



Case No. SCSL-2003-01-T

THE PROSECUTOR OF
THE SPECIAL COURT
V.
CHARLES GHANKAY TAYLOR

MONDAY, 8 FEBRUARY 2010
9.00 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:

Ms Doreen Kiggundu

For the Registry:

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 Courtenay Griffiths QC
Mr Morris Anyah
Mr Terry Munyard

1 Monday, 8 February 2010

2 [Open session]

3 [The accused present]

4 [Upon commencing at 9.00 a.m.]

08:59:26 5 PRESIDING JUDGE: Good morning. We will take appearances,
6 please.

7 MS HOLLIS: Good morning, Madam President, your Honours,
8 opposing counsel. This morning for the Prosecution, Brenda J
9 Hollis, Mohamed A Bangura, and we are joined by our case manager,
09:02:58 10 Maja Dimitrova.

11 MR GRIFFITHS: Good morning, Madam President, your Honours,
12 counsel opposite. For the Defence today myself, Courtenay
13 Griffiths, with me Mr Morris Anyah and Mr Munyard of counsel, and
14 we are joined today by Mr Hawi Alot, who joins us from Kenya on
09:03:20 15 an internship.

16 PRESIDING JUDGE: Mr Alot is welcomed to the Court.

17 MR GRIFFITHS: Now, Madam President, I remain on my feet
18 for this reason: Firstly, to apologise for my absence on Friday
19 due to my miscalculation as to how long it would take my learned
09:03:44 20 friend to conclude her cross-examination, and I apologise to the
21 Court for that; but secondly, I remain on my feet to make an
22 application for an adjournment and it is in these terms:

23 Mr Taylor's evidence, as we are all aware, has lasted a
24 considerable period of time. During the course of his
09:04:06 25 cross-examination he has indicated on a number of occasions that
26 there are matters he would like to address in re-examination. I,
27 as his lead counsel, have deliberately refrained from discussing
28 these issues with him during the course of his cross-examination,
29 primarily because of the Court's injunction that he should not

1 discuss his testimony with anyone, and also because of our
2 concern that it might be suggested that he was being rehearsed
3 during the course of his cross-examination.

09:04:51 4 Now, he has indicated to me that he has a list of topics he
5 would like to raise. I do not know, not having discussed with
6 him those topics, the merits of the issues he would like to
7 address, but it seems to us that he should have an opportunity to
8 discuss those matters with me. In our submission it's in
9 everybody's interest that that should take place: Firstly, in
09:05:21 10 order to narrow the scope of any such issues; secondly, to ensure
11 that it cannot later be said - and I say this quite bluntly -
12 that he did not have ample opportunity to set out his case before
13 this Court.

14 Now, yesterday - and this is the second point I make in
09:05:45 15 this regard - I spent a considerable period of time in the office
16 with my case manager putting together a bundle of materials for
17 re-examination. I can state at the outset that there is no fresh
18 material contained in it. I have merely extracted from materials
19 already referred to by both parties during the course of
09:06:17 20 Mr Taylor's testimony, and I have done that for this reason:
21 Firstly, by putting together - and I have here what may be the
22 proposed bundle - it will not require us to refer to various
23 lever arch files - I know that I have some 20 lever arch files
24 underneath the table here - with the difficulties involved in
09:06:48 25 locating the particular document we seek to refer to.

26 Mr Meisenberg inquired of us whether it would be possible to put
27 together such a bundle, and we have sought to do so.

28 Secondly, we have been asked by the ICC to remove from the
29 courtroom the files which are presently below the desk.

09:07:41 1 Consequently, having just one file to deal with would assist not
2 merely this trial, but also the smooth future operation of this
3 courtroom, which, as we know, has now to accommodate two trials.
4 Now, I haven't finalised this file, and I have not made copies at
5 this stage for all the parties because we do need time to
6 complete the exercise.

7 The second reason for the application is this: We now have
8 a large number of documents marked for identification, and I have
9 been alerted to the fact that a procedure has been suggested for
10 dealing with whatever issues might arise in relation to those
11 documents marked for identification. That exercise will
12 necessarily require my personal time because of my controlling
13 role in the testimony of Mr Taylor, and I cannot attend to that
14 matter and be in Court at the same time. It is a major exercise
09:08:37 15 and it is important that it is conducted properly and thoroughly
16 in order to narrow down the issues and, consequently, save time
17 here in court.

