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SCSL-03-01-T  
(28966-28983)

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**THE SPECIAL COURT FOR SIERRA LEONE**

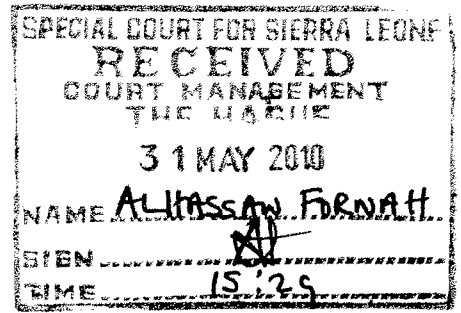
**Trial Chamber II**

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

**Registrar:** Ms. Binta Mansaray

**Date:** 31 May 2010

**Case No.:** SCSL-03-01-T



**THE PROSECUTOR**

-v-

**CHARLES GHANKAY TAYLOR**

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PUBLIC, WITH ANNEXES A AND B

**DEFENCE RESPONSE TO PROSECUTION  
MOTION TO CALL THREE ADDITIONAL WITNESSES**

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**Office of the Prosecutor:**

Ms. Brenda J. Hollis  
Mr. Nick Koumjian  
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**Counsel for Charles G. Taylor:**

Mr. Courtenay Griffiths, Q.C.  
Mr. Terry Munyard  
Mr. Morris Anyah  
Mr. Silas Chekera  
Mr. James Supuwood

## I. Introduction

1. On 20 May 2010, fifteen months after it closed its case and ten months after the start of the Defence case, the Prosecution filed a *Motion to Call Three Additional Witnesses*.<sup>1</sup>
2. The Prosecution requests that the Trial Chamber exercise its discretion to allow it to reopen its case and present the testimony of three additional witnesses or, in the alternative, to call the witnesses in rebuttal. The three witnesses, Naomi Campbell, Carole White, and Mia Farrow, are expected to testify regarding a single incident in South Africa in September 1997 in which Mr. Taylor allegedly gave a/some diamond(s) to Naomi Campbell.<sup>2</sup>
3. The Defence strongly opposes this application on the basis that no reasonable Court could find that the anticipated evidence is relevant to the charges against Mr. Taylor. The Prosecution has not met the legal standards required to either reopen its case or provide evidence in rebuttal. Furthermore, the Prosecution should not be allowed to trivialize the seriousness of the proceedings and charges against the Accused by adducing tangential and highly speculative testimony into evidence. The issue of Mr. Taylor's interaction with the AFRC/RUF Junta, the issue of diamonds, and the issue of his credibility has been thoroughly explored and addressed as part of the Prosecution case-in-chief. Consequently, additional witnesses are not needed to elaborate on these same issues.
4. Simply put, there must be finality to the proceedings. For the Prosecution to present such inferential evidence at this advanced stage, as part of an obvious publicity stunt, would bring the administration of justice into serious disrepute.<sup>3</sup>

## II. Reopening the Case

### Legal Principles

5. The Prosecution has no legal basis upon which to reopen its case. The Rules of Procedure and Evidence of the Special Court do not explicitly provide for such a right. In fact, in no trial before the Special Court has there been a successful application to reopen.<sup>4</sup> While

<sup>1</sup> *Prosecutor v. Taylor*, SCSL-03-01-T-962, Public with Confidential Annexes A and B, Prosecution Motion to Call Three Additional Witnesses, 20 May 2010 (“**Motion**”).

<sup>2</sup> Motion, paras. 1 and 2. Note that the quantity of the diamonds varies between the accounts given by Carole White and Mia Farrow in Confidential Annexes A and B.

<sup>3</sup> Rule 95 of the Special Court Rules of Procedure and Evidence

<sup>4</sup> Trial Chamber II has previously denied a prosecution request to reopen its case to present one additional witness. *Prosecutor v. Brima, Kamara, Kanu*, SCSL-04-16-T-560, Decision on Confidential Prosecution Motion to Reopen the Prosecution Case to Present an Additional Prosecution Witness, 28 September 2006 (“**AFRC Reopening Decision**”).

international jurisprudence recognizes that a party “may further be granted leave to re-open its case in order to present new evidence not previously available to it”,<sup>5</sup> this may only be done in “exceptional circumstances”.<sup>6</sup> The Prosecution has not attempted to make a showing of exceptional circumstances and could not do so in any event.

