



Case No. SCSL-2003-01-T

THE PROSECUTOR OF
THE SPECIAL COURT
V.
CHARLES GHANKAY TAYLOR

FRIDAY, 12 NOVEMBER 2010
10.00 A.M.
TRIAL

TRIAL CHAMBER II

Before the Judges:

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

For Chambers:

Mr Simon Meisenberg
Ms Erica Bussey

For the Registry:

Ms Advera Nsiima Kamuzora
Ms Rachel Irura
Mr Alhassan Fornah

For the Prosecution:

Ms Brenda J Hollis
Ms Maja Dimitrova

For the accused Charles Ghankay
Taylor:

Mr Courtenay Griffiths
Mr Morris Anyah
Mr Silas Chekera
Ms Logan Hambriek
Mr Hawi Alot
Ms Kimberley Punt
Ms Salla Moilanen

1 Friday, 12 November 2010

2 [Open session]

3 [The accused present]

4 [Upon commencing at 10.03 a.m.]

10:03:45 5 PRESIDING JUDGE: Good morning. We'll take appearances
6 first, please.

7 MS HOLLIS: Good morning, Madam President, your Honours,
8 opposing counsel. This morning for the Prosecution, the case
9 manager Maja Dimitrova and myself, Brenda J Hollis.

10:04:05 10 MR GRIFFITHS: Good morning, Madam President, your Honours.
11 For the Defence today, myself, Courtenay Griffiths, with me,
12 Mr Morris Anyah, Silas Chekera and Ms Logan Hambrick and we're
13 also joined by our case manager Ms Salla Moilanen and also two of
14 our legal assistants Mr Hawi Alot and Ms Kimberley Punt.

10:04:25 15 PRESIDING JUDGE: Thank you. Mr Griffiths, you're welcome
16 back to the Court. We haven't seen you for a while and I hope
17 you are feeling better.

18 MR GRIFFITHS: I am feeling a lot better. Thank you very
19 much.

10:04:36 20 PRESIDING JUDGE: Right. As you know, today is the day
21 that the Defence was asked to close their case. However, we
22 found last evening that the Defence filed one last motion.
23 That's motion 1117. That's the Defence motion for admission of
24 documents pursuant to Rule 92 bis, Prince Taylor and Stephen
10:05:05 25 Moriba. The Chamber is inclined to expedite the hearing and
26 decision of this motion, one way or the other. And, therefore,
27 we - I would like to ask the Prosecution, Ms Hollis, are you able
28 to respond to this orally? It's not a very profound issue.

29 MS HOLLIS: We would be happy to, if we had had time to

1 look at it. We received it about 4 o'clock yesterday afternoon
2 and have - feel the need to look at some of the testimony which
3 we haven't done yet. Now, we may be able, if we're not opposing
4 it, to file something this afternoon. But we do need to look up
10:05:53 5 some references in the testimony. So unfortunately I'm afraid
6 I'm not able to do that at this time, Madam President.

7 PRESIDING JUDGE: Actually, we wanted to save you the
8 trouble of filing. That's why I was alluding to oral arguments,
9 one way or the other. Because really what we were thinking, if
10:06:10 10 you don't oppose the motion, then there are no issues. And if
11 you do oppose the motion, and there are two levels, as you will
12 read in the motion, then we could hear your oral arguments and
13 issue an oral decision. That way you don't have to spend time on
14 filing anything.

10:06:29 15 MS HOLLIS: And I would love to be able to accommodate you
16 with that. But, as I said, we have not been able to look up the
17 references yet, so we're not exactly sure of what our position
18 is.

19 PRESIDING JUDGE: Ms Hollis, how much time do you reckon
10:07:01 20 you'd require?

21 MS HOLLIS: I think we should have certainly found the
22 references and formulated our position by this afternoon. One of
23 my staff is looking at it this morning, so by this afternoon we
24 should certainly have done that.

10:07:14 25 PRESIDING JUDGE: By afternoon do you mean 12 o'clock or
26 literally 2 o'clock?

27 MS HOLLIS: Well, I think even perhaps by 1.30 or 2
28 certainly we should have been able to formulate our position.

29 PRESIDING JUDGE: Mr Griffiths, what are your views,

1 supposing we heard oral arguments at 2 o'clock and then wrapped
2 up everything?

