



Case No. SCSL-2003-01-T

THE PROSECUTOR OF  
THE SPECIAL COURT  
V.  
CHARLES GHANKAY TAYLOR

TUESDAY, 3 AUGUST 2010  
9.00 A.M.  
TRIAL

TRIAL CHAMBER II

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Before the Judges:

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

For Chambers:

Ms Doreen Kiggundu

For the Registry:

Ms Rachel Irura  
Ms Zainab Fofanah

For the Prosecution:

Mr Joseph F Kamara  
Ms Brenda J Hollis  
Mr Nicholas Koumjian  
Ms Maja Dimitrova

For the accused Charles Ghankay  
Taylor:

Mr Silas Chekera  
Ms Logan Hambriek  
Ms Kathryn Hovington

1 Tuesday, 3 August 2010

2 [Open session]

3 [The accused not present]

4 [Upon commencing at 9.04 a.m.]

09:01:23 5 PRESIDING JUDGE: Good morning. We will take appearances.  
6 Please.

7 MR KAMARA: Good morning, your Honours. For the  
8 Prosecution this morning, Maja Dimitrova, Nicholas Koumjian and  
9 Joseph F Kamara

09:05:05 10 MR CHEKERA: Good morning, Madam President, your Honours  
11 and counsel opposite. For the Defence, myself Silas Chekera,  
12 Logan Hambri ck and Kathryn Hovington.

13 PRESIDING JUDGE: I note that the accused is not present.  
14 [Trial Chamber conferred]

09:05:52 15 PRESIDING JUDGE: Yes, Mr Taylor is not present but the  
16 Chamber was informed that he would voluntarily not be present  
17 this morning until about 11; the reasons are known to the Chamber  
18 and we would be prepared to proceed pursuant to Rule 16(B), I  
19 think, if his absence - Rule 16, in his absence.

09:06:24 20 Mr Chekera, I note that Mr Griffiths is not in court.

21 MR CHEKERA: Yes, Madam President, I was going to address  
22 the Court on that issue. Madam President, once again I regret to  
23 inform the Court that Mr Griffiths is indisposed on account of  
24 ill health and will not be able to attend court today. This is  
09:06:46 25 an issue that has arisen before and your Honours made the  
26 suggestion that in the event that this issue arises again we  
27 should have a contingent plan.

28 We do have a contingent plan in that we have another  
29 witness who came in about last week and who Mr Anyah has been

1 preparing for court.

2 As of this morning unfortunately I could not get hold of  
3 Mr Anyah on the phone to ascertain the position as to when he  
4 would be able to have that witness ready for court. We have been  
09:07:25 5 trying to get in touch with him since I got the message from  
6 Mr Griffiths that he would not be able to attend court, but  
7 unfortunately I could not do so.

8 I can, however, confirm that the witness is available;  
9 whether Mr Anyah is prepared or ready to proceed with that  
09:07:42 10 witness, I cannot say until I get in touch with him.

11 So I would seek an adjournment. I would hesitate to say  
12 until the midmorning break. I am tempted to say an adjournment  
13 until tomorrow morning to give Mr Anyah time, if he has to stand  
14 in for Mr Griffiths, to finalise if he hasn't finished with the  
09:08:12 15 witness, or to proceed if he's ready to proceed.

16 PRESIDING JUDGE: First of all, may I inquire when  
17 Mr Griffiths is likely to be back in court?

18 MR CHEKERA: Madam President, I could not possibly assist  
19 in that regard, him being indisposed. It is, as it were, in the  
09:08:33 20 hands of God. I am sure that he might be able to attend  
21 tomorrow, but that's just my hope and, beyond that, I am unable  
22 to assist.

23 PRESIDING JUDGE: Well, I am very sorry to hear that  
24 Mr Griffiths is indisposed yet again but let me consult my  
09:08:55 25 colleagues to see the way forward.

