



Case No. SCSL-2003-01-T

THE PROSECUTOR OF
THE SPECIAL COURT
V.
CHARLES GHANKAY TAYLOR

MONDAY, 13 SEPTEMBER 2010
10.00 A.M.
STATUS CONFERENCE

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 Sidney Thompson

For the Registry:

Ms Advera Nsiima Kamuzora
Ms Rachel Irura
Ms Zainab Fofanah

For the Prosecution:

Ms Brenda J Hollis
Mr Mohamed A Bangura
Ms Maja Dimitrova

For the accused Charles Ghankay
Taylor:

Mr Terry Munyard
Mr Silas Chekera
Ms Logan Hambri ck
Ms Salla Moilanen

1 Monday, 13 September 2010

2 [Open session]

3 [The accused present]

4 [Upon commencing at 10.02 a.m.]

10:02:47 5 PRESIDING JUDGE: Good morning. We will take appearances
6 first, please.

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

10:03:10 10 MR MUNYARD: Good morning, Madam President, your Honours,
11 counsel opposite. For the Defence this morning we have Silas
12 Chekera, Logan Hambri ck, our case manager Salla Moilanen, and
13 myself Terry Munyard.

14 PRESIDING JUDGE: Right. As the parties are aware, we are
10:03:27 15 going to have a status conference today at which the - amongst
16 others, the Defence will let the Chamber know whether they will
17 be calling any other witnesses or how else they wish to proceed.
18 Mr Munyard, I suppose it will be you.

19 MR MUNYARD: Thank you, Madam President. I can reiterate
10:03:48 20 what I said last week about the prospect of calling other
21 witnesses. I'm not ruling it out completely, but I think it's
22 unlikely that we would call any other live witnesses.

23 Madam President, the position as far as the Defence is
24 concerned, is this: A few weeks ago, the Court ordered that we
10:04:14 25 conclude the calling of evidence by 12 November. We are
26 obviously two months ahead of that, so we have obviously saved a
27 considerable amount of time in the interim. We still have, and
28 are still working on, a number of written motions. What we would
29 invite the Court to do is, in effect, to give us the same time

1 period as the Court gave the Prosecution after they finished
2 calling live evidence and we would make the following proposition
3 for the consideration of the Court and the parties.

4 You will recall that the Prosecution completed the
10:05:11 5 re-examination of their last witness on 30 January 2009. On 9
6 February 2009, there was then a status conference. There were
7 still some outstanding motions to be dealt with at that time.

8 On 19 February 2009, there was a further status conference
9 at which a number of oral decisions were handed down by the
10:05:46 10 Court, and the Court then ordered a final status conference on 27
11 February 2009, at which the Prosecution formally closed their
12 case. So that was a four-week period.

13 Madam President, what we would submit would be an
14 appropriate timetable is as follows: We still have, as I've
10:06:15 15 indicated, a number of written motions to submit to the Court; we
16 hope certainly to have some of those in by the end of this week.

17 The Court has already indicated quite some time ago now
18 that at the end of the Defence oral evidence, we would get the
19 rest of our annual summer leave. We are assuming that's a
10:06:48 20 two-week period. We would invite the Court to give us the two
21 weeks leave but within the four-week period that we say
22 corresponds to the four weeks that the Prosecution had between
23 the end of their last live witness and the formal closing of
24 their case. And it seems to us that an appropriate timetable
10:07:14 25 would be to take us to the end of this week as a sitting term,
26 and, as I've indicated, we hope to get some of our outstanding
27 motions lodged by the end of this week, then to have a two-week
28 vacation, and then a final week to consider what decisions, if
29 any, the Court has handed down on any written motions that were

1 still outstanding because, of course, it may well be that the
2 Court renders decisions that either party would then want to
3 consider appealing. And then have a final status conference at
4 the end of that four-week period, on which date we would formally
10:08:10 5 close our case.

6 So, in effect, what we would submit would be an appropriate
7 way forward is to give us the same amount of time as the
8 Prosecution but during that time for us to have the remaining two
9 weeks of the summer vacation.