18 Now, the third factor which we would invite your Honours to
19 bear in mind is this: Now that we know the extent and content of
09:09:01 20 the cross-examination of Mr Taylor, we now have a much clearer
21 idea of our witness requirements. Now, WVS are currently
22 processing a substantial number of potential Defence witnesses.
23 Much of that time, effort and expense may now be totally
24 unnecessary.

09:09:28 25 This is an issue which, to our minds, must be addressed
26 immediately, and we would submit that it's in everybody's
27 interest, in particular WVS, that we address this issue as soon
28 as possible, and I can say that it is likely that we can now
29 reduce our witness requirements considerably. This is, however,

1 a decision which must be taken collectively by our team and must
2 also involve the defendant, and it is a matter which, in our
3 submission, needs to be attended to urgently.

09:10:18 4 My application then, your Honours, is this: That we
5 adjourn until next Monday. I note that we would be sitting short
6 days this week in any event and consequently the loss of Court
7 time will not, in our submission, be substantial whilst the
8 likely gains are, in contrast, potentially very substantial. I
9 anticipate if we are allowed this time, that we could wrap up
09:10:49 10 re-examination and the issue of the MFIs within the time
11 available next week. I am confident that that is possible.

12 Madam President, that's my application. I don't know if
13 there are any particular matters which I could assist with.

09:11:12 14 PRESIDING JUDGE: I was just wondering, Mr Griffiths, it's
15 true you have requested time to consult your client on the
16 specific matters that he reckons should be addressed in
17 re-examination, but I was just wondering are there not issues
18 that you of yourselves have determined require re-examination and
19 that, therefore, you could proceed with in the meantime?

09:11:35 20 MR GRIFFITHS: Well, that too requires some discussion with
21 the defendant. I have been taking a note throughout the
22 cross-examination of Mr Taylor, of course, of particular issues
23 which might merit revisiting during the course of re-examination.
24 Whether or not the defendant agrees with that or not is another
09:12:00 25 matter altogether. And, again, if allowed time, it is a matter
26 which could be resolved and consequently result in us taking up
27 less time in court, and it would also allow me an opportunity to
28 finalise this re-examination bundle.

29 PRESIDING JUDGE: Okay.

1 JUDGE LUSSICK: Mr Griffiths, just to make it clear what
2 you are saying. You are saying if your application for an
3 adjournment is granted, next week you could wrap up not only the
4 matter of the marked-for-identification documents, but also
09:12:47 5 re-examination?

6 MR GRIFFITHS: All of it.

7 JUDGE LUSSICK: Within the one week?

8 MR GRIFFITHS: Within the one week.

9 JUDGE LUSSICK: Thank you.

09:12:57 10 PRESIDING JUDGE: Ms Hollis, could you please respond to
11 the application for adjournment.

12 MS HOLLIS: Just a few points for your Honours to consider.
13 First of all, an adjournment to ensure that the accused cannot
14 later say that he has not had ample time to set out his case - he
09:13:18 15 had 13 weeks to set out his case on direct examination, redirect
16 is not for restating direct examination. Also during
17 cross-examination his answers often went well beyond the
18 questions and he took the opportunity to restate his case at that
19 time. So we suggest that is not a justification for adjournment.

09:13:38 20 In terms of the MFIs, it's not a procedure that was
21 suggested; it's a procedure that your Honours have determined
22 will be met. That is something that could be worked on by other
23 members of the team as well as lead Defence counsel.

24 The Prosecution's case on the merits has not changed as a
09:14:03 25 result of the tenor of cross-examination, so we suggest that that
26 is also a questionable justification for further delay to
27 determine what witnesses to call. The Defence has indicated in
28 the past that delay would expedite the proceedings. That hasn't
29 always been the case. We see we are almost a year since the

1 Prosecution's case closed and we have had one Defence witness.

2 In terms of the request for a week, what we would suggest,

3 your Honours, has merit is that the lead Defence counsel have

4 time to consult with the accused in terms of matters that the

09:14:45 5 accused wishes to raise so that lead counsel can determine if

6 those matters are appropriate for re-examination. We suggest

7 that it would not need a week for that, that that could be done

8 in the afternoons since we are having morning sessions only. So

9 we would suggest that a shorter adjournment would accomplish the

09:15:06 10 one - what the Prosecution views as - legitimate goal that has

11 been set forward by the Defence. So we do not oppose an

12 adjournment, but we question that an adjournment of one week is

13 required based on any proper justification that has been

14 presented to your Honours. Thank you.

09:15:34 15 [Trial Chamber conferred]

16 PRESIDING JUDGE: We will take some ten minutes off the

17 Bench and we will return with a ruling.

18 [Break taken at 9.16 a.m.]