26 [Trial Chamber conferred]

27 PRESIDING JUDGE: Mr Chekera, we are minded to ask the  
28 Defence to return - the parties to return at 11 and possibly to  
29 proceed with the interposed witness. We are concerned that the

1 problem of these constant adjournments is really taking its toll  
2 on the speed at which the trial is proceeding, and really, in the  
3 interests of expedition, we really should interpose another  
4 witness. And so we are going to adjourn until 11.30, which is  
09:11:39 5 the midmorning break, and I am going to ask you to get in touch  
6 with Mr Anyah and with the witness and make sure that that  
7 witness is present at 11.30 for us to proceed.

8 MR CHEKERA: Yes, Madam President. I will attempt to do  
9 so. In the meantime, I was going to ask whether it would be  
09:12:02 10 necessary for us to retain the current witness or whether he  
11 should be sent back?

12 PRESIDING JUDGE: Let me hear from Mr Koumjian.

13 MR KOUMJIAN: Your Honour, we would like to actually think  
14 about it and consult with Ms Hollis and come back. We are  
09:12:20 15 concerned with the interruptions of this witness, given his  
16 special situation and the arrangements that are made for him to  
17 be up here.

18 Obviously, if it is a matter of a day that is one thing,  
19 but we don't know if Mr Griffiths is going to be indisposed for a  
09:12:36 20 longer period of time. If that is the case, we do suggest that  
21 another counsel complete the direct examination.

22 So what I really am saying is at 11.30, I would prefer to  
23 consult with Ms Hollis and state our position at that time.

24 PRESIDING JUDGE: Mr Koumjian, there are two things here.

09:13:10 25 One is whether the Prosecution is able to proceed with an  
26 interposed witness - your readiness that is, to proceed with the  
27 interposed witness. The other, of course, is the position of  
28 Mr Sesay.

29 My own view is the Defence - it is really in the hands of

1 Defence who - which of counsel examines which witness; as far as  
2 the Court is concerned, as long as this trial keeps going, that  
3 is our interest.

09:13:44 4 Now, obviously, Mr Sesay's testimony has been interrupted  
5 on more than one occasion. This is unfortunate. It is the fault  
6 of nobody. If the Defence is ready to proceed at 11.30 with  
7 another witness, that is what we are going to do, that is what we  
8 plan to do, and basically that is the order of the Court right  
9 now.

09:14:05 10 MR CHEKERA: Madam President, just to advise the parties.  
11 The next witness would be DCT-008.

12 PRESIDING JUDGE: Mr Sesay, unfortunately you have heard  
13 what has happened, a senior counsel is indisposed and the Court  
14 does not know as yet when he is likely to be back in court to  
09:14:32 15 continue with your examination, but for today I think we will let  
16 you return and you will be informed as to when you can return to  
17 complete your testimony.

18 In the meantime, as usual, I caution you not to discuss  
19 your evidence with anyone. Thank you.

09:14:55 20 [Break taken at 9.15 a.m.]

21 [Upon resuming at 11.37 a.m.]

22 PRESIDING JUDGE: Good morning.

23 Mr Chekera. Yes. I was going to ask Mr Chekera is the  
24 Defence ready to proceed?

11:37:40 25 MR CHEKERA: Madam President, I hesitate to say that we are  
26 not ready to proceed, and I will address the Court on that after  
27 my learned friend across addresses the Court.

28 PRESIDING JUDGE: Why don't you address me now? I'm  
29 addressing you.

1 MR CHEKERA: Yes, Madam President. After we adjourned, I  
2 tried to get in touch with Mr Anyah who I've advised the Court  
3 has got carriage of the next witness. I only managed to get in  
4 touch with Mr Anyah 15 minutes before we came back to court. I  
11:38:19 5 spoke with Mr Anyah, and he indicated to me that he has been  
6 preparing the witness but unfortunately is not yet ready to  
7 proceed with the witness's evidence. He is scheduled to meet the  
8 witness - or was scheduled to meet this witness to continue with  
9 his preparation this afternoon. He indicated that he's unlikely  
11:38:42 10 to conclude the preparations of the witness any time soon. In  
11 other words, he will not be able to conclude the preparation this  
12 afternoon. He might not even be able to do so tomorrow.