10:08:29 10 None of the suggestions that we are putting forward are
11 written in stone. It's a proposal, and obviously others may have
12 different views and we are perfectly willing to take on board any
13 suggestions other than to vary the proposal that we've put
14 forward, but we hope that is a proposal that makes sense, is
10:08:55 15 administratively convenient, and would enable us then to close
16 our case a full month before the time that you had originally
17 ordered us to call the last witness by.

18 Madam President, those are the submissions I make at this
19 stage. I don't know if anyone on the Bench has any questions of
10:09:23 20 us as to any of the matters that I've raised but, if not, then
21 obviously you'll want to hear from Ms Hollis.

22 JUDGE DOHERTY: Mr Munyard, I have one question. You
23 mentioned outstanding motions. Are these outstanding motions in
24 relation to proposed documentary or other type of evidence and
10:09:48 25 their admission, or are they of another topic? Are you at
26 liberty to indicate to us now?

27 MR MUNYARD: At the moment I'm not but, for the most part,
28 I'm quite sure they will be documentary.

29 PRESIDING JUDGE: Mr Munyard, I just wanted to go through

1 the calendar with you just to make sure that I have understood,
2 and I think for everybody's sake, I'm looking at the diary;
3 you're proposing that the Court sits, for today being the Monday,
4 the 13th --

10:10:34 5 MR MUNYARD: Yes.

6 PRESIDING JUDGE: That the Court sits for the rest of this
7 week until Friday, 17 September.

8 MR MUNYARD: Yes.

9 PRESIDING JUDGE: And then you're proposing that the Court
10:10:46 10 recesses for two weeks.

11 MR MUNYARD: Yes.

12 PRESIDING JUDGE: Which would effectively take us to --

13 MR MUNYARD: I think 1 October, if I'm doing my mathematics
14 correctly. I may not be. I've not - no, I have not got a
10:11:08 15 calendar in front of me, and I'm simply doing the maths rather
16 than looking at days of the week.

17 PRESIDING JUDGE: It would take us to Friday, 1 October but
18 the working day would then be the following Monday.

19 MR MUNYARD: Exactly. I got the --

10:11:24 20 PRESIDING JUDGE: Which would be Monday, the 4th.

21 MR MUNYARD: Yes.

22 PRESIDING JUDGE: And then thereafter you're proposing a
23 week's sitting.

24 MR MUNYARD: Yes.

10:11:33 25 PRESIDING JUDGE: Or sitting within that week, which would
26 effectively bring us to Friday, 8 October.

27 MR MUNYARD: Yes.

28 PRESIDING JUDGE: At which stage you would wish that
29 Friday, the 8th, be the time that the Court gives the Defence to

1 officially close their case.

2 MR MUNYARD: Yes, either Friday, the 8th, or the following
3 Monday if it was more administratively convenient, that would be
4 the 11th.

10:12:27 5 PRESIDING JUDGE: Of course, Mr Munyard, all this is
6 premised on the presumption that the Court would have delivered
7 all the rulings due on whatever motions you would have filed.

8 MR MUNYARD: Yes. And, of course, that would have to be
9 reviewed at any status conference at the end of the recess. You
10:12:50 10 might want to have or schedule a status conference at the
11 beginning of the week after the recess to review the position
12 with a view to a further status conference perhaps a week later.
13 We are inevitably, to a degree, we are in uncertain territory for
14 obvious reasons, but that's always the case with a trial where
10:13:18 15 there are motions outstanding.

16 PRESIDING JUDGE: Very well. I'll ask Judge Lussick,
17 I think he had a question or comment for you.

18 JUDGE LUSSICK: Yes. Well, I think I know the answer to
19 this, Mr Munyard, but I'll just confirm it with you. You said
10:13:33 20 that the prospect of calling other witnesses, while not out of
21 the question, is unlikely. Now, is the hesitation about deciding
22 on that at the moment owing to the fact that there are some
23 further Defence motions to come, which I presume would be to
24 admit documentary evidence, and that whether more oral witnesses
10:14:07 25 are called would depend on the Trial Chamber's decision on those
26 applications to admit documentary evidence?

