1300) SCSL-03-01-A (035 – 043) 035

SPECIAL COURT FOR SIERRA LEONE
OFFICE OF THE PROSECUTOR

IN THE APPEALS CHAMBER

Before: Justice Shireen Avis Fisher, Presiding
Justice Emmanuel Ayoola
Justice George Gelaga King
Justice Renate Winter
Justice Jon M. Kamanda
Justice Philip Nyamu Waki, Alternate Judge

Registrar: Ms. Binta Mansaray

Date filed: 19 July 2012

THE PROSECUTOR **Against** **CHARLES GHANKAY TAYLOR**
(Case No. SCSL-03-01-A)

PROSECUTION'S NOTICE OF APPEAL

Office of the Prosecutor:
Ms. Brenda J. Hollis
Mr. Nicholas Koumjian
Mr. Mohamed A. Bangura
Ms. Nina Tavakoli
Ms. Leigh Lawrie
Mr. Christopher Santora
Ms. Kathryn Howarth
Ms. Ruth Mary Hackler
Ms. Ula Nathai-Lutchman
Mr. James Pace
Mr. Cóman Kenny

Defence Counsel for the Accused:
Mr. Morris Anyah
Mr. Eugene O'Sullivan
Mr. Christopher Gosnell
Ms. Kate Gibson

PROSECUTION'S NOTICE OF APPEAL

1. On 26 April 2012, Trial Chamber II found Charles Ghankay Taylor guilty pursuant to Article 6(1) of the Statute of the Special Court for Sierra Leone (Statute) of: (i) aiding and abetting the commission of the crimes set forth in Counts 1 to 11 of the Indictment; and (ii) planning the commission of the crimes set forth in Counts 1 to 11 of the Indictment that were perpetrated during the attacks on Kono and Makeni in December 1998 and in the invasion of and retreat from Freetown between December 1998 and February 1999. On 30 May 2012, Mr. Taylor was sentenced to a single term of imprisonment of fifty (50) years.

2. The Trial Chamber issued a written judgement on 18 May 2012.[1] On 30 May 2012, the Trial Chamber issued a Corrigendum to the 18 May 2012 Judgement,[2] attaching a revised version of the Judgement (SCSL-03-01-T-1283).[3] On the same day, the Trial Chamber issued its Sentencing Judgement (SCSL-03-01-T-1285).[4] On 20 June 2012, the Designated Judge of the Appeals Chamber ordered the Parties seeking to appeal the Judgement and/or Sentencing Judgement to file a written notice of appeal on or before 4.00 p.m. on 19 July 2012.[5]

3. Pursuant to Article 20 of the Statute and Rules 106 and 108 of the Rules of Procedure and Evidence (Rules), the Prosecution files this Notice of Appeal setting out its grounds of appeal against the Judgement and Sentencing Judgement of Trial Chamber II and the relief sought.

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[1] Judgement, SCSL-03-01-T-1281, 18 May 2012.
[2] Corrigendum to Judgement filed on 18 May 2012, SCSL-03-01-T-1284, 30 May 2012.
[3] Judgement, SCSL-03-01-T-1283, 18 May 2012 (Judgement).
[4] Sentencing Judgement, SCSL-03-01-T-1285, 30 May 2012 (Sentencing Judgement).
[5] Decision on Defence Motion for Extension of Time to File Notice of Appeal, SCSL-03-01-A-296, 20 June 2012. *See also*, Defence Motion for Extension of Time to File Notice of Appeal, SCSL-03-01-A-1287, 5 June 2012; Prosecution Response to Defence Motion for Extension of Time to File Notice of Appeal, SCSL-03-01-A-1288, 6 June 2012; Scheduling Order for Status Conference on 18 June 2012, SCSL-03-01-A-1290, 8 June 2012; Corrigendum [to] Scheduling Order for Status Conference on 18 June 2012, SCSL-03-01-A-1291, 11 June 2012; Prosecution Notice of Intention to Appeal, SCSL-03-01-A-1292, 18 June 2012; Defence Notice of Intention to File Notice of Appeal, SCSL-03-01-A-1293, 18 June 2012.

