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SCSL-12-02-T  
(462-466)

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**SPECIAL COURT FOR SIERRA LEONE**

**TRIAL CHAMBER II**

Before: Justice Teresa Doherty, Single Judge  
Registrar: Ms. Binta Mansaray  
Date filed: 30 January 2013

**INDEPENDENT COUNSEL**

**Against**

**Prince Taylor**

Case No. SCSL-12-02-T

**PUBLIC**

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SENTENCING RECOMMENDATION

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**Independent Counsel**

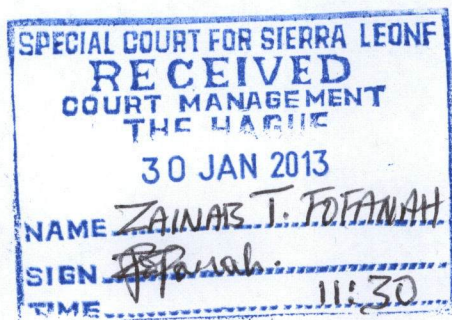
William L. Gardner

**Counsel for Prince Taylor:**

Rodney Dixon

**Office of the Principal Defender:**

Ms. Claire Carlton-Hanciles





SENTENCING RECOMMENDATION OF THE INDEPENDENT COUNSEL

1. For the reasons stated herein, the Independent Counsel recommends that Defendant Prince Taylor (“Defendant”) be sentenced to a term of imprisonment of 4-5 years, and be ordered to pay 2 million Leones, the maximum fine permitted by the Special Court of Sierra Leone Rules of Procedure and Evidence (“SCSL Rules”).<sup>1</sup>
  
2. As a preliminary matter, the Independent Counsel respectfully incorporates by reference the Office of the Prosecutor’s (“OTP”) *Amicus Curiae* Brief filed on 22 June 2012 in the case of *Prosecutor v. Senessie*.<sup>2</sup> The Independent Counsel has found the OTP’s brief helpful in its analysis of tribunal precedents and survey of the sentences imposed in past contempt cases. The Independent Counsel also incorporates by reference his Sentencing Recommendation from *Prosecutor v. Senessie*.<sup>3</sup>
  
3. As in the *Senessie* case, the Independent Counsel defers to this Court’s judgment as to an appropriate sentence. The following is offered as the Independent Counsel’s view of the evidence and a recommended sentence in light thereof.
  
4. Any analysis of an appropriate sentence for the Defendant should start with a benchmark. There are several possibilities, including the range of sentences set forth in OTP’s *Amicus Curiae* Brief and that contained in the *Senessie* Sentencing Recommendation. In *Senessie*, the Independent Counsel recommended a sentence in the 5-7 year range. While

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<sup>1</sup> Although the most recent version of Rule 77(G) of the SCSL Rules provides for a maximum fine of 20 million Leones, the version of Rule 77(G) in place at the time of the Defendant’s offences provided for a maximum fine of 2 million Leones. As this Court has previously observed, “the amendment to [the maximum fine in] Rule 77 was made after the date when these offences occurred and cannot have a retrospective application to them.” *Prosecutor v. Senessie*, Case No. SCSL-2011-01-T, Sentencing Hearing Transcript, p. 3:10-12 (05 July 2012).

<sup>2</sup> *Prosecutor v. Senessie*, Case No. SCSL-2011-01-T, *Amicus Curiae* Brief (24 June 2012) (“OTP *Amicus* Brief”).