27 MR MUNYARD: Your Honour, that is certainly part of our
28 thinking; that if the documentary evidence was not allowed to be
29 introduced, then obviously we would have to consider an

1 alternative means of presenting it. But I'm still not ruling
2 out, and I'm not ruling out the prospect of a further witness,
3 and I can't imagine that it would be more than one, but a further
4 witness, coming to light before we close our case formally and us
10:14:50 5 applying to call that witness. If that were the case, then it's
6 highly likely that we would have to make an application to do so.
7 But I don't want to rule that out at this stage in the light of
8 my instructions, but I repeat what I said last week and what
9 I said in my opening remarks this morning, that I don't think
10:15:10 10 that it's a very likely prospect.

11 JUDGE LUSSICK: Yes, thank you.

12 PRESIDING JUDGE: Ms Hollis, we would like to hear from
13 you, your views regarding the closing of the Defence case.

14 MS HOLLIS: Thank you, Madam President. Madam President
10:15:28 15 and your Honours, as Madam President pointed out at the very
16 beginning of this case, it's not the parties who decide how to
17 manage the case; it's the Trial Chamber. So whether the Defence
18 or the Prosecution are amenable or not amenable, ultimately it is
19 for your Honours to determine how best to manage this case to
10:15:47 20 ensure not just a fair trial but also an expeditious trial and
21 one that does not waste time.

22 In relation to the close of the Defence case being 12
23 November, that was premised entirely on an estimate for the time
24 for direct, cross-examination and re-direct examination of seven
10:16:10 25 witnesses. There was no determination that no matter what the
26 situation was the Defence would have until 12 November. So that
27 was premised on seven witnesses being called and the maximum
28 amount of time for examination of those witnesses.

29 In relation to giving the Defence the same amount of time

1 the Prosecution was given after it called its last witness in its
2 case in chief. As your Honours and the Defence will recall, as
3 of the end of the evidence of the last witness for the
4 Prosecution, the Prosecution had filed all of its pleadings,
10:16:45 5 pleadings were complete, and the reason that there was a delay
6 thereafter was awaiting for your Honours to deliver decisions on
7 the outstanding motions. So here we have the Defence not even
8 having filed the motions, so it is a different scenario.

9 In terms of what we would suggest for - to your Honours for
10:17:07 10 the way forward, we would suggest this: We would suggest that
11 your Honours give the Defence until the end of next week, and I
12 believe that would be the 24th, to file any motions they intend
13 to file. If they are motions other than for admission of
14 evidence under Rule 92, we would ask that your Honours give an
10:17:38 15 expedited schedule for the pleadings. Then we would suggest --

16 PRESIDING JUDGE: Ms Hollis, are you suggesting that the
17 Prosecution is willing to expedite any response?

18 MS HOLLIS: If it is other than 92 bis, I believe under 92
19 bis, I'm not sure, we may have a shortened pleading requirement
10:17:59 20 for that. It would depend upon the number of motions that we
21 were given, but certainly we would be willing to, even on a
22 staggered basis, accept a more expeditious filing schedule to
23 respond to those motions.

24 Should, because of the number of pleadings we receive, we
10:18:26 25 require more time for certain motions, we would be willing to
26 request your Honours for permission. In any event, whether your
27 Honours were to order it or not, the Prosecution will respond
28 very expeditiously to any pleadings that are put before us for
29 response.

1 We do believe that it is in everyone's interests that this
2 trial be - the evidence portion be speedily concluded, and we
3 wish to do everything within our ability to ensure that we take
4 part in concluding the evidence phase of this trial.

10:19:03 5 We would suggest that there not be a recess which precludes
6 the filing of motions or responses, because we do believe that
7 the Defence should be ordered to file those motions by the end of
8 next week, which would be the 24th. It is the Prosecution's
9 recollection that the recess was going to be taken not at the end
10:19:29 10 of oral evidence by the Defence but at the end of the Defence's
11 case. Perhaps we misunderstood but that was our understanding of
12 the recess itself. Should your Honours consider a recess, we
13 would suggest that you nonetheless order the Defence to file
14 their motions by the end of next week and allow for pleadings to
10:19:49 15 be filed during the recess. We would suggest as an alternative
16 that there be no recess until the end of the evidence portion of
17 the trial.