13 So, in short, the witness that we thought would be ready,  
14 that is DCT-008, is not ready to continue - or, rather, to start  
11:39:13 15 with his evidence.

16 I have also tried in the meantime to get in touch with  
17 Mr Griffiths to see if he is able to continue tomorrow.  
18 Unfortunately, I was not able to get in touch with him to get  
19 that assurance from him.

11:39:33 20 I got in touch with client, who has waived his right to be  
21 present for this session, and I hope to get instructions from him  
22 on how best to proceed in the circumstances.

23 I should say, Madam President, that I find myself in a very  
24 difficult position, and, indeed, the Defence team finds itself in  
11:39:59 25 a difficult position. We are trying our best and the situation  
26 we are in is not of our making and we would like to cooperate  
27 with the Court, in view of the Court's orders and suggestions,  
28 but circumstances beyond our control put us in the situation  
29 where we are in. Unfortunately, the absence of Mr Griffiths, who

1 is lead counsel, makes it very difficult for me to assist the  
2 Court as much as I would have wanted to. I would have been able  
3 - if I had been able to consult with him, I could have come  
4 before the Court with possibly other contingent plans, including  
11:40:43 5 the possibility of someone taking over, which we had not  
6 contemplated, in view of the instructions I'd gotten from client  
7 the last time, that he was hesitant to let someone else continue  
8 with the witness. But in the circumstances that we find  
9 ourselves in, it is an option that we might have to revisit,  
11:41:03 10 because it looks like there's no other option, should  
11 Mr Griffiths continue to be absent from Court.

12 PRESIDING JUDGE: Incidentally, why is Mr Taylor not in  
13 Court? The notification the Chamber received was that he would  
14 be in Court at 11, from 11 onwards, so why is he not in Court?

11:41:24 15 MR CHEKERA: When I spoke with him, he indicated that he  
16 would not be coming in for this session. He wasn't too sure that  
17 we were going to proceed, and on that basis he exercised his  
18 right to absent himself from Court.

19 PRESIDING JUDGE: Anyway, before I say anything further, I  
11:41:54 20 will hear from the Prosecution.

21 MS HOLLIS: Thank you, Madam President. And I initially  
22 rose simply to note a change of appearance. Brenda J Hollis,  
23 Mohamed A Bangura are present for the Prosecution. Joseph Kamara  
24 and Nicholas Koumjian are absent.

11:42:13 25 Madam President, a few things. On 15 July, at the very  
26 latest, the Defence were aware of the problems they may encounter  
27 because of the health problems that Mr Griffiths was  
28 encountering, and it was raised in court that day that  
29 Mr Griffiths was not available because of health problems.

1 On 15 July - and I'm referring first to page 44524 - your  
2 Honours, of course, indicated that it was unfortunate that  
3 Mr Griffiths was ill, and I might say no one is saying that his  
4 illness is anyone's fault. However, your Honours went on to say  
11:42:55 5 that there had to be a plan B in place in the event Mr Griffiths  
6 is not ready to proceed in the foreseeable future. And your  
7 Honours gave two options on 15 July to the Defence.

8 The first option, at page 44524, was asking the Defence if  
9 they had a witness to interpose in the interim. At that point in  
11:43:18 10 time, Defence indicated they did not have such a witness. At  
11 page 44525, your Honours also wanted to emphasise that you were  
12 anxious to have the trial move forward and encouraged the Defence  
13 to look into the possibility of another Defence counsel taking  
14 over the testimony of Issa Sesay in the event or the unlikely  
11:43:45 15 event Mr Griffiths is indisposed for some extended period.

16 Madam President, your Honours, Issa Sesay has been here in  
17 the Hague for his testimony from the second or third week  
18 of June. His testimony began on 5 July. Since that time, eight  
19 court days of that possible testimony have been lost due to the  
11:44:10 20 illness of Mr Griffiths, and that is including today. We suggest  
21 that it is overtime for the Defence to have prepared for another  
22 witness - for another counsel to step in and conclude the  
23 testimony, the direct testimony, of this witness, who to date has  
24 been testifying for 75 hours of what was to be 44 hours of direct  
11:44:36 25 examination.