4. In accordance with Article 1 (d) of the Practice Direction on the Structure of Grounds of Appeal before the Special Court (Appeals Practice Direction),[6] the Prosecution has identified the finding, decision or ruling challenged in the Judgement and/or Sentencing Judgement only by specific reference to the page and paragraph numbers where the challenged finding, decision or ruling appears. The Prosecution subsequently cites other paragraphs of the Judgement and/or Sentencing Judgement, only to the extent it has determined that they are necessary to comply with paragraphs 3, 4 or 5 of the Appeals Practice Direction, as the case may be.

5. Whenever this Notice of Appeal refers to an error of law, it is one that, individually or cumulatively, invalidates the decision. Whenever this Notice of Appeal refers to an error of fact, it is one that, individually or cumulatively, occasions a miscarriage of justice.

GROUND ONE: The Trial Chamber erred in law and in fact when it failed to find Charles Taylor individually criminally responsible for ordering the commission of crimes under Article 6(1) of the Statute.

6. The Trial Chamber erred in law and in fact by failing to find Mr. Taylor individually criminally responsible for ordering the commission of crimes charged in i) Counts 1-11 in Kono between February and December 1998; ii) Counts 1-11 in relation to the Kono-Makeni-Freetown operation from December 1998 to February 1999; and iii) Counts 1, 7-10 in Kailahun District from February to December 1998.[7]

7. The Trial Chamber erred in law by improperly relying on its finding that some of Mr. Taylor's instructions were not followed to conclude that Mr. Taylor was not individually criminally responsible for 'ordering' in relation to the various counts described above.[8]

8. The Chamber also erred in law and in fact when it characterized Mr. Taylor's "instructions" and "guidance" as "advisory" in nature rather than as "orders."[9]

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[6] Practice Direction on the Structure of Grounds of Appeal Before the Special Court, Adopted on 1 July 2011 and Amended 23 May 2012.
[7] Judgement, pp. 1034-1035, paras. 2947, 2949; p. 1276, para. 3600; pp. 1278-1279, paras. 3605-3606, 3608, 3610; pp. 1284-1285, para. 3618; pp. 2465-2466, para. 6973.
[8] Judgement, pp. 2465-2466, para. 6973. *See also* pp. 1284-1285, para. 3618.

9. Further, the Trial Chamber committed an error of fact when it failed to find that Mr. Taylor had ordered the commission of crimes despite its factual findings establishing that Mr. Taylor was in a position of authority over the RUF and RUF/AFRC[10] and that he instructed them to carry out acts[11] with the intention or awareness of the substantial likelihood that in carrying out his instructions, crimes would be committed.[12] Based on the totality of its findings and the evidence the Trial Chamber accepted, no reasonable trier of fact could have failed to find that Mr. Taylor was individually criminally responsible for ordering the crimes described herein.[13]

10. The Trial Chamber's legal and factual errors invalidate the decision, and occasion a miscarriage of justice respectively, because, by failing to hold Mr. Taylor individually criminally liable for ordering the Indictment crimes set out at paragraphs 6 and 11 of this Notice of Appeal, the Judgement and Sentencing Judgement do not reflect Mr. Taylor's full culpability.

11. The relief sought is for the Appeals Chamber to reverse the Trial Chamber's finding in relation to ordering and find Mr. Taylor individually criminally responsible for ordering the crimes charged in: i) Counts 1-11 in Kono between February and December 1998;[14]

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[9] Judgement, pp. 2465-2466, para. 6973. *See also* pp. 1034-1035, paras. 2947, 2949; p. 1096, para. 3127; pp. 2400-2402, paras. 6775, 6778; p. 2405, para. 6787; p. 2458, para. 6944; p. 2462, para. 6959; pp. 2467-2468, paras. 6981, 6983.

[10] *See, e.g.*, Judgement, p. 2293, para. 6480; pp. 2397-2398, para. 6768; pp. 2400-2402, paras. 6775, 6777-6778; p. 2405, para. 6787; p. 2408, paras. 6792-6793; p. 2458, para. 6945; pp. 2465-2466, para. 6973; pp. 2467-2468, paras. 6979, 6981, 6983.