6. In order for the Trial Chamber to favourably exercise its discretion, the Prosecution<sup>7</sup> must first show that the evidence could *not* have been found with the exercise of reasonable diligence before the close of its case. Even if the Prosecution is found to have been reasonably diligent, they must also show that the probative value of the evidence is not outweighed by fairness considerations to the accused of admitting the evidence late in the proceedings.<sup>8</sup> An ICTY Trial Chamber has held that the later in the trial that the application is made the less likely the Trial Chamber is to accede to the request to re-open the case.<sup>9</sup>
7. This Trial Chamber previously accepted that a “general discretion rests with the Trial chamber to exclude evidence where its probative value is substantially outweighed by the need to ensure a fair trial”.<sup>10</sup>

#### The Prosecution Did Not Exercise Due Diligence

8. The Prosecution did not act diligently in investigating possible evidence relating to Mr. Taylor’s alleged personal possession of diamonds. The Prosecution would have the Trial Chamber believe that it could not until June 2009, despite investigating this case from 2002, have discovered that Mr. Taylor carried diamonds with him on a trip to South Africa in 1997, if such were actually the case.
9. If, as appears to be the Prosecution theory, Mr. Taylor was travelling around the continent with rough diamonds to be exchanged for arms and ammunition in aid of the Sierra Leonean revolution, a reasonably diligent Prosecution would have attempted to investigate the circumstances of each of his travels, including whether Mr. Taylor travelled with diamonds,

<sup>5</sup> AFRC Reopening Decision, para. 17, citing *Prosecutor v. Delalic et al*, IT-96-21-A, Judgement, 20 February 2001, para. 283 (“**Celebici Appeal Judgement**”).

<sup>6</sup> *Prosecutor v. Hadzihasanovic & Kubura*, IT-01-47-T, Decision on the Prosecution’s Application to Reopen its Case, 1 June 2005, para. 47 (“The prosecution will be allowed to adduce new evidence after it has closed its case-in-chief only under exceptional circumstances”); AFRC Reopening Decision, para. 22.

<sup>7</sup> AFRC Reopening Decision, para. 23 (“the burden of proving that the new evidence could not have been obtained by the Prosecution with the exercise of due diligence before the close of its case rests squarely on the Prosecution”).

<sup>8</sup> Motion, paras. 3 and 5, citing *Celebici Appeal Judgement*, para. 283.

<sup>9</sup> *Prosecutor v. Milosevic*, IT-02-54-T, Decision on Application for a Limited Re-Opening of the Bosnia and Kosovo Components of the Prosecution Case, 13 December 2005, para. 13 (“**Milosevic Decision**”).

<sup>10</sup> AFRC Reopening Decision, para. 19.

where the diamonds came from, who was present and in contact with Mr. Taylor on each of these trips, and whether the trips resulted in an arms shipment. In fact, the evidence on record shows that from the beginning of its case, the Prosecution had reason to be aware of the investigative significance of the confluence of Mr. Taylor, diamonds and South Africa.

10. As early as January 2008, during the first month of the Prosecution's case, Prosecution Expert Witness Dr. Stephen Ellis in direct examination stated that he believed that Mr. Taylor personally supervised the trade in diamonds from Sierra Leone to Liberia; had contractual relationship with military operatives from South Africa and elsewhere who were acting in support of the RUF; and facilitated the import of weapons, some of which appear to have been transmitted to the RUF to aid the latter's war effort.<sup>11</sup> More specifically, Prosecution Witness, Moses Blah, testified on 14 May 2008 about Mr. Taylor's now controversial trip to South Africa in 1997.<sup>12</sup> Additionally, Tarik Maliq, Chief of the Prosecution's Section for Evidence, Archives and Post-Operational Access, testified on 20 January 2009 regarding documents obtained by the Prosecution on 28 February 2007 (which had been seized from White Flower as early 5 March 2004) that described a Presidential entourage that travelled to Libya and South Africa.<sup>13</sup> Consequently, for the Prosecution to claim ignorance at this point is not "reasonable under the circumstances".<sup>14</sup>
11. Furthermore, the Prosecution has not provided the Court any information about its independent efforts to investigate such issues on its own initiative before and throughout the currency of its case. Instead, the Prosecution apparently sat back and waited to be tipped off about Naomi Campbell and a diamond before beginning to investigate Mr. Taylor's possession of diamonds during trips to South Africa.<sup>15</sup> An ICTY Trial Chamber has made it clear that "the reasonable diligence standard is not satisfied where no attempt to locate or obtain the evidence in question was made until after the close of the party's case, and no explanation for such delay is provided".<sup>16</sup>

<sup>11</sup> *Prosecutor v. Taylor*, SCSL-03-01-T, Trial Transcript, 16 January 2008, p. 1448, ln. 15-26.