3 MR GRIFFITHS: We would be happy to accommodate that, Madam
4 President, because, as you have rightly observed, the subject
10:07:58 5 matter of this motion falls within a fairly narrow compass. It
6 effectively deals with one real issue which we assumed could be
7 resolved very quickly. I'm quite prepared to return to court
8 this afternoon in order to deal with the matter orally, if that
9 will expedite matters.

10 PRESIDING JUDGE: And I'll tell you what. Also I think the
11 parties could use this time, we'll kill two birds with one stone,
12 to examine the decisions, the two decisions that were filed early
13 this morning which were the last decisions that were pending
14 before the Trial Chamber. So this time could also be used to
10:08:37 15 accommodate that.

16 MR GRIFFITHS: Indeed, Madam President. And we have
17 considered the two decisions and there is an application we would
18 make in relation to both of them.

19 Both judgments received are fairly substantial. One of
10:08:58 20 them running to some 48 pages, that is the motion for contempt.
21 Both are quite substantial, as I say, and refer to issues which
22 we regard as being quite critical to the whole case against
23 Mr Taylor. And we appreciate that there is a three-day time
24 limit to appeal, and we are minded to appeal, but we cannot
10:09:23 25 complete what will be a mammoth task in perusing these judgments
26 in order to digest the detail of them in order to seek leave
27 within the three-day time limit.

28 So the application we would make, in light of what I've
29 just said, is a decision by your Honours that we could file any

1 motion for leave to appeal by Friday of next week, which is the
2 19th.

3 Can I just add, that that would give us, in effect, five
4 working days, excluding the Saturday and Sunday.

10:10:48 5 PRESIDING JUDGE: Ms Hollis, Mr Griffiths has made these
6 preliminary remarks; they may or may not seek leave to appeal,
7 but probably they're thinking to apply for leave to appeal, in
8 light of our two decisions. Now, we would like to hear your
9 views from the Prosecution side before we retire, because yet
10:11:07 10 this is another matter that we could resolve very easily by an
11 oral decision.

12 MS HOLLIS: Thank you, Madam President. We oppose this
13 application. The three days doesn't give any exception for
14 decisions that a party may think are particularly problematic or
10:11:28 15 complex. We don't think that the decision is complex. The
16 decision on joint criminal enterprise was very complex but that
17 was still a three-day period in which to seek leave to appeal.
18 And the three days doesn't exclude weekends. We have routinely
19 worked over weekends to meet the three-day limit. Were you to
10:11:49 20 give them until the end of next week, that would not be five
21 days, in fact, it would be seven days. And so it would be four
22 days beyond the three-day limit.

23 We do oppose it. We don't think that it is efficient. We
24 don't think that it is required in the interests of justice. And
10:12:06 25 we would ask that should they determine they're going to appeal,
26 that they have to abide by the three-day limit.

27 PRESIDING JUDGE: We will adjourn to 2.30, 2.30 this
28 afternoon, to consider all these outstanding issues. And we will
29 expect the Defence to close their case then, formally.

1 Regardless of any other incidental issues that may arise. Thank
2 you.

3 [Break taken at 10.13 a.m.]

4 [Upon resuming at 2.32 p.m.]

14:32:27 5 PRESIDING JUDGE: Good afternoon. Ms Hollis, I think we'll
6 start with your - or the Prosecution response, oral response, to
7 motion 1117.

8 MS HOLLIS: Thank you, Madam President, your Honours. This
9 Defence application under Rule 92 bis should be dismissed. First
14:32:55 10 of all, they have not established that it is in the interests of
11 justice to accept this filing outside of the deadline that was
12 imposed by your Honours.

13 Secondly, were your Honours to be disposed to accept the
14 filing and consider it, the documents and the arguments do not
14:33:15 15 satisfy the requirements of Rule 92 bis. In relation to the
16 documents pertaining to Prince Taylor, not only are the - is the
17 filing of these documents unjustifiably out of time, but it is
18 unduly cumulative.

19 As to the document relating to Stephen Jusu Moriba, this
14:33:42 20 document addresses a Defence manufactured issued and is not
21 relevant.