[11] *See, e.g.,* Kono: Judgement, p. 999, para. 2855; p. 1001, paras. 2863-2864; p. 1029, para. 2936; p. 1035, paras. 2949, 2951; p. 1283, paras. 3613-3614; pp. 2401-2402, para. 6778; p. 2457, para. 6942; Sentencing Judgement, p. 38, para. 99. Kono-Makeni-Freetown operation: Judgement, p. 1090, para. 3112; p. 1092, para. 3117; p. 1096, paras. 3127, 3129, 3130; pp. 1217-1218, paras. 3449-3452; pp. 1219-1220, paras. 3454, 3457; p. 1223, para. 3464; p. 1232, paras. 3485-3486; pp. 1261-1262, para. 3564; p. 1272, para. 3591; p. 1279, para. 3609; pp. 1283-1284, paras. 3615, 3617; pp. 2461-2463, paras. 6958, 6959, 6962. Kailahun District: Judgement, p. 1439, para. 4109; p. 1451, para. 4152; p. 1490, para. 4259; pp. 2457-2458, para. 6943.

[12] *See, e.g.,* Judgement, pp. 2433-2440, paras. 6879, 6882-6886; p. 2408, para. 6973; p. 2412, paras. 6804-6805; pp. 2464-2465, para. 6969.

[13] *See* fns. 14, 15 and 16 below.

[14] *See, e.g.,* Judgement, p. 202, para. 549; pp. 250-251, paras. 659-663; pp. 254-255, paras. 670, 672; p. 260, paras. 683-684; p. 261, paras. 686-687; p. 263, paras. 691-692; pp. 265-266, paras. 697-698; pp. 268-269, paras. 702-704; pp. 271-272, paras. 709-710; pp. 272-273, paras. 712-713; pp. 273-274, paras. 715-716; pp. 278-279, paras. 729-730; pp. 281-282, paras. 735-736; p. 284, paras. 739-740; pp. 287-289, paras. 746-750; pp. 366-367, paras. 931-932; pp. 432-433, paras. 1144-1146; pp. 448-450, paras. 1199-1201; p. 457, para. 1217; pp. 458-459, paras. 1221-1223; pp. 460-461, paras. 1228-1232; pp. 514-516, paras. 1416-1419, 1421-1422; p. 539, paras. 1489-1490; pp. 543-545, paras. 1502-1505; p. 599, para. 1663; pp. 600-604, paras. 1666, 1669-1670, 1674-1678; p. 605, para. 1681; pp. 606-607, paras. 1686-1687; p. 608, para. 1691; pp. 613-619, paras. 1705-1711, 1714, 1716-1718; p. 625, para. 1738; pp.

ii) Counts 1-11 in relation to the Kono-Makeni-Freetown operation from December 1998 to February 1999;[15] and iii) Counts 1, 7-10 in Kailahun District from February to December 1998.[16] The Prosecution also requests the Appeals Chamber to increase the sentence accordingly.

GROUND TWO: The Trial Chamber erred in law and in fact when it failed to find Charles Taylor individually criminally responsible for instigating the commission of crimes under Article 6(1) of the Statute.

12. Without prejudice to Ground One, the Trial Chamber erred in law and in fact by failing to find that Mr. Taylor instigated the crimes charged in Counts 1–11 of the Indictment.[17]

13. The Trial Chamber committed an error in law by failing to enter a separate conviction for instigating the Indictment crimes, as instigation was proven, and is one of the forms of responsibility charged in the Indictment that most accurately describes Mr. Taylor's conduct.

14. The Trial Chamber erred in fact when it failed to find that Mr. Taylor had instigated the commission of crimes, despite its findings establishing that he prompted others to act in a particular way,[18] with the intention that a crime or underlying offence be committed as a

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627-628, paras. 1744-1747; pp. 629-630, paras. 1752-1754; p. 666, para. 1880; p. 672, para. 1900; p. 703, paras. 2005-2006; p. 706, para. 2017; p. 707, paras. 2019-2021; p. 708, paras. 2025-2026; p. 709, paras. 2028-2031; p. 711, paras. 2037-2038; p. 712, paras. 2039-2042; pp. 713-714, paras. 2043-2046, 2048-2049.