<sup>12</sup> *Prosecutor v. Taylor*, SCSL-03-01-T, Trial Transcript, 14 May 2008, p. 9879-80.

<sup>13</sup> *Prosecutor v. Taylor*, SCSL-03-01-T, Trial Transcript, 20 January 2009, p. 23015-23025, especially p. 23019.

<sup>14</sup> Milosevic Decision, para. 27.

<sup>15</sup> Motion, para. 8 ("[...] June 2009, the Prosecution received information that the Accused gave Naomi Campbell a diamond during a visit to South Africa... **Thereafter**... the Prosecution exercised due diligence in investigating the matter further") (emphasis added).

<sup>16</sup> Milosevic Decision, paras. 26 and 28 ("[...] where] the Prosecution provides no information at all about its efforts to identify, locate, or obtain the proposed evidence, other than the date on which the item was eventually received... the Chamber is unable to evaluate whether the Prosecution exercised due diligence. Since the onus of demonstrating

12. The Prosecution attempts to suggest that it exercised due diligence in investigating the specifics of the Naomi Campbell incident once it received the relevant confidential information<sup>17</sup> must also fail. While the Prosecution contacted Naomi Campbell and Mia Farrow in July and August 2009, they apparently made no further follow-up with Naomi Campbell until January 2010, nor embarked on any investigation of other relevant personas until the Prosecution again got lucky and was contacted in April 2010 by Carole White.<sup>18</sup> Mia Farrow's declaration of 9 November 2009 lists a number of other people present at the charity event in South Africa,<sup>19</sup> yet the Prosecution does not appear to have pursued those leads at all.
13. The Defence submits that the Prosecution's lack of investigative diligence coupled with its luck in receiving tips regarding an alleged gift of diamonds to Naomi Campbell does not satisfy the threshold requirement to reopen its case and allow for the admission of fresh evidence.

*Evidence has No Probative Value; its Admission would Violate the Accused's Fair Trial Rights*

14. The evidence the Prosecution intends to lead through the three witnesses if it were allowed to reopen its case is tangential to the real issues between the Prosecution and Defence and thus is irrelevant to the proceedings, more especially at this stage. Even if it were true that Mr. Taylor gave Naomi Campbell a diamond as alleged by the Prosecution, no reasonable trier of fact could make a link between this diamond exchange and the Accused's support for the rebels in Sierra Leone as alleged in the Indictment.
15. The Prosecution relies on dicta by the Presiding Judge stating that Mia Farrow's declaration "purports to deal *with a central issue* in the Prosecution's case" to suggest that the Trial Chamber has already determined that the contents of the declaration deal with a central issue in the case and therefore Mia Farrow's testimony would be highly probative.<sup>20</sup> Yet that statement by the Trial Chamber could just as easily be read to suggest that it is a purportedly central issue that is dealt with in the declaration.

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that this first stage of the re-opening test has been satisfied rests firmly on the moving party, where that party fails to provide sufficient information to permit a thorough evaluation of its application, the Chamber can only conclude that it has not discharged its burden").

<sup>17</sup> Motion, paras. 8-13.

<sup>18</sup> Motion, para. 12, and Confidential Annex B, para. 17.

<sup>19</sup> Motion, Confidential Annex A, para. 2.

<sup>20</sup> Motion, paras. 1 and 16, citing *Prosecution v. Taylor*, SCSL-03-01-T, Trial Transcript, 14 January 2010, p. 33348.

16. The ICTY Appeal Chamber has stated that where evidence is “circumstantial evidence of doubtful validity” and does not disclose direct evidence of matters in dispute, but at best, gives rise to “mere inferences”, the evidence has a low probative value and should not be admitted by reopening the Prosecution case.<sup>21</sup> During the cross-examination of Mr. Taylor, when commenting on the probative value of the Mia Farrow declaration, Chief Prosecutor Brenda Hollis acknowledged that the document (and thus her anticipated testimony) does not directly prove guilt but is circumstantial and inferential,<sup>22</sup> and only “indirectly relevant”.<sup>23</sup>
17. Even if one were to take at face value, and consider in the context of the totality of the Prosecution evidence, the inconsistent facts presented in Mia Farrow’s declaration, Carole White’s interview notes, and Naomi Campbell’s public statements,<sup>24</sup> it would stretch the imagination to conclude that Mr. Taylor received diamonds from the Junta in Sierra Leone,<sup>25</sup> took them with him to South Africa, gave one large diamond<sup>26</sup> (or five to eight small, grayish pebbles)<sup>27</sup> to Naomi Campbell, and used other diamonds from the Junta to buy weapons in South Africa, Libya or Burkina Faso,<sup>28</sup> which were then sent to the Junta government in the Magburaka arms shipment in October 1997.
18. To arrive at this conclusion, this Court would have to draw several unreasonable inferences. These inferences would ignore the fact that none of the potential witnesses actually saw Mr. Taylor with any diamonds. They would ignore the fact that Mandela’s charity has publicly denied receiving a donation of diamonds from Naomi Campbell.<sup>29</sup> They would ignore the fact that the leader of the Junta, Johnny Paul Koroma, wrote Mr. Taylor a letter on 3 October