26 The other alternative that your Honours mentioned to the  
27 Defence on 15 July was to have another witness ready to  
28 interpose. On 16 July, the Defence indicated to us that should  
29 they need to interpose a witness, that witness would be 008. So



1 since 16 July the Defence has been aware that should they need to  
2 interpose a witness, it would be 008. And yet today, on 3  
3 August, we are told that 008 is not ready to testify.

11:45:18

4 The Prosecution suggest that your Honours were correct to  
5 emphasise that we need to move forward and that the Defence has  
6 not acted as it should to be prepared to move forward, given the  
7 state of Mr Griffiths' health, either by preparing someone to  
8 take over this lengthy testimony of Issa Sesay or to have another  
9 witness here and prepared and ready to go. And we would suggest  
10 that your Honours order that another counsel take over the  
11 examination of Mr Sesay forthwith or, in the alternative, that  
12 they interpose witness 008 starting tomorrow.

11:45:38

13 We have concerns about that alternative, because it is our  
14 understanding that witness 008's estimated length of direct  
15 examination will be 14 hours. So what would the plan be? Would  
16 it be that 008 would be interposed and concluded before we went  
17 back to Issa Sesay, in addition to the three witnesses the  
18 Prosecution will call for very, very short direct examination?

11:46:05

19 Or would 008's testimony begin and then, as soon as Mr Griffiths'  
20 health permits, Issa Sesay would be recalled for that evidence to  
21 continue? So we think that perhaps we are getting into some  
22 logistical and efficiency problems, in terms of interposing  
23 additional witnesses. But we do believe that we should be back  
24 in court tomorrow, either with Mr Sesay with another counsel  
25 asking the questions, or with 008.

11:46:29

26 Thank you, Madam President.

27 PRESIDING JUDGE: Very well. Mr Chekera, do you wish to  
28 make additional submissions in that regard before the Chamber  
29 deliberates?

1 MR CHEKERA: Yes, Madam President, just to assist the Court  
2 with a few details.

3 Madam President, you will recall that when this issue first  
4 arose, I think it was on 15 July, we indicated that we would come  
11:47:22 5 up with a contingent plan, and I indicated to the Court that we  
6 were contemplating bringing in another witness. Indeed, we  
7 attempted to do so, and that very same week we requested WVS to  
8 bring in DCT-008. For administrative purposes that I cannot go  
9 into because I'm not privy to, WVS were not able to until the  
11:47:48 10 witness was brought in on 28 July. Since then, Mr Anyah has been  
11 preparing that witness.

12 Mr Anyah has got carriage of DCT-008, and he has been  
13 preparing that witness pretty much for the entire working week.  
14 And this week, save on Monday, where he was present in court,  
11:48:12 15 Mr Anyah has also been preparing another witness who the  
16 Prosecution is going to interpose, pursuant to the order to  
17 reopen their case. So as far as the Defence is concerned, we  
18 have been, as it were, spread thin, and we could not have  
19 expedited the preparation of DCT-008 any further than we have.

11:48:42 20 We were also not anticipating that Mr Griffiths would be  
21 indisposed, as he is today, and be able to proceed today. Be  
22 that as it may, we have been trying our best to make sure that  
23 DCT-008 is ready for court as soon as possible.

24 Concerning the second issue that my learned friends raise  
11:49:06 25 is concerning the current witness. Initially, it was our desire  
26 that we should get rid of the witness as soon as possible. He  
27 has, as it were, overstayed here - here in the Netherlands. The  
28 conditions of his detention here are - he's not very familiar  
29 with, and that has been taking a toll on him as well, and we are

1 very anxious that we conclude his evidence and he goes back to a  
2 familiar environment as soon as possible.