22 As to Prince Taylor, filing outside the deadline, the
23 Defence argues to you that they must file this application
24 outside the deadline because of issues raised by the Prosecution
14:34:06 25 after the filing deadline. However, in that same application
26 they admit the reality and the reality is that the issue of the
27 identity of Prince Taylor has been raised before, long before the
28 last days of the Defence case. And even though it was raised
29 before, the Defence chose not to call witnesses on that issue or

1 to file a Rule 92 bis application in a timely fashion. So this
2 last-minute filing after the deadline is not justified.

3 In paragraphs 9 and paragraphs 13 of the application, the
4 Defence acknowledge that the issue of the identity of Prince
14:35:02 5 Taylor has been raised before. And at paragraph 13 they give you
6 citations to earlier testimony in which this issue has been
7 raised, including the testimony of Charles Ngebeh way back on 12
8 April of this year and they cite you to page 38718. Also the
9 testimony of Fayia Musa, also known as Musa Fayia, again along
14:35:40 10 time ago on 19 April of this year and they cite you to pages
11 39286, 39287. And also they cite you to the testimony of Isatu
12 Kallon on 23 June of this year and they cite to page 43272,
13 although the topic begins on page 43271.

14 So it is an issue that has been raised much earlier in the
14:36:13 15 Defence case and they have chosen not to address it at this time.
16 It is therefore not justified that they be allowed this
17 last-minute filing.

18 You would please note if you look at the testimony of Fayia
19 Musa, that his testimony on this issue is ambiguous and certainly
14:36:34 20 allows for the Prosecution to continue to question on this issue.
21 The Prosecution is not persisting in moving forward with
22 unfounding propositions. And at page 39287 of the transcript of
23 19 April you will find the ambiguity in the responses of Fayia
24 Musa as to Prince Taylor and whether Prince Taylor was the
14:37:04 25 investigator for Charles Taylor. That is to say, the Prince
26 Taylor who was an RUF member was the investigator for
27 Charles Taylor. And he seems to indicate that he was, but again
28 it is ambiguous and merited follow-up questioning by the
29 Prosecution.

1 So the issue has been before your Honours, the issue has
2 been known to the Defence for some time, there is no
3 justification for a late filing. The fact that the issue has
4 been raised before also precludes the filing, in our submission,
14:37:42 5 because it is unduly cumulative. There is already evidence on
6 the record that deals with this matter and those same citations
7 that the Defence gave you that I have mentioned to you just
8 previously also have the witnesses indicating that there are two
9 Prince Taylors and that a Prince Taylor with whom they spoke in
14:38:06 10 relation to this case was a different Prince Taylor, except as I
11 have noted Fayia Musa's somewhat confusing and ambiguous
12 responses.

13 There is jurisprudence to the effect that unnecessarily
14 cumulative or repetitive evidence need not be admitted because it
14:38:32 15 could affect the expeditious nature of the proceedings. And in
16 that regard I am referring to the Prosecutor v Blagojevic and
17 Jokic, that is an ICTY decision of 12 June 2003 at paragraph 20
18 and Blagojevic is B-L-A-G-O-J-E-V-I-C; Jokic, J-O-K-I-C.

19 For those reasons, your Honours, we suggest that the
14:39:14 20 application as to Prince Taylor be dismissed by your Honours.

21 In terms of the application as to Stephen Jusu Moriba, this
22 application should also be dismissed as again there is no
23 justification for any filing at all actually, because this is a
24 Defence-created issue and, further, the document at annex B does
14:39:47 25 not establish that this Stephen Jusu Moriba is not Pa Moriba.

26 But first of all let's look at whether in fact as the
27 Defence tell you in their pleading this is an issue that has been
28 raised by the Prosecution where we have suggested that Gbao
29 Defence team witness assistant Stephen Jusu Moriba is the same as

1 Pa Moriba who was an adviser to Foday Sankoh. There was no
2 suggestion by the Prosecution and we certainly never mentioned
3 this person's name in relation to his being a Gbao Defence team
4 witness assistant. If you look at the citations that are given
14:40:33 5 to you by the Defence, they simply do not support their
6 application. None of those citations show you that we have
7 suggested that these two individuals are one and the same, or
8 that we have identified Stephen Jusu Moriba as a Gbao Defence
9 team witness assistant.