<sup>21</sup> *Prosecutor v. Kordic and Cerkez*, IT-95-14/2-A, Judgement, Appeals Chamber, 17 December 2004, para. 289.

<sup>22</sup> *Prosecutor v. Taylor*, SCSL-03-01-T, 14 January 2010, p. 33345.

<sup>23</sup> *Prosecutor v. Taylor*, SCSL-03-01-T, 14 January 2010, p. 33348.

<sup>24</sup> “Naomi Campbell Tells Oprah She Fears for Her Family”, ABC News, Brian Ross and Anna Schecter, 3 May 2010, available at <http://abcnews.go.com/print?id=10521090> (“At New York Fashion Week in February, Campbell denied receiving a diamond from Taylor when asked about it by ABC News”). [Annex A]

<sup>25</sup> No evidence on record from the Prosecution case alleging that members of the AFRC/RUF Junta government (which only came to power on 25 May 1997) gave diamonds to Mr. Taylor (who only came into power in August 1997) before his trip to South Africa, Libya and Burkina Faso in September 1997. See the absence of the mention of diamonds in testimony regarding an August 1997 trip of Junta representatives to Monrovia in *Prosecutor v. Taylor*, SCSL-03-01-T, Closed Session Trial Transcript, 25 January 2008, p. 2298-2301; 28 January 2008, p. 2303-7.

<sup>26</sup> Motion, Confidential Annex A, para. 5 (“...presented her a large diamond which they said was from Charles Taylor”).

<sup>27</sup> Motion, Confidential Annex B, para. 11 (“inside were what looked to be about 6 small, grayish pebbles, but there could have been 5 to 8, the witness doesn’t really remember”).

<sup>28</sup> Motion, para. 15.

<sup>29</sup> “Naomi Campbell Explodes After ABC News ‘Blood Diamond’ Questions”, ABC News, Anna Schecter and Brian Ross, 22 April 2010, available at <http://abcnews.go.com/Blotter/naomi-campbell-outburst-abc-news-blood-diamond-questions/story?id=10365701> (“The donor relations manager for the Nelson Mandela Children's Fund, Mpake Pule, said there is no record the charity received a diamond from Campbell”). [Annex B]

- 1997 requesting military assistance – a letter which would have been unnecessary if the Junta and Mr. Taylor had already come to an agreement that he would buy them arms and ammunition with diamonds given to him prior to his September 1997 trip to South Africa.<sup>30</sup>
19. The anticipated testimony of these three additional witnesses is of little probative value, and is outweighed by prejudice to the Accused, and thus the Prosecution should not be allowed to reopen its case.
  20. The statements of Mia Farrow and Carole White are highly prejudicial and in at least one instance have been recognized as such by the Trial Chamber.<sup>31</sup> The Defence incorporates representations made by Lead Counsel in court on 14 January 2010 regarding the prejudicial nature of comments made in Mia Farrow's declaration<sup>32</sup> that Mr. Taylor was not welcome at Mr. Mandela's dinner,<sup>33</sup> and extends those representations to similar prejudicial comments in Carole White's investigation notes.<sup>34</sup>
  21. Furthermore, the ICTY Appeal Chamber has determined that the advanced stage of the trial and the delay likely to be caused by a reopening of the Prosecution case and the suitability of an adjournment in the overall context of the trial are factors to be considered in the Trial Chamber's evaluation of fairness to the accused.<sup>35</sup>
  22. The Defence is ten months into its case, with only about three months to go.<sup>36</sup> Given the advanced stage of the proceedings, the Defence is busy preparing for and presenting its case in court and does not have the time or personnel resources to spend embarking on investigations relating to issues of a tangential nature. To detract attention from the core defence case to secure additional evidence to respond to the Prosecution's "fresh evidence" would negatively affect the fair trial rights of the Accused. Furthermore, to interpose these three witnesses in the middle of the defence case would unfairly disrupt the movement, testimony, and overall narrative of defence witnesses.
  23. Additionally, the Prosecution estimate that all three Prosecution witnesses can be dealt with in a day<sup>37</sup> underestimates the total amount of time that the parties would have to spend

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<sup>30</sup> See full argument in *Prosecutor v. Taylor*, SCSL-03-01-T, Trial Transcript, 14 January 2010, p. 33357-9.