[15] *See, e.g.,* Judgement, pp. 307-308, paras. 787-788; pp. 316-318, paras. 805-808; p. 320, paras. 813-814; pp. 326-327, paras. 830-831; pp. 331-332, paras. 839-841; p. 333, paras. 843-844; p. 338, paras. 853-854; pp. 340-341, paras. 859-860; pp. 343-345, paras. 867-870; pp. 391-392, para. 1016; pp. 445-446, paras. 1189, 1191; pp. 451-453, paras. 1205-1207; p. 470, paras. 1272-1273; pp. 472-478, paras. 1277-1279, 1284-1297; pp. 479-480, para. 1302; p. 480, para. 1304; p. 482, para. 1309; pp. 484-485, paras. 1314-1315; pp. 486-487, paras. 1323-1325; p. 488, paras. 1329-1331; p. 489, paras. 1333-1334; p. 492, paras. 1343-1344; p. 493, paras. 1346-1348; p. 494, paras. 1351-1352; pp. 494-495, paras. 1353-1354; pp. 516-517, para. 1424; pp. 526-527, paras. 1453-1456; pp. 557-558, paras. 1540-1541; pp. 569-570, paras. 1581-1582; pp. 572-573, paras. 1591-1594; pp. 659-661, paras. 1857-1864; pp. 662-664, paras. 1870-1876; p. 678, paras. 1928-1930; p. 679, paras. 1931, 1933; pp. 679-680, paras. 1934, 1937; p. 681, para. 1940; pp. 683-684, paras. 1943, 1944-1946, 1948; pp. 685-686, paras. 1949-1952, 1954; p. 687, para. 1956; pp. 688-690, paras. 1960, 1962-1963; p. 741, paras. 2138-2139; pp. 749-750, paras. 2175-2178; p. 755, para. 2192; p. 1996, para. 5717; p. 2408, paras. 6792-6793; pp. 2462-2463, para. 6962.

[16] *See, e.g.,* Judgement, pp. 462-465, paras. 1238-1245, 1248-1250, 1253-1255; p. 467, para. 1263; pp. 502-503, paras. 1377-1378; pp. 506-507, paras. 1390, 1393; pp. 535-536, paras. 1476, 1479-1482; pp. 637-638, paras. 1778-1779; pp. 639-640, paras. 1783, 1788-1789.

[17] Judgement, p. 2465, para. 6972.

[18] *See, e.g.,* Judgement, p. 999, para. 2855; p. 1001, para. 2863; p. 1035, para. 2951; p. 1096, para. 3130; p.1223, para. 3464; p. 1283, paras. 3613-3615; p. 1284, para. 3617; p. 1439, para. 4109; p. 1451, para. 4152; p. 2293, para.

result of such prompting, or with the awareness of the substantial likelihood that a crime or underlying offence would be committed as the result of such prompting.[19] Based on the totality of its findings and the evidence the Trial Chamber accepted, no reasonable trier of fact could have failed to find that Mr. Taylor was criminally responsible for instigating the crimes charged in Counts 1–11 of the Indictment.

15. The Trial Chamber's legal and factual errors invalidate the decision, and occasion a miscarriage of justice respectively, because, by failing to hold Mr. Taylor individually criminally liable for instigating the Indictment crimes set out at paragraph 16 below, the Judgement and Sentencing Judgement do not reflect Mr. Taylor's full culpability.

16. The relief sought is for the Appeals Chamber to reverse the Trial Chamber's finding regarding instigating, and to enter a finding that Mr. Taylor was individually criminally responsible for instigating the commission of the crimes charged in Counts 1-11 of the Indictment, in particular: i) Counts 1-11 in Kono between February and December 1998; ii) Counts 1-11 in relation to the Kono-Makeni-Freetown operation from December 1998 to February 1999; and iii) Counts 1, 7-10 in Kailahun District from February to December 1998. The Prosecution also requests the Appeals Chamber to increase the sentence accordingly.