14:40:56 10 If you look at the citation for 3 November which was given
11 to you by the Defence, pages 48554 to 48558, you see that all of
12 the questions there relate to Yusef Dafaie and Stephen Jusu
13 Moriba. Nothing about Pa Moriba. Nothing at all. And if you
14 look at that exchange about this confusion, Yusef Dafaie or
14:41:28 15 Stephen Jusu Moriba, you will note that the first question was
16 posed by her Honour the Presiding Judge. So nothing there
17 supports their argument.

18 If you look at the 4 November citation which was obviously
19 a typographic error, it's cited as 448701, there is no such page,
14:41:56 20 but the Prosecution believes they are referring to 48701 where
21 Jusu Moriba is mentioned, but he is mentioned on that page, if
22 that is the page they're referring to, in relation to the
23 witness's house burning down. Nothing about is he the same
24 person as Pa Moriba.

14:42:20 25 In fact, your Honours, the questions on 4 November, again
26 we think it is page 48701, the only mention of him is between
27 lines 19 and 23 where he says, "Stephen Jusu Moriba and myself,
28 we built the houses." And they're talking about houses being
29 burned down.

1 The 5th of November is of import to your Honours. The
2 pages that are cited there are pages 48897 to 48898 and the
3 relevant questions on those pages begin at the bottom of page
4 48897 and they are questions, you will see that. They are
14:43:17 5 questions. "Who is Pa Moriba?" And then the question:

6 "Q. Is this the person you said was your adjutant?

7 A. No, sir."

8 There's no suggestion by the Prosecution that they are the
9 same person. These are questions, and these are legitimate
14:43:33 10 questions.

11 On 8 November the Defence cites you to pages 48956 to
12 48960. If you look at those pages you will see there is no
13 mention of Pa Moriba. Certainly no mention or suggestion that
14 Stephen Jusu Moriba is the same as Pa Moriba.

14:44:00 15 On 9 November, pages 49071 to 49072, in fact this is
16 re-direct examination. This is not the Prosecution
17 cross-examining this witness at all. It is re-direct examination
18 and the witness is asked if they're one and the same person and
19 the witness says that they are not.

14:44:25 20 So if you look at the cites they have given you there is
21 nothing to support what they say is the issue; the Prosecution
22 suggestion that Pa Moriba and Stephen Jusu Moriba are one and the
23 same person. And on that ground alone it should be dismissed as
24 there is no issue to be addressed by this document.

14:44:47 25 In addition to that, the document that you find at annex B
26 is not relevant. It does not establish that Stephen Jusu Moriba
27 is not Pa Moriba. In fact, the witness said he did not know what
28 part of the Court Stephen Jusu Moriba worked for, so the email
29 saying that Stephen Jusu Moriba worked for the Gbao Defence is of

1 no relevance here because the witness himself said he didn't know
2 what part of the Court this person worked for.

3 So we suggest there is no relevance here to assist in any
4 issue that has been raised because no issue has in fact been
14:45:37 5 raised. On those grounds, Madam President, your Honours, we
6 would ask that your Honours dismiss this application.

7 PRESIDING JUDGE: Thank you, Ms Hollis. Mr Griffiths, may
8 I ask you to briefly reply. Thank you.

9 MR GRIFFITHS: Thank you, Madam President. Madam
14:45:58 10 President, we submit that this issue can be resolved quite simply
11 and should, in our submission, have been approached in the light
12 indicated by your Honours this morning that, given the narrow
13 scope of this submission, that it could be dealt with equally
14 swiftly and simply. Because the question at the bottom of this
14:46:27 15 is quite simple: Do the Prosecution assert that the Prince
16 Taylor who works as an investigator for the Defence team for
17 Charles Taylor is the same Prince Taylor who was a member of the
18 RUF? If they are not making that assertion, if they're not
19 making that positive assertion, that matter can be dealt with
14:46:52 20 quite simply.

21 Equally, are the Prosecution suggesting that the Mr Moriba
22 referred to in the course of the evidence of Mr Kolleh is the
23 same individual as the other Moriba? And again, this matter
24 could have been dealt with quite simply. The Prosecution could
14:47:14 25 have got up and said, "We are not making such a positive
26 assertion."