<sup>31</sup> When denying the Prosecution's request to use Mia Farrow's declaration during cross-examination of Mr. Taylor, the Presiding Judge said, "We find that the document is highly prejudicial".

<sup>32</sup> Motion, Confidential Annex A, para. 3.

<sup>33</sup> *Prosecutor v. Taylor*, SCSL-03-01-T, Trial Transcript, 14 January 2010, p. 33342.

<sup>34</sup> Motion, Confidential Annex B, para. 4.

<sup>35</sup> Celebici Appeal Judgement, para. 280.

<sup>36</sup> *Prosecutor v. Taylor*, SCSL-03-01-T, Trial Transcript, 10 May 2010, p. 40721.

<sup>37</sup> Motion, para. 18.

investigating, preparing for, and cross-examining the witnesses, not to mention the time-consuming distraction of media attention. The Defence has been under pressure from the Prosecution to close its case<sup>38</sup> and thus the Prosecution must appreciate the need for expedited proceedings with a degree of finality.

24. Another discretionary consideration for the Trial Chamber to consider is the likelihood that the three witnesses will actually appear to give testimony. While Mia Farrow and Carole White seem willing to volunteer their services, Naomi Campbell is obviously unwilling to cooperate with the Court.<sup>39</sup> She has refused to speak to the Prosecution,<sup>40</sup> and she has made public statements that she does not want to be involved in the trial.<sup>41</sup> An ICTY Trial Chamber determined that the Prosecution would not be allowed to reopen its case to call witness who previously refused to testify, since there was no showing that the witness was now willing to testify or that national contempt proceedings, if instituted, would actually lead to giving testimony.<sup>42</sup>
25. Finally, the proceedings against the Mr. Taylor must have some degree of finality. Just because the Prosecution finds new witnesses who they believe can testify regarding issues in the case does not mean those witnesses need to be heard. The evidence the Prosecution seeks to adduce through these three witnesses is already on record and thus the three witnesses are superfluous. There may be an infinite number of people who could comment on issues relating to the case. The Defence expects that a diligent Prosecution would have, since issuing its Indictment against Mr. Taylor, had time to refine its case and select those witnesses that it feels are in the best position to speak to all relevant issues. The Prosecution cannot now come back every time it finds a different witness that could speak about those same issues and request to reopen its case. Such a scenario would render the completion strategy obsolete.

<sup>38</sup> *Prosecutor v. Taylor*, SCSL-03-01-T-918, Prosecution Request for Orders in Relation to the Scheduling of the Remainder of the Case, 25 February 2010.

<sup>39</sup> Note further Defence objections in *Prosecutor v. Taylor*, SCSL-03-01-T, Defence Response to Prosecution Motion to Subpoena Naomi Campbell, 31 May 2010.

<sup>40</sup> Motion, paras. 9-10.

<sup>41</sup> "Naomi Campbell Tells Oprah She Fears for Her Family", ABC News, Brian Ross and Anna Schecter, 3 May 2010, available at <http://abcnews.go.com/print?id=10521090> ("I don't want to be involved in this man's case..."). [Annex A]

<sup>42</sup> *Prosecutor v. Haradinaj et al*, IT-04-84-T, Decision on Prosecution's Request to Reopen its Case to hear Evidence of Shefqet Kabashi and for a Judicial Representation to the United States of America, 21 December 2007.