19 [Upon resuming at 9.56 a.m.]

09:56:24 20 PRESIDING JUDGE: The following is the Court's ruling.

21 Now, we have noted the Defence have applied for an adjournment

22 for the rest of this week on the following grounds:

23 Firstly, that the accused wishes to raise certain matters

24 on re-examination. He has prepared a list of those matters, but

09:57:01 25 Mr Griffiths's, lead counsel, has not had a chance to discuss

26 them with him. Mr Griffiths, who has conduct of Mr Taylor's

27 case, needs time to discuss these matters with Mr Taylor with a

28 view to narrowing the scope of the issues involved.

29 Secondly, Mr Griffiths is also in the process of putting

1 together one single bundle of documents for re-examination. He
2 says that this will save time by us not having to refer to the
3 various lever arch files. However, Mr Griffiths needs time to
4 complete this bundle and to prepare copies for both the
09:57:48 5 Prosecution and the Bench.

6 Thirdly, the very large list of documents marked for
7 identification, some odd 408 or so, requires Mr Griffiths's
8 personal attention and he cannot do so if he is required to be in
9 court as well, so he requires time for that.

09:58:16 10 Fourthly, Mr Griffiths needs time to review the witness
11 requirements. He is of the view that he can reduce the witness
12 list considerably, thus saving time and expense. This is a
13 matter, he submits, that should be discussed as soon as possible.
14 It is an urgent and collective decision on the part of the
09:58:43 15 Defence team.

16 Fifthly, if the application for adjournment is granted
17 Mr Griffiths is confident that he will be able to deal with the
18 matter of the documents marked for identification as well as
19 complete the re-examination all within the course of the coming
09:59:02 20 week.

21 Now, the Prosecution in their submission does not oppose
22 the application in principle but states that one week, in their
23 opinion, is too long an adjournment.

24 Now, the judges are mindful of the rights of the accused
09:59:25 25 under Article 17.4.c to be tried without undue delay and also
26 under 17.4.b of his right to consult counsel of his choosing and
27 to have adequate time to prepare his case.

28 We are also mindful of our standing order at the end of
29 each day to Mr Taylor not to discuss his evidence with anyone and

1 that includes his counsel.

2 The result of that order has been that obviously there are
3 matters that have arisen in cross-examination that he would need
4 to consult with his chosen counsel and we are of the view that he
10:00:10 5 should be given an opportunity to do that.

6 Secondly, we have during the cross-examination of this
7 witness spent a considerable amount of time on locating documents
8 spread over 20 or so lever arch files. Mr Griffiths's commitment
9 to sort out the documents he intends to use during re-examination
10:00:35 10 is therefore a welcomed suggestion likely to result in a saving
11 of the Court's time.

12 We are also of the view that the Defence's commitment to
13 review their witness list with a view to reducing the number of
14 witnesses to be called will ultimately result in an expeditious
10:00:56 15 trial, whilst affording Mr Taylor the adequate time to prepare.
16 This is coupled with the Defence's commitment that they will
17 complete the task of re-examination as well as handling the
18 documents for admission all in the course of next week.

19 Finally we note that, in any event, what the Defence is in
10:01:19 20 effect requesting for is for four half days this week when the
21 Court is scheduled to sit, totalling 16 hours, which in our view
22 is not an unreasonable request in the circumstances. We
23 therefore grant the adjournment requested of one week.

24 In view of the adjournment granted and the requests made by
10:01:46 25 Defence counsel to consult, we are of the view that the normal
26 standing order we give to Mr Taylor not to discuss his evidence
27 is lifted for the purpose of enabling him to consult for purposes
28 of re-examination.

29 Now, having said that, I only wish to remind the parties of

1 our ruling last week regarding the motions that we will expect
2 each party to file in view of the documents that they intend to
3 submit or to tender, the MFIs that they wish to tender.

4 Mr Griffiths has committed to looking at these also in the course
10:02:40 5 of this week and to coming to a conclusive decision in the course
6 of next week, and we trust that this will be done and that a
7 motion will be filed in the time that you have committed to file
8 the motion. The same goes for the Prosecution as well.

9 If there are no other issues between the parties, I will
10:03:04 10 adjourn the trial to Monday, 15 February. And just to note that
11 that week we will be sitting full days as usual, so that too is a
12 welcomed development. Court is adjourned accordingly.

13 [Whereupon the hearing adjourned at 10.03 a.m.
14 to be reconvened on Monday, 15 February 2010
10:03:57 15 at 9.30 a.m.]

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