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SCSL-03-01-PT
(3816 - 3818)

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THE SPECIAL COURT FOR SIERRA LEONE

In Trial Chamber II

Before: Justice Richard Lussick, Presiding
Justice Teresa Doherty
Justice Julia Sebutinde

Registrar: Mr. Lovemore Munlo SC

Date: 15 December 2006

Case No.: SCSL-2003-01-PT

SPECIAL COURT FOR SIERRA LEONE	
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15 DEC 2006	
NAME	THOMAS GEORGE
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THE PROSECUTOR

-v-

CHARLES GHANKAY TAYLOR

PUBLIC

**DEFENCE RESPONSE TO
CONFIDENTIAL PROSECUTION MOTION
REQUESTING THE REFILING ON A CONFIDENTIAL BASIS
THE "URGENT AND PUBLIC: DEFENCE MOTION
FOR URGENT RECONSIDERATION DATED 12 DEC 2006**

Office of the Prosecution

Mr. Christopher Staker
Mr. James C. Johnson
Ms. Wendy van Tongeren
Ms. Shyamala Alagendra
Mr. Alain Werner

Counsel for Charles Taylor

Mr. Karim A. A. Khan
Mr. Roger Sahota

Introduction

1. On 12 December, the Defence for Mr. Taylor filed an “Urgent and Public: Defence Motion for Urgent Reconsideration of “Decision on Defence Motion for Leave to File an Oversized Motion: ‘Defence Motion on Adequate Time and Facilities for the Preparation of Mr. Taylor’s Defence’” (Defence Motion).¹ The Defence annexed thereto the Oversized ‘Defence Motion on Adequate Time and Facilities for the Preparation of Mr. Taylor’s Defence’ in which reference was made to elements in various statements made by Prosecution Witness TFI-151, who enjoys protection as a protected witness pursuant to the Trial Chamber’s “Decision on Confidential Prosecution Motion for Immediate Protective Measures for Witnesses and for Non-Public Disclosure and Urgent Request for Interim Measures and on Confidential Prosecution Motion for Leave to Substitute a Corrected and Supplemented List as Annex A of the Confidential Prosecution Motion for Immediate Protective Measures for Witnesses and for Non-Public Disclosure and Urgent Request for Interim Measures”, rendered on 5 May 2006 (Decision on Protective Measures).²

2. In “Confidential Prosecution Motion Requesting the Re-Filing on a Confidential Basis of the “Urgent and Public: Defence Motion for Urgent Reconsideration of “Decision on Defence Motion for Leave to File an Oversized Motion: ‘Defence Motion on Adequate Time and Facilities for the Preparation of Mr. Taylor’s Defence’”, filed on 14 December 2006 (Prosecution Motion),³ the Prosecution alleged that the Defence had violated the Decision on Protective Measures merely by referring to non-public information given by Witness TFI-151 in a public Motion.

¹ *Prosecutor v. Taylor*, SCSL-03-01-PT-140, Urgent and Public: Defence Motion for Urgent Reconsideration of “Decision on Defence Motion for Leave to File an Oversized Motion: ‘Defence Motion on Adequate Time and Facilities for the Preparation of Mr. Taylor’s Defence’, 12 December 2006.

² *Prosecutor v. Taylor*, SCSL-03-01-PT-99, Decision on Confidential Prosecution Motion for Immediate Protective Measures for Witnesses and for Non-Public Disclosure and Urgent Request for Interim Measures and on Confidential Prosecution Motion for Leave to Substitute a Corrected and Supplemented List as Annex A of the Confidential Prosecution Motion for Immediate Protective Measures for Witnesses and for Non-Public Disclosure and Urgent Request for Interim Measures, 5 May 2006.

³ *Prosecutor v. Taylor*, SCSL-03-01-PT-144, Confidential Prosecution Motion Requesting the Re-Filing on a Confidential Basis of the “Urgent and Public: Defence Motion for Urgent Reconsideration of “Decision on Defence Motion for Leave to File an Oversized Motion: ‘Defence Motion on Adequate Time and Facilities for the Preparation of Mr. Taylor’s Defence’, 14 December 2006.

3. This is a Response to the Prosecution Motion and a clear denial of any violation of the Decision on Protective Measures.

Response

4. The Defence submits that, contrary to the Prosecutor's allegation, it has not violated Paragraph 1(h) or any other Paragraph of the Decision on Protective Measures by referring to some elements of Witness TFI-151's various statements in the Defence Motion.
5. On the contrary, the Defence for Mr. Taylor has been extremely careful and circumspect in ensuring that we have not disclosed any information that could potentially lead to the identification of Witness TFI-151. For instance, the Defence, of its own motion, deleted the names of any individuals referred to by TFI-151 referred to in his various statements. There is, therefore, no information in the public document that would disclose, or even hint at Witness TFI-151's identity.
6. The Defence submit that there has been no breach of any witness protective order. However, in the spirit of cooperation with the Prosecution, the Defence will extract all references to any statement made by Witness TFI-151 from the public motion and collate them in a confidential annex attached to the Motion. Until that time, the Defence has no objection to the disputed annexure, attached to the Defence Motion dated on 12 December, being reclassified as confidential by CMS.

Respectfully submitted this 15th Day of December 2006,



Karim A. A. Khan
Counsel for Mr. Charles Taylor