scheduling Order when it was presented to them. This is in accordance with Article 13(E) of the Practice Direction on dealing with Documents in The Hague Sub-Office.

7. The Parties have no right to an oral hearing on their submissions.⁹ The oral hearing is solely for the benefit of the Appeals Chamber, and the Appeals Chamber may decide that no oral hearing at all is necessary and rely completely on the written submissions of the Parties.

8. As with other judicial responsibilities, managing a complex trial or appeal requires the balancing of competing factors and the exercise of both firmness and flexibility. Here, I find no legitimate reasons to discard the long-established schedule set for the oral hearing. The Parties have been working on this case for half-a-decade. They developed and presented their appellate arguments over the course of the last six months. They were given six specific, limited issues to address during the oral hearing, all of which arise solely from the Trial Judgment and the Parties' submissions on appeal. The Parties have known for over three months that the oral hearing would take place on 6 and 7 December 2012. A motion filed two days prior, which only raises matters that have been known for the past three months, should not be the basis for further delay in the completion of this appeal.

Done in The Hague, The Netherlands, this 5th day of December 2012.



Hon. Justice Shireen Avis Fisher
Pre-Hearing Judge



⁹ Rule 109(B)(ii)(b).