GROUND THREE: The Trial Chamber erred in law and in fact by failing to convict Charles Taylor for crimes committed in certain locations in five districts on the ground that they fell outside the scope of the Indictment.

17. The Trial Chamber erred in law and in fact by failing to convict Mr. Taylor for the crimes listed below, which it found proven, on the basis that the pleading of these crimes as occurring "throughout" and "in various locations, including" amounted to a pleading of no location in the Indictment, and thus that the evidence led on these crimes fell outside the scope of the Indictment and could only be taken into account in relation to the chapeau requirements and not as proof of guilt:

6480; p. 2307, para. 6520; pp. 2400-2402, paras. 6775, 6777-6778; p. 2405, para. 6787; pp. 2457-2458, paras. 6940-6945.

[19] *See, e.g.*, Judgement, p. 1034, para. 2946; p. 2316, para. 6543; p. 2433, paras. 6878-79; p. 2435, para. 6882; pp. 2439-2440, paras. 6884-6886; p. 2458, para. 6947; p. 2459, paras. 6949-6950.

i. Count 4 (rape),[20] Count 6 (outrages upon personal dignity),[21] Count 7 (violence to life, health and physical or mental well-being of persons, in particular cruel treatment),[22] and Count 8 (other inhumane acts)[23] in relation to Kailahun District between 30 November 1996 and 18 January 2002;

ii. Count 2 (murder) and Count 3 (violence to life, health and physical or mental well-being of persons, in particular murder) in relation to a number of locations within Kenema District between 25 May 1997 and 31 March 1998[24] and Kono District between 1 February 1998 and 31 January 2000;[25]

iii. Count 11 (pillage) in relation to a number of locations within Bombali[26] and Port Loko[27] Districts between 1 February 1998 and 30 April 1998, and Kono District between 1 February 1998 and 31 January 2000.[28]

18. The Trial Chamber further erred in law and in fact by failing to find that Mr. Taylor was responsible for these crimes, with the exception of pillage, as part of a campaign to terrorise the civilian population of Sierra Leone.[29]

19. In the alternative, assuming that the Trial Chamber correctly assessed the pleading in the Indictment, it erred in law by failing to consider whether timely, clear and consistent notice of the specific locations was given to Mr. Taylor by other communications.

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[20] Judgement, p. 367, paras. 933-934; pp. 372-377, paras. 955-972.
[21] Judgement, pp. 450-451, paras. 1202-1204.
[22] Judgement, pp. 461- 467, paras. 1233-1263; *see also*, Judgement, pp. 51-53, paras. 114-116.
[23] Judgement, pp. 461-467, paras. 1233-1263; *see also*, Judgement, pp. 51-53, paras. 114-116.
[24] Judgement, p. 237, para. 631; pp. 242-243, paras. 642-644; *see also*, Judgement, pp. 51-53, paras. 114-116.
[25] Judgement, pp. 268-269 paras. 702, 704; pp. 288-289, paras. 748-750; *see also*, Judgement, pp. 51-53, paras. 114-116.
[26] Judgement, p. 674, para. 1911; pp. 688-690, paras. 1962-1963; *see also*, Judgement, pp. 51-53, paras. 114-116.
[27] Judgement, pp. 675-676, para. 1918; pp. 688-690, paras. 1962-1963; *see also*, Judgement, pp. 51-53, paras. 114-116.
[28] Judgement, p. 666, para. 1880; pp. 688-690, paras. 1962-1963.
[29] In respect of Count 4 (rape) and Count 6 (outrages upon personal dignity) in Kailahun District, *see* Judgement, pp. 714-716, paras. 2051-2053, 2055-2056; Count 7 (violence to life, health and physical or mental well-being of persons, in particular cruel treatment) and Count 8 (other inhumane acts) in Kailahun District, *see* Judgement, p. 716, paras. 2054-2056. In respect of Counts 2 (murder) and 3 (violence to life, health and physical or mental well-being of persons, in particular murder) in respect of Kenema District *see* Judgement, p. 695, para. 1979 and in respect of Kono District *see* Judgement, p. 709, para. 2032.