### III. Rebuttal Evidence

26. The Trial Chamber should also deny the Prosecution's request to hear the three witnesses in rebuttal. Rule 85(A), which provides for the possibility of a rebuttal case "with leave of the Trial Chamber" gives the Trial Chamber full discretion. This Trial Chamber has previously adopted a stringent test to be used when considering rebuttal evidence, namely that "rebuttal evidence must relate to a significant issue arising directly out of defence evidence which could not reasonably have been anticipated".<sup>43</sup> Highly probative rebuttal evidence may be admitted only to address a **new issue** raised in the course of the Defence case and not to reinforce the Prosecution's case-in-chief or because the Prosecution's case has been met by certain evidence contradicting it.<sup>44</sup>

#### The Evidence Was Foreseeable and Did Not Arise Ex Improviso During the Defence Case

27. Evidence relating to Mr. Taylor's position as President of Liberia, his trip to South Africa in 1997, and his alleged possession of diamonds during the Indictment period are not new issues which were raised for the first time during the Defence case.<sup>45</sup> All of these topics were certainly foreseeable to a diligent Prosecution and did not arise *ex improviso*. The Prosecution mischaracterizes the law on this point and suggests that any new factual scenario or statement raised during the Defence case should allow them an opportunity to present rebuttal evidence. However, the law is stated in terms of issues, not facts, and the issues in question are not new or unforeseeable.
28. Furthermore, rebuttal evidence is not to be used to rebut the credibility of a witness. The Prosecution cannot introduce new evidence to "refute" claims made by Mr. Taylor during his testimony which were entirely foreseeable, if not anticipated.<sup>46</sup> A Trial Chamber at the ICTR

<sup>43</sup> *Prosecutor v. Brima, Kamara, Kanu*, SCSL-04-16-T-582, Decision on Confidential Motion to Call Evidence in Rebuttal, 14 November 2006, para. 32 ("**AFRC Rebuttal Decision**"), citing Celebici Appeal Judgement, 20 February 2001, para. 273.

<sup>44</sup> AFRC Rebuttal Decision, para. 35; *Prosecutor v. Ntagerura et al*, ICTR-99-46-T, Decision on the Prosecutor's Motion for Leave to Call Evidence in Rebuttal Pursuant to Rules 54,73,and 85(A)(iii) of the Rules of Procedure and Evidence, 21 May 2003 ("**Ntagerura Decision**"), para. 32; *Prosecutor v. Kordic & Cerkez*, IT-65-14/2-A, Judgement, 17 December 2004, para. 220; *Prosecutor v. Limaj et al*, IT-03-66-T, Decision on Prosecution's Motion to Admit Rebuttal Statements via Rule 92 bis,7 July 2005, para. 6; *Prosecutor v. Oric*, IT-03-68-T, Decision on the Prosecution Motion With Addendum and Urgent Addendum to Present Rebuttal Evidence Pursuant to Rule 85(A)(iii), 9 February 2006; *Prosecutor v. Natelic & Martinovic*, IT-98-34-A, Judgement, 3 May 2006, para. 258.

<sup>45</sup> Compare to Motion, paras. 24-25.

<sup>46</sup> Motion, paras. 24-25.

has determined that “when the proposed rebuttal evidence challenges the credibility of a witness, or other collateral matters, the Chamber should exclude it in rebuttal”.<sup>47</sup>

29. Furthermore, the Prosecution already led evidence during its case in chief regarding Mr. Taylor’s alleged support for the Junta government and possession of diamonds.<sup>48</sup> Rebuttal evidence may not be merely cumulative.<sup>49</sup>

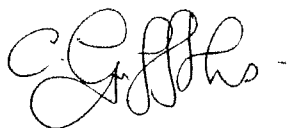
*Proposed Evidence Lacks Any Probative Value*

30. The test for admission of rebuttal evidence requires that the proposed evidence have significant probative value on a central issue. The Defence relies on its submissions in paragraphs 14-19 above and reiterates that the proposed evidence of the three witnesses is completely lacking in probative value.

**IV. Conclusion**

31. Consequently, the Defence respectfully requests that the Trial Chamber exercise its discretion to dismiss the Prosecution Motion in its entirety. To allow the Prosecution to reopen its case or provide rebuttal evidence which has no probative value and which is more appropriate for a screen-play than a courtroom hearing would bring the administration of justice into serious disrepute. Thus the Prosecution Motion must be denied.

Respectfully Submitted,




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**Courtenay Griffiths, Q.C.**  
**Lead Counsel for Charles G. Taylor**  
 Dated this 31<sup>st</sup> Day of May 2010  
 The Hague, The Netherlands

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<sup>47</sup> Ntagerura Decision, para. 33.

<sup>48</sup> See, ex, *Prosecutor v. Taylor*, SCSL-03-01-T, Trial Transcript, 2 September 2008, p. 15156-15161 (including details of the size of the diamond package and the conversation Mr. Taylor had with Issa Sesay when Sesay allegedly gave Mr. Taylor diamonds in 2000).