18 We believe that the Defence has had ample time to present
19 their case. Indeed, as of today, they have had approximately 13
10:20:17 20 months since the beginning of their case. They've had 16 months
21 since the Rule 98 decision and they've had 18 and a half months
22 since the close of the Defence case - of the Prosecution case in
23 chief. So we believe they have had ample time to plan their case
24 and to present their case and it would in no way infringe on the
10:20:41 25 rights of the accused for your Honours to set out a schedule for
26 the submission of the Defence pleadings and to consider how we
27 might best go forward in terms of responses.

28 Those are the comments that the Prosecution would ask your
29 Honours to consider.

1 PRESIDING JUDGE: Ms Hollis, the Prosecution preference is
2 for the recess to be held after the close of the Defence case?
3 Is that so?

4 MS HOLLIS: That is correct.

10:21:19 5 PRESIDING JUDGE: And how long would you reckon the recess
6 should be?

7 MS HOLLIS: We realise that at the close of the Defence
8 case, assuming that the Prosecution has no rebuttal, and that
9 rebuttal is not allowed if we do request it, then, of course, we
10:21:37 10 do need to look at beginning to prepare our written submissions
11 which will take some time. So we would suggest that we have a
12 short recess, no more than two weeks, if your Honours are
13 inclined to give a recess at that time. During that time the
14 Prosecution may allow persons to go on staggered leave but we
10:22:01 15 would spend that time as well preparing our final submissions.

16 PRESIDING JUDGE: During the two weeks?

17 MS HOLLIS: That is correct.

18 PRESIDING JUDGE: And you spoke of a rebuttal case. Are
19 you still thinking of rebuttal in spite of your earlier
10:22:20 20 submissions that you wouldn't have a rebuttal case?

21 MS HOLLIS: We had indicated, your Honours, that as of that
22 time we were not completing a rebuttal case. As of this time, we
23 are not contemplating a rebuttal case. We have no idea what the
24 Defence motions will be and that might change our thinking, but,
10:22:36 25 as of today, we are not contemplating a rebuttal case.

26 PRESIDING JUDGE: Thank you, Ms Hollis.

27 MR MUNYARD: Madam President, might I put in one further
28 factor, and in doing so, I would also agree that if we do have a
29 recess before the close of the Defence case, that we wouldn't

1 object at all, in fact, we would agree with the Prosecution's
2 submission, that filings should still be done during the period
3 of the recess and, of course, we also would stagger any staff
4 leave during that time. But the additional point that I do want
10:23:15 5 to make about our case is that you will recall that in the course
6 of August, there was a period of time when we, first of all, had
7 to prepare for and, secondly, had to listen to and deal with the
8 reopening of the Prosecution case. So we lost, if you like, we
9 lost some time during the course of our case while those
10:23:45 10 additional witnesses were called for the Prosecution, starting on
11 August 5 and concluding, that was a Thursday, concluding I think
12 on Tuesday of the following week. So there was a gap when
13 Defence evidence wasn't being called but Prosecution evidence was
14 being called.

10:24:05 15 Our submission is that the indication - we understood the
16 indication originally was that we would have the rest of the
17 recess after Defence witnesses had been called. We've been
18 sitting now since sometime in April, we came back immediately
19 after Easter, I think, which was quite early this year, and we've
10:24:34 20 had one week's recess in that time. I can think of no other
21 court that I've ever appeared in front of that would carry on
22 sitting working, whether in court or out of court, without a
23 further break, and we would therefore respectfully invite you to
24 grant us the recess now that the oral evidence is over.

10:25:01 25 PRESIDING JUDGE: But, Mr Munyard, the last court ruling on
26 the recess was to this effect; that the recess would be taken at
27 the close of the Defence case.