20. The Trial Chamber's legal and factual errors invalidate the decision, and occasion a miscarriage of justice respectively, because, by failing to convict Mr. Taylor of the crimes set out at paragraphs 17 (i)-(iii) above, and to enter convictions for acts of terrorism in respect of these crimes, with the exception of pillage, the Judgement and Sentencing Judgement do not reflect Mr. Taylor's full criminality.

21. The relief sought is for the Appeals Chamber to reverse the Trial Chamber's decision and to enter convictions for the crimes set out at paragraphs 17 (i)-(iii) above. The Prosecution further requests that the Appeals Chamber correct the Trial Chamber's error and enter convictions for acts of terrorism in respect of these crimes, with the exception of pillage (Count 11), by finding that Mr. Taylor was responsible for them as part of a campaign to terrorise the civilian population of Sierra Leone. The Prosecution also requests the Chamber to increase the sentence accordingly.

GROUND FOUR: The Trial Chamber erred in law and/or in fact in sentencing Charles Taylor to a single term of 50 years imprisonment.

22. The Trial Chamber erred in law and/or in fact by committing a discernible error in the exercise of its sentencing discretion by sentencing Mr. Taylor to a single term of imprisonment of fifty (50) years,[30] which sentence is inadequate in light of the gravity of the crimes of which he was convicted, his pre-eminent role in their commission, the totality of the aggravating circumstances and the absence of any substantial mitigating factors.

23. The Trial Chamber committed a discernible error in exercising its discretion by failing to give sufficient weight to Mr. Taylor's conviction pursuant to Article 6(1) of the Statute for planning the crimes set out in Counts 1 to 11 of the Indictment.[31]

24. The Trial Chamber committed a further discernible error in exercising its discretion by giving undue weight to the categorization of aiding and abetting the crimes,[32] rather than giving sufficient weight to the gravity of the underlying crimes for which Mr. Taylor was

[30] Sentencing Judgement, p. 40 (Disposition).
[31] Sentencing Judgement, p. 36, para. 94; p. 39, para. 101.
[32] Sentencing Judgement, pp. 15-16, para. 36; p. 36, para. 94; pp. 38-39, para. 100.

convicted[33] including his individual conduct and role, which were critical to their commission.[34]

25. The Trial Chamber's legal and/or factual errors invalidate the decision, and occasion a miscarriage of justice respectively, because, by sentencing Mr. Taylor to 50 years imprisonment, the Trial Chamber failed to reflect the full gravity of the underlying crimes and his central role in them in their Judgement and Sentencing Judgement.

26. The relief sought is for the Appeals Chamber to reverse the decision of the Trial Chamber and increase the sentence to 80 years imprisonment. Based on the above cited errors, this increase in Mr. Taylor's sentence should be granted regardless of whether the Chamber upholds the Prosecution's other grounds of appeal seeking the Appeals Chamber to enter additional convictions.

Filed in The Hague, The Netherlands
19 July 2012

Brenda J. Hollis
The Prosecutor.

[33] *See, e.g.,* Sentencing Judgement, p. 27, para. 70; pp. 28-30, paras. 71-75; p. 31, para. 78.
[34] *See, e.g.,* Sentencing Judgement, pp. 8-9, paras. 19-21; p. 30, para. 76; pp. 37-38, paras. 97-99; Judgement, pp. 1376-1377, para. 3918; p. 1481, para. 4247; pp. 1483-1484, para. 4248(xvi); pp. 1486-1487, para. 4248(xl); p. 1489, para. 4256; pp. 1490-1491, paras. 4261-4262; p. 1932, para. 5527; p. 1943, para. 5561(c); pp. 2035-2036, para. 5830; p. 2036, para. 5834; p. 2040, para. 5835(xxvi); p. 2043, para. 5835(xl); p. 2045, paras. 5841-5842; p. 2450, paras. 6913-6914; p. 2455, para. 6934; p. 2456, para. 6936.