<sup>3</sup> *Prosecutor v. Senessie*, Case No. SCSL-2011-01-T, Sentencing Recommendation (26 June 2012).



the Court ultimately imposed a two-year sentence, the Court explained that it reduced its intended sentence in light of Senessie's eleventh-hour confession and expression of remorse.<sup>4</sup> Presumably, the Court's benchmark was within the range of 3-7 years.<sup>5</sup>

5. To give the Defendant the maximum benefit of the uncertainty over what sentence the Court originally intended to impose on Senessie, the Independent Counsel assumes for the purposes of the instant analysis that the Court was considering a sentence in the range of 3-4 years. The Independent Counsel believes that the same benchmark used by the Court for the *Senessie* sentencing is appropriate for the sentencing in the instant case. The Defendant cannot, of course, be entitled to a two-year sentencing benchmark because he neither acknowledged guilt nor expressed remorse.
6. Once the 3-4 year sentencing benchmark is established, the Independent Counsel turns to the sentencing factors outlined in Rule 101(B) of the SCSL Rules. The Independent Counsel submits that, while there are no obvious mitigating factors, there is at least one important aggravating factor.
7. The critical aggravating factor in this case is the combination of the Defendant's personal and professional experience. As Defence Counsel will no doubt explain, the Defendant is a well-educated man from a good family. The Defendant, moreover, has served this Court for approximately seven years as an investigator for two defence teams including, most recently, the Charles Taylor defence team. But it is precisely because of this background that the Defendant knew full well that he was acting improperly and illegally when he asked Senessie to approach the five prosecution witnesses from the Charles Taylor trial. In a word, the Defendant knew better. And, he committed these violations

<sup>4</sup> See, e.g., *Pros ector v. Senessie*, Case No. SCSL-2011-01-T, Sentencing Hearing Transcript, p. 11:1-3 (05 July 2012) ("I have allowed for the remorse that the defendant has shown. In his own words, with which I agree, it is better late than never, and therefore I have reconsidered and impose the following penalties....").

<sup>5</sup> Rule 77(G) of the SCSL Rules provides, in relevant part, that "the maximum penalty pursuant to Sub-Rule (C)(iii) [of Rule 77] shall be a term of imprisonment for seven years...."



of law not in some insignificant, second-tier case; he acted in a case involving “some of the most heinous and brutal crimes recorded in human history.”<sup>6</sup>

8. As the Court may know, the Indian justice system frequently punishes members of the elite Brahmin caste more seriously than persons of lower castes for the commission of a particular crime. This is because Brahmins are acknowledged as having the most privileges in Indian society and tend to be held to higher ethical standards. On a relative scale, the Defendant, with his advanced education and SCSL tenure, has what could be called Brahmin status in Sierra Leonean society. Accordingly, the Independent Counsel recommends a sentence of 4-5 years’ incarceration on each count, to be served concurrently. The Independent Counsel further recommends that the Defendant be ordered to pay the maximum fine permitted under the SCSL Rules—2 million Leones—and suggests that the Defendant be allowed to pay the fine over time from earnings after his release from prison.
  
9. The Independent Counsel submits that there remains the possibility, if not likelihood, that this Defendant, like Senessie, acted in concert with one or more persons in deciding to contact the five Charles Taylor prosecution witnesses. If this was in fact the case, and the Defendant were to reveal their identities and the nature of their involvement, the Court would be justified in considering whatever submission the Defendant might make in this regard.

Respectfully Submitted,

WL Gardner

William L. Gardner  
Independent Counsel

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<sup>6</sup> *Prosecutor v. Taylor*, Case No. SCSL-03-01-T, Sentencing Judgement, para. 70 (30 May 2012).



**INDEX OF AUTHORITIES****Special Court for Sierra Leone Cases****Prosecutor v. Senessie, Case No. SCSL-2011-01-T**

*Prosecutor v. Senessie*, Case No. SCSL-2011-01-T, Sentencing Hearing Transcript (05 July 2012)

*Prosecutor v. Senessie*, Case No. SCSL-2011-01-T, Sentencing Recommendation (26 June 2012)

*Prosecutor v. Senessie*, Case No. SCSL-2011-01-T, *Amicus Curiae* Brief (24 June 2012)

**Prosecutor v. Taylor, Case No. SCSL-03-01-T**

*Prosecutor v. Taylor*, Case No. SCSL-03-01-T, Sentencing Judgement (30 May 2012)