28 MR MUNYARD: Very well.

29 PRESIDING JUDGE: But I'm just asking, we need to have all

1 the arguments with us before we deliberate. Would you be opposed
2 to a recess at the close of the Defence case?

3 MR MUNYARD: We would prefer the recess as soon as
4 possible, for what I think are obvious reasons. People feel the
10:25:41 5 need for the recess as soon as possible. And, as I've already
6 indicated, we would arrange our staffing so that filings could
7 continue through the recess.

8 It would actually, in court terms, it would be more
9 efficient were we to have a recess with staggered staff leave in
10:26:03 10 the course of which filings could still be made rather than a
11 complete recess at the end of the Defence case, once we formally
12 closed our case, where one would not normally expect - and, of
13 course, there wouldn't be any filings; in other words, the Court
14 administrative processes would continue through the recess, on
10:26:25 15 our suggestion. And, as I indicated at the beginning of my
16 remarks this morning, what we were putting forward were
17 suggestions, no more than that. We've not sought to dictate
18 anything to the Court. Our preference is for a recess sooner
19 rather than later.

10:26:43 20 PRESIDING JUDGE: Thank you, Mr Munyard. We will retire
21 briefly and then come back to you with the schedule.

22 [Break taken at 10.26 a.m.]

23 [Upon resuming at 11.14 a.m.]

24 PRESIDING JUDGE: The Trial Chamber has deliberated on the
11:14:37 25 submissions of counsel with a view to taking the most efficient
26 path to concluding this trial, whilst at the same time taking
27 cognisance of the fact that the staff are tired and need a break
28 somewhere at some stage.

29 Now, we reckon that we are going to sit for the rest of

1 this week - well, not sit, but the Court will be open for the
2 rest of this week, and the Defence are ordered to have filed all
3 the pending motions that they wish to file with the Trial
4 Chamber, including 92 bis, et cetera, by Friday, 24 September.

11:15:38 5 All your remaining motions are to have been filed by that date.
6 And of course normal times will run for the motions unless the
7 Trial Chamber otherwise expedites the time frames for the
8 responses.

9 So that means that for the next two weeks, it will be
11:16:01 10 business as usual.

11 We will hold a status conference on Monday, 27 September,
12 during which we will look at the volume of pending motions and
13 therefore decisions to be made, amongst other things. Also on
14 that date, we will determine the date of the next status
11:16:30 15 conference, which we feel we cannot decide now as that will be
16 pre-empting the unknown.

17 Now, we also order that the staff will have a recess
18 commencing on Tuesday, the 28th, that is the day after the status
19 conference, for two weeks, that's 14 days. Tuesday, 28
11:16:59 20 September, ending Monday, 11 October, inclusive. So your next
21 day back from the recess will be Tuesday, 12 October.

22 By staff I included the parties, of course. I thought the
23 parties were staff.

24 MR MUNYARD: Madam President, can I point out that almost
11:17:55 25 everybody in this Court is staff, but the Defence team, with
26 I think one exception, are contractors. So when you say staff,
27 our ears prick up for that reason.

28 PRESIDING JUDGE: I absolutely beg your pardon. I thought
29 that when I said staff I was only excluding the judges who, as

1 you know, always don't go on recess. We are the very last people
2 to go on recess, but that's fine, because whilst you people are
3 enjoying your recess, we will be busy writing the decisions
4 fortunately.

11:18:31 5 In any event, the next day back will be on the 12th and at
6 that stage we will on the 27th have decided the date of the next
7 status conference. We will probably have a few decisions in by
8 that date. If not, we will take it up from there.

9 So the Court is adjourned - I don't know. Are there any
11:18:55 10 questions before I adjourn?

11 MS HOLLIS: Not from the Prosecution, Madam President.

12 MR MUNYARD: Nor from the Defence. Thank you.

13 PRESIDING JUDGE: Very well, then. The Court is adjourned
14 to Monday, 27 September, at 10 o'clock in the morning.

11:19:52 15 [Whereupon the hearing adjourned at 11.20 a.m,
16 to be reconvened on Monday, 27 September 2010
17 at 10.00 a.m.]

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