3 Now that we find ourselves in the situation where we are  
4 in, I would possibly - I would only ask the Court for time to  
11:49:50 5 consult and see what contingent plan - another contingent plan  
6 possibly, to make sure that we proceed without any further  
7 delays. And if I were to suggest, as I am going to suggest, to  
8 my team, I would suggest that we consider someone else taking  
9 over the evidence-in-chief - leading the evidence-in-chief of the  
11:50:16 10 current witness and get him out of the way before we - rather  
11 than interpose. As my learned friend says, if we interpose,  
12 there are a lot of other issues involved. Do we interpose for a  
13 day and go back to the original witness, should Mr Griffiths be  
14 back? Or do we hold his entire evidence until the

11:50:34 15 evidence-in-chief of the interposed witness is concluded? Those  
16 are some of the issues we have to look at. And that option would  
17 be untidy, in my view and in my submission, and I am tempted but  
18 hesitate to commit to the option that we would look into another  
19 counsel taking over and concluding the evidence of Mr Sesay  
11:50:56 20 before we bring in the next witness.

21 PRESIDING JUDGE: Thank you, Mr Chekera. We will - I will  
22 consult.

23 [Trial Chamber conferred]

24 PRESIDING JUDGE: First of all, let me say it is  
11:57:16 25 unfortunate that Mr Griffiths has been taken ill and we do  
26 acknowledge it's not his fault. However, there are some grim  
27 facts that we have to face on the ground, one of which is that in  
28 the evidence of the current witness, Issa Sesay, nine days,  
29 including today, have been taken out on account of Mr Griffiths's

1 illness. Now, the Chamber is familiar with Mr Griffiths's health  
2 in as far as he's been able to explain it to us, and I think it  
3 would not be unreasonable of us to presume that the Defence ought  
4 to provide for a contingency of this problem continuing.

11:58:02 5 We've also taken into account that Mr Sesay's testimony has  
6 been interrupted, through no fault of his own, by a number of  
7 events, one of which of course is Mr Griffiths's illness.  
8 Another unforeseen or foreseen circumstance interrupting his  
9 testimony is the three Prosecution witnesses that have been  
11:58:29 10 interposed, these are interposed in the midst of Mr Sesay's  
11 testimony.

12 So be that as it may, we are of the view that the trial  
13 must continue. With all these matters intervening, we feel that  
14 the trial must continue. We agree with the Prosecution. I think  
11:58:55 15 they've made a good suggestion of the way forward. Our  
16 preference would have been of course to conclude Mr Sesay's  
17 testimony, as indeed both parties have indicated. That would  
18 then entail a different lawyer coming in tomorrow in the event  
19 that Mr Griffiths is not ready to proceed - a different lawyer  
11:59:19 20 coming in tomorrow to continue with the testimony in chief of  
21 Mr Sesay. Now, that is the Chamber's preference.

22 However, we also know that there are many unforeseen  
23 contingencies, and that in case that is not possible we are  
24 directing that the Defence should proceed with their next witness  
11:59:44 25 tomorrow. That is, 008. We've heard the explanations you've  
26 given to the Chamber regarding the preparedness, or lack thereof  
27 of your lawyer, but for us this is not a valid reason to delay  
28 the trial.

29 And so I'm going to direct, firstly, our preference is that

1 Mr Sesay's testimony continues tomorrow, either through  
2 Mr Griffiths, if he's well enough to continue, or through another  
3 counsel. We are of the view that there are many capable counsel  
4 on the Defence team that could continue with the testimony of  
12:00:27 5 Mr Sesay tomorrow. That is our first preference and my first  
6 direction.

7 In the event that that is not possible, I direct that the  
8 next witness, 008, be called tomorrow at 9 o'clock for this trial  
9 to continue. Those are my directives for today.

12:00:46 10 So Court is adjourned to tomorrow at 9 o'clock.

11 [Whereupon the hearing adjourned at 12.01 p.m.  
12 to be reconvened on Wednesday, 4 August 2010  
13 at 9.00 a.m.]

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