27 However, it appears that the submissions made by Ms Hollis
28 on behalf of the Prosecution seeks to leave this situation
29 ambiguous. No doubt so that they can in due course exploit that

1 ambiguity, when they could, if they so chose, clarify the matter
2 now by a simple admission; that is not our position.

3 That they have not chosen to do. Now we submit, put
4 bluntly, that the submissions made by the Prosecution are the
14:47:59 5 merest obfuscation.

6 The question of timing in our submission is not material,
7 it's not fundamental. We submit, frankly, this is another
8 example of the Prosecution making to Defence witnesses positive
9 assertions when they have in their possession inconvenient

14:48:26 10 material which undermines the assertion they make. Because way
11 back in - and I remind myself of the date - way back in 2006,
12 December, Karim Khan, my predecessor as lead counsel for
13 Mr Taylor emailed Mr Jim Johnson, sitting up there in the public
14 gallery as we speak, and explained to him, sending along

14:49:01 15 Mr Taylor's CV, who he was. So the Prosecution had that material
16 in their possession when Mr Koumjian saw fit to make what the
17 Prosecution must have known was an erroneous positive submission.

18 Now in our submission it does not behove a Prosecutor who
19 is supposed to behave as a minister of justice to behave in such
14:49:29 20 an - and I say it bluntly - unethical way, making a positive
21 assertion when they have in their possession, as with the Johnny
22 Paul Koroma situation, material which undermines what they are
23 suggesting.

24 In our submission the matter is here quite simple. Do we
14:49:49 25 meet the requirements of Rule 92 bis? Proposition one: This
26 information does not go to proof of the conduct of the accused.
27 Proposition two: It is not opinion evidence. Proposition three:
28 It is reliable and it is capable of positive confirmation. And,
29 finally, it's relevant to the purpose for which we have submitted

1 it. It clarifies the situation, enables your Honours to
2 discharge your important judicial function based upon positive
3 and unambiguous facts. Those are our submissions.

14:50:45

4 PRESIDING JUDGE: Thank you. Ms Hollis, you don't have a
5 right to go beyond the reply.

14:51:02

6 MS HOLLIS: Madam President, once again, as it has done so
7 many times throughout this trial, the Defence has seen fit to
8 make serious allegations about the professionalism and ethical
9 conduct of the Prosecution. It goes beyond their pleading, it
10 goes beyond a proper reply, and we wish the opportunity to put
11 our position on the record.

12 PRESIDING JUDGE: Ms Hollis, please. Please, just give me
13 time.

14 [Trial Chamber conferred]

14:53:50

15 PRESIDING JUDGE: Ms Hollis, it normally would not be
16 procedurally proper for me to allow you a say after the reply has
17 come in. As you know, we started with a written motion 1117, I
18 then asked you to respond orally and I asked Mr Griffiths to
19 reply orally. Now, Mr Griffiths has spoken of unethical
20 behaviour on the part of the Prosecution and only in relation to
21 that will I ask you to respond, please.

14:54:19

22 MS HOLLIS: Thank you, Madam President. We wish to state
23 for the record our continuing dismay and objection to the
24 characterisations such as this unethical conduct characterisation
25 that the Defence have made about the Prosecution. In this case
26 we are faced with two scenarios they base our supposed unethical
27 conduct on. We are given a CV, which by the way is a document
28 created by an individual, whatever is in it may or may not be
29 truthful, we are given a CV to look at as to whether a person can

14:54:43

1 be an investigator. Even if this person were, contrary to what
2 they put in their manufactured CV, the RUF G5 - not G4 by the way
3 which is in the motion and the email - G5 commander, that would
4 not automatically preclude that person from acting as an
5 investigator. To say that we had no objection to this person
6 acting as an investigator does not say we are precluded from
7 questioning witnesses as to the true identity of this Prince
8 Taylor. We had the right to do so, we did so, there's nothing
9 unethical about it and we object to that characterisation of our
10 conduct. Thank you.

11 PRESIDING JUDGE: Now, as I indicated this morning after
12 hearing the submissions from both sides, we will retire briefly
13 and return with a ruling on this motion. We will also return
14 with a ruling on an earlier oral motion by the Defence regarding
15 the time limits for filing a potential leave to appeal motion.

