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SCSL-03-01-T  
(19289-19294)

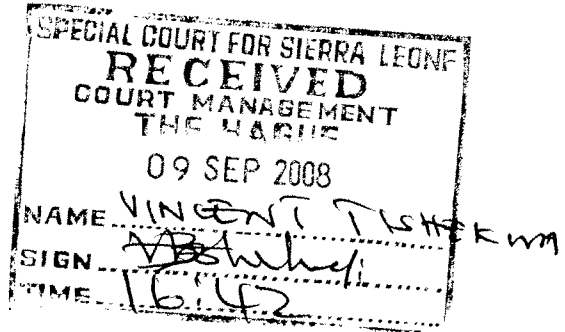
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**SPECIAL COURT FOR SIERRA LEONE**  
**OFFICE OF THE PROSECUTOR**  
Freetown – Sierra Leone

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

Registrar: Mr. Herman von Hebel

Date filed: 9 September 2008



**THE PROSECUTOR**

**Against**

**Charles Ghankay Taylor**

Case No. SCSL-03-01-T

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**PUBLIC**

**PROSECUTION MOTION FOR LEAVE TO CALL TF1-060 TO GIVE EVIDENCE-IN-CHIEF & CROSS-EXAMINATION *VIVA VOCE***

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Office of the Prosecutor:  
Ms. Brenda J. Hollis  
Ms. Leigh Lawrie

Counsel for the Accused:  
Mr. Courtenay Griffiths Q.C.  
Mr. Andrew Cayley  
Mr. Terry Munyard  
Mr. Morris Anyah

## I. INTRODUCTION

1. The Prosecution submits this motion under Rule 73 of the Rules of Procedure and Evidence of the Special Court for Sierra Leone (“**Rules**”) for leave to call TF1-060 to give evidence entirely *viva voce*.

## II. BACKGROUND

2. On 29 February 2008, the Prosecution filed a Notice under Rule 92*bis* regarding its intention to request that the prior trial transcripts of *inter alia* witness TF1-060 from the RUF Trial be admitted into evidence in the current proceedings.<sup>1</sup> In this Notice, the Prosecution stated that it would not seek to examine-in-chief the witness concerned should the prior trial transcripts be admitted into evidence.<sup>2</sup>
3. On 4 April 2008, the Defence filed their objections to the admission of the prior testimony of TF1-060 into evidence in the current proceedings without the opportunity to cross-examine the witness.<sup>3</sup> In replying to the Defence’s objections, the Prosecution requested that any cross-examination of TF1-060 ordered by the Chamber be limited to relevant areas of inquiry not covered by the prior cross-examination.<sup>4</sup>
4. On 15 July 2008, the Chamber issued its Decision on *inter alia* the Notice and ordered that:

“the prior trial transcripts and related exhibits relating to the testimony of ... TF1-060 ... be admitted into evidence pursuant to Rule 92*bis* provided that the Prosecution ... make the said [Witness] available for cross-examination by the Defence;”<sup>5</sup>

<sup>1</sup> *Prosecutor v. Taylor*, SCSL-03-01-T-429, “Public with Confidential Annexes - Prosecution Notice under Rule 92*bis* for the Admission of Evidence related to *inter alia* Kenema District”, 29 February 2008 (“**Notice**”).

<sup>2</sup> Notice, para. 24.

<sup>3</sup> *Prosecutor v. Taylor*, SCSL-03-01-T-456, “Public, with Confidential Annex - Defence Objection to Prosecution Notice under Rule 92*bis* for the Admission of Evidence related to *inter alia* Kenema District”, 4 April 2008.

<sup>4</sup> *Prosecutor v. Taylor*, SCSL-03-01-T-467, “Confidential Prosecution Reply to “Defence Objection to Prosecution Notice under Rule 92*bis* for the Admission of Evidence related to *inter alia* Kenema District”, 14 April 2008, para. 18.

<sup>5</sup> *Prosecutor v. Taylor*, SCSL-03-01-T-556, “Decision on Prosecution Notice under Rule 92*bis* for the Admission of Evidence Related to *Inter Alia* Kenema District And on Prosecution Notice under Rule

5. On 5 September 2008, this Chamber issued its decision on a similar Prosecution request finding:
- (a) the request was not *res judicata*;
  - (b) “it falls within the discretion of the Prosecution to present its case through live witness testimony”; and
  - (c) “the Prosecution has the liberty to choose the method of its presentation of evidence and may choose to change such method of presentation” and that the Defence was not prejudiced as it would have the right of cross-examination.<sup>6</sup>

### III. APPLICATION

6. This witness has additional relevant evidence not elicited in the RUF trial. In order to expedite the proceedings, the Prosecution had determined it would forego leading such additional evidence by submitting this witness’ evidence pursuant to an application under Rule 92*bis*. In light of the fact that the Defence will be allowed unrestricted cross-examination of the witness, the Prosecution is no longer of the view that submission of the Prosecution evidence via Rule 92*bis* will achieve sufficient efficiency to forego calling the witness *viva voce* to elicit the additional relevant evidence. Therefore, in light of the Decision, the Prosecution has determined it can best present the evidence of this witness *viva voce* and as a consequence does not intend to present its evidence-in-chief from TF1-060 via Rule 92*bis*.
7. The Prosecution’s request does not prejudice the Defence as the witness will be available for cross-examination.

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92*bis* for the Admission of the Prior Testimony of TF1-036 into Evidence”, 15 July 2008 (“**Decision**”), p. 6.

<sup>6</sup> *Prosecutor v Taylor*, SCSL-03-01-T-575, “Decision on Public Prosecution Motion for Leave to Call TF1-036 to Give Evidence-In-Chief & Cross-Examination *viva voce*”, 5 September 2008, pp. 3-4.

19292

**IV. CONCLUSION**

8. The Prosecution requests that it be permitted to call TF1-060 to give evidence entirely *viva voce*. On this basis, both the examination-in-chief and the cross-examination of TF1-060 would be conducted *viva voce*.

Filed in The Hague,

9 September 2008

For the Prosecution,



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Brenda J. Hollis  
Senior Trial Attorney

19293

## LIST OF AUTHORITIES

### SCSL

#### *Prosecutor v. Taylor*, SCSL-03-01

*Prosecutor v. Taylor*, SCSL-03-01-T-429, “Public with Confidential Annexes - Prosecution Notice under Rule 92*bis* for the Admission of Evidence related to *inter alia* Kenema District”, 29 February 2008

*Prosecutor v. Taylor*, SCSL-03-01-T-456, “Public, with Confidential Annex - Defence Objection to Prosecution Notice under Rule 92*bis* for the Admission of Evidence related to *inter alia* Kenema District”, 4 April 2008

*Prosecutor v. Taylor*, SCSL-03-01-T-467, “Confidential Prosecution Reply to “Defence Objection to Prosecution Notice under Rule 92*bis* for the Admission of Evidence related to *inter alia* Kenema District”, 14 April 2008

*Prosecutor v. Taylor*, SCSL-03-01-T-556, “Decision on Prosecution Notice under Rule 92*bis* for the Admission of Evidence Related to *Inter Alia* Kenema District And on Prosecution Notice under Rule 92*bis* for the Admission of the Prior Testimony of TF1-036 into Evidence”, 15 July 2008

*Prosecutor v Taylor*, SCSL-03-01-T-575, “Decision on Public Prosecution Motion for Leave to Call TF1-036 to Give Evidence-In-Chief & Cross-Examination *viva voce*”, 5 September 2008