<sup>49</sup> Ntagerura Decision, para. 32.

## Table of Authorities

### SCSL Cases

*Prosecutor v. Taylor*, SCSL-03-01-T, Defence Response to Prosecution Motion to Subpoena Naomi Campbell, 31 May 2010

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*Prosecutor v. Taylor*, SCSL-03-01-T-918, Prosecution Request for Orders in Relation to the Scheduling of the Remainder of the Case, 25 February 2010

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<http://www.icty.org/x/cases/haradinaj/tdec/en/071221.pdf>

*Prosecutor v. Kordic & Cerkez*, IT-65-14/2-A, Judgement, Appeals Chamber, 17 December 2004

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<http://www.icty.org/x/cases/limaj/tdec/en/050707.htm>

*Prosecutor v. Milosevic*, IT-02-54-T, Decision on Application for a Limited Re-Opening of the Bosnia and Kosovo Components of the Prosecution Case, 13 December 2005

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*Prosecutor v. Natelic & Martinovic*, IT-98-34-A, Judgement, Appeals Chamber, 3 May 2006

<http://www.icty.org/x/cases/oric/tdec/en/060209.htm>

*Prosecutor v. Oric*, IT-03-68-T, Decision on the Prosecution Motion With Addendum and Urgent Addendum to Present Rebuttal Evidence Pursuant to Rule 85(A)(iii), 9 February 2006

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<http://trim.unictr.org/webdrawer/rec/37679/>

## **Annex A**

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# Naomi Campbell Tells Oprah She Fears For Her Family

**Supermodel Says Talking About 'Blood Diamond' She Allegedly Got From Dictator Puts Her Family in Danger**

By **BRIAN ROSS** and **ANNA SCHECTER**

May 3, 2010 —

Naomi Campbell told Oprah Winfrey today that she fears for the safety of her family and that is why she has refused to cooperate with prosecutors who are trying a former African dictator for war crimes and crimes against humanity.

Prosecutors allege that Charles Taylor, former president of Liberia, gave Campbell a blood diamond, the kind of gem Taylor is accused of using to buy guns for rebel groups in neighboring Sierra Leone who terrorized civilians and killed and maimed tens of thousands.

"I don't want to be involved in this man's case. He has done some terrible things and I don't want to put my family in danger," Campbell told Oprah and her millions of viewers during an episode of the talk show that will air Monday.

Oprah was attempting to ask Campbell about a dinner in South Africa that was attended by Mia Farrow, Campbell, other celebrities and then-South African president Nelson Mandela. Charles Taylor was also present just before the dinner. According to Farrow, Campbell told her the morning after the dinner that Taylor had sent some of his men to her room in the night to present her with a large uncut diamond.

Campbell told Oprah that she was a guest of Mandela at his home at the time of the September 1997 dinner, and that Charles Taylor had shown up unexpectedly.

"He wasn't invited," said Campbell. "He wasn't part of our group, but he did show up. We understood that after it was explained to us."

At New York Fashion Week in February, Campbell denied receiving a diamond from Taylor when asked about it by ABC News.

"I didn't receive a diamond and I'm not going to speak about that, thank you very much. And I'm not here for that," said Campbell.

She stormed out of the interview, slapping a producer's camera.

Campbell claimed to Oprah that there was "a sound effect" added to the ABC News reports on the incident.

ABC News did not add any sound effects to the ABC News reports on the alleged blood diamond gift, which aired April 22 on both World News and Nightline.

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Taylor has been on trial for almost three years at the Special Court for Sierra Leone. The U.N. war crimes trial is being held in the Netherlands.

Campbell has declined to provide testimony to prosecutors at the trial. Prosecutors say Taylor was in South Africa in September 1997 to buy weapons for the Sierra Leone rebels with blood diamonds and that Mia Farrow's statement helps tie him to the purchase.

"The very next month, in October 1997, prosecutors say a big shipment of weapons landed in Sierra Leone that they allege Taylor bought with blood diamonds when he went to South Africa, " said Open Society Justice Initiative Legal Officer Tracey Gurd. "The diamonds do come to the heart of the case."

Experts say that Campbell's remarks on Oprah preserve the cloud of mystery around the blood diamond.

"If she did testify to receiving a diamond, that could certainly bolster the prosecution's case," said Gurd.

In her first interview on the subject, Mia Farrow told ABC News that she remembered Campbell telling her the diamond was "huge."