16 I have in mind 45 minutes. We should be back in 45
17 minutes. Thank you.

18 [Break taken at 2.57 p.m.]

19 [Upon resuming at 3.47 p.m.]

15:47:51 20 PRESIDING JUDGE: Now, the following is the ruling of the
21 Trial Chamber on motion 1117, that is the public with
22 confidential annexes A and B, Defence motion for admission of
23 documents pursuant to Rule 92 bis, Prince Taylor and Stephen
24 Moriba. That's the title of the motion.

15:48:16 25 Firstly, the Trial Chamber in the interests of justice and
26 of an expeditious trial decided to hear an oral response to the
27 motion and an oral reply today in view of the Trial Chamber's
28 earlier order to the Defence to formally close their case today.
29 The Trial Chamber before deems it appropriate initially to have

1 waived the time limits prescribed under Rule 92 bis(C). Now,
2 having said that, on the time of the motion, the Trial Chamber
3 considers that the issues raised in the motion did arise during
4 the testimony of the last Defence witness, DCT-102, who testified
15:49:05 5 after the expiry of the deadline of 24 September, which deadline
6 the Trial Chamber had ordered the Defence to have filed all
7 outstanding motions. The Trial Chamber therefore finds that it
8 is in the interests of justice to entertain this motion on its
9 merits in these circumstances.

15:49:23 10 Having considered the written submissions in the Defence
11 motion 1117 and heard oral submissions in response and reply, we
12 find that the documents sought to be tendered pursuant to Rule 92
13 bis do qualify for admission under that rule in that, one, they
14 do not go to the acts - to proof of the acts and conduct of the
15:49:51 15 accused. Secondly, they are relevant and, thirdly, their
16 reliability is susceptible of confirmation. We therefore grant
17 the motion and admit the documents as follows:

18 The first document which is an email addressed to Courtenay
19 Griffiths, "Dear Defence counsel," it's an email dated Tuesday
15:50:30 20 November 9, 2010, this is written by Prince Lawrence Taylor, that
21 email will be admitted as exhibit D-475.

22 The second document, which is the curriculum vitae of
23 Prince Lawrence Taylor, is admitted into evidence as exhibit
24 D-476.

15:51:13 25 The third document, which is an email dated 16 December
26 2006 and this is addressed from Jim Johnson to Karim Khan and the
27 subject is "re Prince Taylor", that is admitted as exhibit D-477.

28 And the last document is an email dated November 10, 2010.
29 It's addressed to Terry Munyard from Scott Martin. That is

1 admitted as exhibit D-478.

2 [Exhibits D-475 to D-478 admitted]

3 Now I do realise that some of these - in fact all of these
4 were filed confidentially. Does the Defence wish to have them
15:52:08 5 admitted confidentially?

6 MR GRIFFITHS: I think we request that merely the CV be
7 filed confidentially, Madam President.

8 PRESIDING JUDGE: Very well. Madam Court Manager, I order
9 that exhibit D-476 be filed confidentially.

15:52:33 10 MR GRIFFITHS: And I'm helpfully assisted by Mr Anyah to
11 this extent: The emails will of course bear our private email
12 addresses, so I would ask that they be redacted.

13 PRESIDING JUDGE: Does the Prosecution have any objections
14 to that?

15:52:58 15 MS HOLLIS: No, we don't. Your Honours may consider a
16 public with redactions, and then a confidential unredacted.

17 MR GRIFFITHS: I'm certainly happy with that course.

18 PRESIDING JUDGE: Then, Madam Court Manager, in relation to
19 the other three documents that I've just named, with the
15:53:23 20 exception of D-476, I order that the public versions of the
21 emails would have the email addresses of counsel redacted and I
22 also order that confidential versions of the exhibits be kept
23 bearing the sequel - for example, exhibit D-475 will have a
24 confidential version, 475B. And 477 will have a confidential
15:54:10 25 version 477B. And exhibit D-478 will have a confidential version
26 that is not redacted, being 478B.