The warfare in Sierra Leone, where diamonds were used by African rebels and allegedly by Taylor to raise money for a bloody rampage from 1997 to 2001, killed or maimed tens of thousands. Taylor's lawyers have argued there is scant direct evidence that connects Taylor to the diamonds or the atrocities.

"The issue here is not whether such atrocities were indeed committed but who was responsible and specifically was Charles Taylor the person responsible," Courtenay Griffiths, Taylor's lead counsel, told ABC News.

Taylor has angrily denied dealing in blood diamonds. When pressed on the stand in November by Chief Prosecutor Brenda Hollis about whether he sent his men to give a diamond to Campbell, Taylor called the allegation "total nonsense."

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## **Annex B**



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# Naomi Campbell Explodes After ABC News 'Blood Diamond' Questions

**Fashion Model Denies Allegations She Took 'Huge' Uncut Gem from African Despot Charles Taylor but Refuses to Cooperate in 'Crimes Against Humanity' Trial**

By ANNA SCHECTER and BRIAN ROSS

Apr. 22, 2010 —

Allegations that fashion model Naomi Campbell was given a "blood diamond" by the deposed African despot Charles Taylor have become center stage at Taylor's trial for crimes against humanity and led to another one of Campbell's infamous outbursts of anger.

"I didn't receive a diamond and I'm not going to speak about that," Campbell told ABC News before walking out of an interview and punching the camera in a producer's hand when pressed on the details.

The Campbell interview will be included in reports on the case to be broadcast this evening on World News with Diane Sawyer and Nightline.

Prosecutors in the Hague for the UN-backed Special Court for Sierra Leone say Campbell has refused their requests to be interviewed about the allegations that they say could help directly link Taylor, the former president of Liberia, to the possession of uncut diamonds used to fuel a campaign of terror in Sierra Leone between 1997 and 2001.

Campbell would not answer questions about her alleged refusal to cooperate with the international criminal tribunal. Her London-based lawyer also declined to comment.

Taylor is accused of orchestrating bloody massacres in which thousands were killed or maimed by amputation, leading to the phrase "blood diamonds."

"The diamonds made possible the continuation of the conflict but they also profoundly profited Charles Taylor," said former chief prosecutor Steven Rapp, who is now the United States Ambassador at Large for War Crimes.

Campbell's alleged receipt of a "blood diamond" first surfaced after actress Mia Farrow told prosecutors she heard Campbell describe a "huge diamond" she had received from Taylor.

"You don't forget when a girlfriend tells you she was given a huge diamond in the middle of the night," Farrow told ABC News.

Farrow said she and Campbell were both guests at the home of South African president Nelson Mandela, where Taylor was also visiting.

She said Campbell described in detail a middle of the night visit from two of Taylor's men.

"She said during the night, some men had knocked at her door and she, half asleep, had opened the

door and it was representatives of President Charles Taylor and that they had given her a huge diamond," Farrow told ABC News. "We were like, 'oh my gosh.'"

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Prosecutors say the event is significant because it directly links Taylor to such uncut diamonds. One of the allegations in the case is that Taylor was in South Africa at the time to buy weapons for the Sierra Leone rebels with "blood diamonds."

Under cross examination at the trial, Taylor repeatedly denied he had a large quantity of diamonds or that he sent one to Naomi Campbell.

"Total nonsense," Taylor testified when asked if "that diamond that you sent Naomi Campbell was one of the diamonds that you had been given by the junta in Sierra Leone."

"And those diamonds, along with money given to you by the junta were to be used to procure weapons for the junta?," the prosecutor, Brenda Hollis, then asked.

"Totally incorrect," replied Taylor.

Prosecutors had hoped Campbell could rebut Taylor's denials.

Despite Campbell's refusal to help prosecutors, and her denial to ABC News that she received a diamond from Taylor, actress Farrow says "there's no doubt in my mind" of what happened.

"All I thought was gosh, what an amazing life Naomi Campbell has. Probably lots of men are always giving her diamonds and she said she was going to give it to Nelson Mandela's children's charity and I thought no more about it," Farrow said.

The donor relations manager for the Nelson Mandela Children's Fund, Mpake Pule, said there is no record the charity received a diamond from Campbell. She did make cash contributions of \$50,000 that year and the year after, the charity officer said.

The Taylor trial has been underway for almost three years in the Hague.

Witnesses have included former Taylor deputies and some 50 victims of the terror campaign from Sierra Leone.

Taylor has strongly denied the prosecution's accusations that he "orchestrated" the atrocities in Sierra Leone.

"I resent that characterization of me," he testified. "It is false, it is malicious."

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