27 [Exhibits D-475B, D-477B and D-478B admitted]

28 Which brings me to the second matter, which was the matter
29 of a Defence oral request for extension of time to file possible

1 leave to appeal motions after the closure of their case. This
2 morning, as you'll recall, the Trial Chamber published two
3 decisions; namely the decision on public with confidential
4 annexes A to J and public annexes K to O, Defence motion
15:55:05 5 requesting an investigation into contempt of court by the Office
6 of the Prosecutor and its investigators. That was one decision.
7 The second decision was the decision on public with confidential
8 annexes A to D, Defence motion for admission of documents and
9 drawing of an adverse inference relating to the alleged death of
15:55:31 10 Johnny Paul Koroma. And it is in regard to these two decision
11 that Mr Griffiths, lead counsel for the Defence, intimated to the
12 Trial Chamber that the Defence is thinking of applying for leave
13 to appeal and that when they do file such motions they would
14 require an extension of time from the normal time required under
15:55:56 15 the rules, which is three days from the date of publication, to
16 effectively seven days. That's the application he made.

17 Now, as a preliminary I just wish to point out that for the
18 avoidance of doubt, the Chamber has in the interests of justice
19 decided that the order we gave earlier on 24 September as being
15:56:23 20 the date by which all Defence motions should have been filed is
21 going to be relaxed in relation to these particular leave to
22 appeal motions that you're thinking of giving. I thought I would
23 say that for the avoidance of doubt so that you don't include
24 that aspect in your motions.

15:56:45 25 But, having said that, the Chamber has a majority view on
26 your oral applications which I will ask Judge Lussick to give.

27 JUDGE LUSSICK: The Defence has made an oral application to
28 extend the time allowed under Rule 73(B) for seeking leave to
29 appeal. Instead of the three days allowed by the rule, the

1 Defence wants seven days. And this application is opposed by the
2 Prosecution.

3 We, and when I say we I'm referring to the majority of the
4 Trial Chamber, we will begin by saying that notwithstanding many
15:57:41 5 complex decisions, the Trial Chamber has never before in our
6 recollection had cause to extend the time in which leave to
7 appeal can be sought. Although it certainly would consider doing
8 so in an appropriate case.

9 The present application, however, in our view, is not such
15:58:04 10 a case. We do not see these two decisions as being so unique as
11 to warrant a variation of Rule 73(B). The decisions in question
12 do not go outside the matters raised by the Defence in their two
13 motions, so the Defence should already be very familiar with the
14 issues involved.

15:58:31 15 We consider therefore that the time allowed by Rule 73(B)
16 should be adequate.

17 In short, the Defence has not satisfied us that
18 circumstances exist which would justify a departure from the time
19 allowed under Rule 73(B) and the Defence application to extend
15:58:51 20 that time is accordingly refused.

21 PRESIDING JUDGE: I just wish to state that the Presiding
22 Judge did dissent from that decision because, in my view, the
23 grounds stated by Defence counsel in the morning did warrant some
24 extension of time. The two decisions are quite bulky, plus the
15:59:28 25 fact that the Prosecution in all fairness has ten days to respond
26 to such a motion, and it would seem unjust to me that the makers
27 of the motion for leave to appeal get only three days, of which
28 two are weekend days, and for that reason I dissented.

29 Now, having said that, I think there remains only one thing

1 for us to hear which is the - just give me a moment,

2 Mr Griffiths. Something has been brought to my attention.

3 It's been brought to my attention by CMS that exhibit
4 D-475, which is the email from Prince Taylor, contains his
16:00:32 5 private telephone numbers. Would you like those redacted?

6 MR GRIFFITHS: Yes, please. Can I put the matter globally
7 that any detail contained on those emails which might identify
8 any individual should be redacted.

9 PRESIDING JUDGE: But surely if the names are Prince
16:01:01 10 Lawrence Taylor, that does identify the person.

11 MR GRIFFITHS: Perhaps I should clarify further: In terms
12 of telephone numbers or email addresses.

13 PRESIDING JUDGE: Very well. I will adjust my earlier
14 order, Madam Court Manager, that the telephone numbers on any of
16:01:18 15 the documents filed publicly should be redacted, but they should
16 not be redacted from the confidential versions. That should
17 cover it.

18 Now, Mr Griffiths, we are ready to hear the formal closure
19 of the Defence case.

16:01:35 20 MR GRIFFITHS: Well, I'm grateful first of all to your
21 Honours for dealing with such alacrity with the outstanding
22 motions and I'm pleased to announce that is the case for
23 Mr Taylor.

24 However, before I sit down, I'd like to observe on behalf
16:01:55 25 of the Defence and express thanks to all parties for their
26 contributions in ensuring that the proceedings in the courtroom
27 have ran as efficiently and smoothly as they have done. Because
28 we are aware that time is not an unlimited resource and the trial
29 should not be permitted to meander sluggishly along to a

1 conclusion whilst witnesses, defendants even, and indeed victims,
2 suffer the stress of delay. But I must say, in thirty years of
3 practice, this is the first trial I've ever been involved in of
4 this magnitude involving so much evidence in which so little time
16:02:48 5 has been lost either through illness or any other matter and I
6 think everyone ought to be commended for their efforts in
7 ensuring that that was the case.

8 I would also, in light of the comments I make, like to make
9 clear that it has been accepted by us right from the outset that
16:03:10 10 terrible crimes were indeed committed in Sierra Leone. We share
11 concerns for the victims of these crimes and we want to make
12 clear that differences between the parties in the courtroom
13 should not be exploited as evidence that either party naturally
14 assumes a morally superior position.

16:03:35 15 On that note, that is the case for Mr Taylor.

16 PRESIDING JUDGE: Thank you. I know that according to the
17 timeline outlined by the Court in the last scheduling conference,
18 the next time we meet in court will be to hear oral arguments.
19 But I think perhaps it's necessary for me to go through the
16:04:06 20 timeline again because, from experience, it's not uncommon for
21 lay people who are following these proceedings to imagine that
22 once Mr Griffiths stands up to say he rests his case, judgment
23 comes out the next day. This is not uncommon, so, at the risk of
24 repeating myself, I will quickly go through the timeline of
16:04:35 25 events.

26 The formal closure of course was today, 12 November. A
27 judicial recess follows, starting close of business Friday, 17
28 December that ends on Monday morning at the beginning 10 January
29 2011. Now final trial briefs will be filed by close of business,

1 Friday, 14 January 2011. Written responses, if any, will be
2 filed by close of business Monday, 31 January 2011. Oral
3 arguments will be heard starting on Tuesday, 8 February 2011
4 starting with the Prosecution arguments. We will then hear
16:05:34 5 arguments on Wednesday, 9 February from the Defence, followed by
6 a day's hiatus, after which we will entertain responses from
7 either party on Friday, 11 February, starting from 9 to 11 and
8 from 11.30 to 1.30 respectively. That is the immediate timeline
9 that follows.

16:06:07 10 Now, having said that, I also wish to thank the parties for
11 their cooperation throughout this trial which has lasted upwards
12 of three years. It's been tremendous and I commend your effort.
13 I want to thank the staff of the Trial Chamber, of CMS, and all
14 the other staff that we never get to see, in the AV booths, the
16:06:37 15 staff of WVS who handle the witnesses so beautifully. And the
16 thing about this trial is it's incredible how WVS and the staff
17 of the Registry have managed to ferry all these witnesses to The
18 Hague from various parts of the world, and to keep them flowing
19 without any major delays, and this I think as judges we would
16:07:05 20 like to commend very much.

21 So whatever remains of this trial, we have no doubt that we
22 will continue to see this same kind of dedication and commitment,
23 and we have observed the highest standards on professionalism
24 from both sides. That I would like to underline.

16:07:25 25 And with those words I'd like on behalf of the judges to
26 wish you a restful break during the end of year recess. We would
27 like to wish everybody a good rest and a safe return to the Court
28 on Tuesday, 8 February. So the Court is accordingly adjourned to
29 Tuesday, 8 February at 9 o'clock for closing arguments.

1 [Whereupon the hearing adjourned at 4.08 p.m.
2 to be reconvened on Tuesday, 8 February 2011
3 at 9.00 a.m.]
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28
29

I N D E X

EXHIBITS:

| | |
|---|-------|
| Exhibits D-475 to D-478 admitted | 49114 |
| Exhibits D-475B, D-477B and D-478B admitted | 49114 |