

SPECIAL COURT FOR SIERRA LEONE

TRIAL CHAMBER II

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

Registrar: Herman von Hebel

Case No.: SCSL-03-1-T

Date: 2 July 2008

PROSECUTOR

v.

Charles Ghankay TAYLOR

**DECISION ON DEFENCE MOTION PURSUANT TO RULE 75 (G) TO RESCIND
CLOSED SESSION PROTECTIVE MEASURES GRANTED ORALLY
IN OTHER PROCEEDINGS FOR WITNESS TF1-366**

Office of the Prosecutor:

Brenda J. Hollis
Leigh Lawrie

Defence Counsel for Charles G. Taylor:

Courtenay Griffiths, Q.C.
Terry Munyard
Andrew Cayley
Morris Anyah

TRIAL CHAMBER II (“Trial Chamber”) of the Special Court for Sierra Leone (“Special Court”);

SEISED of the “Public Defence Motion Pursuant to Rule 75(G) to Rescind Closed Session Protective Measures Granted Orally in Other Proceedings for Witness TF1-366”, filed on 16 May 2008 (“Motion”),¹ wherein the Defence requests that the closed session protective measures granted to Witness TF1-366 in a prior proceeding be rescinded;

NOTING the “Confidential Prosecution Response to ‘Defence Motion Pursuant to Rule 75(G) to Rescind Closed Session Protective Measures Granted Orally in Other Proceedings for Witness TF1-366’”, filed on 26 May 2008 (“Response”),² wherein the Prosecution requests that, in view of the Witness’s personal decision to testify in open court, the protective measures entitling the Witness to testify in closed session³ be rescinded, but that the protective measures ensuring that all non-public materials remain confidential be retained;⁴

NOTING the “Public Defence Reply to Prosecution Response to Defence Motion Pursuant to Rule 75(G) to Rescind Closed Session Protective Measures Granted Orally in Other Proceedings for Witness TFI-366”, filed on 2 June 2008 (“Reply”),⁵ wherein the Defence makes a further request that all protective measures previously granted to Witness TF1-366 be rescinded, so that not only will the Witness testify openly, but that all related non-public documents will lose their confidential status;⁶

FURTHER NOTING the “Public, with Confidential Annex, Addendum to Defence Reply to Prosecution Response to Defence Motion Pursuant to Rule 75(G) to Rescind Closed Session Protective Measures Granted Orally in Other Proceedings for Witness TF1-366”, filed on 5 June 2008;⁷

MINDFUL that Trial Chamber I in *Prosecutor v. Sesay, Kallon, Gbao* (SCSL-04-15-T) (“Sesay *et al.* case”) issued two decisions granting protective measures to Witness TF1-366 (“Sesay Oral Decision”),⁸ including:

- (1) providing a number of protective measures including use of a screen, a pseudonym and the confidentiality of documents related to the witness including witness statements;⁹ and
- (2) granting Witness TF1-366 the right to testify in closed session;¹⁰

¹ SCSL-03-01-T-507 (“Motion”).

² SCSL-03-01-T-518 (“Response”).

³ That is, protective measures (a) to (i) granted by Trial Chamber 1 in *Prosecutor v. Sesay, Kallon, Gbao*, Case No. SCSL-04-15-T, Decision on Prosecution Motion for Modification of Protective Measures for Witnesses, 5 July 2004.

⁴ That is, protective measures (j) to (p) granted in the case mentioned in footnote 3 above; see Response, paras. 9-11.

⁵ SCSL-03-01-T-527 (“Reply”).

⁶ Reply, para. 10,11.

⁷ SCSL-03-01-T-529 (“Addendum”).

⁸ *Prosecutor v. Sesay, Kallon, Gbao*, SCSL-04-15-T, Transcript 7 November 2005, pp. 68-69 [hereafter Sesay Oral Decision].

⁹ *Prosecutor v. Sesay, Kallon, Gbao*, SCSL-04-15-T- 320, Decision on Prosecution Request for Leave to call Additional Witnesses and Disclose Additional Witness Statements, 11 February 2005, p. 15, Order 2, adopting protective measures (a), (b), (c), (d), (e), (f), (j), (k), (l), (m), (n), (o), (p) as laid out in *Prosecutor v. Sesay, Kallon, Gbao*, Decision on Prosecution Motion for Modification of Protective Measures for Witnesses, 5 July 2004.

¹⁰ *Prosecutor v. Sesay, Kallon, Gbao*, SCSL-04-15-T, Transcript 7 November 2005, pp. 68-69 [hereafter “Sesay Oral Decision”].

NOTING that the Motion requests that the Trial Chamber rescind the measures granted in the latter decision with respect to testimony in closed session, but that the Defence, in its Reply, asks for additional relief, i.e., rescission of all protective measures accorded to Witness TF1-366 in the *Sesay* Oral Decision;¹¹

CONSIDERING that the Trial Chamber has stated in previous decisions¹² that it will not entertain any replying submission which seeks relief additional to that sought in the motion, since the opposite party, having filed its response, has no opportunity to answer the additional prayer; accordingly, the request for additional relief made in the Reply will not be considered;

COGNISANT of Rules 75(F), 75(G) and 75(J) of the Rules of Procedure and Evidence (“Rules”);

CONSIDERING that the Prosecution does not oppose the rescission of the protective measures granting TF1-366 the right to testify in closed session, accorded in the *Sesay* Oral Decision;

FOR THE ABOVE REASONS

GRANTS the Motion and

ORDERS that the closed session protective measures be rescinded.

Done at The Hague, The Netherlands, this 2nd day of July 2008.

Justice Richard Lussick

Justice Teresa Doherty
Presiding Judge

Justice Julia Sebutinde

[Seal of the Special Court for Sierra Leone]

¹¹ Defence Reply, paras 2, 10 and 11.

¹² See *Prosecutor v. Brima, Kamara, Kanu*, Case No. SCSL-04-16-T, Decision on Objection to Question Put by Defence in Cross-Examination of Witness TF1-227, 15 June 2005, para. 20; Decision on Prosecution Motion for Relief in Respect of Violations of Rule 67, 26 July 2006, para.3; *Prosecutor v. Taylor*, Case No. SCSL-2003-01-T, Decision on Defence Motion to Lift the Redaction of Identifying Information of Fifteen Core Witnesses, 21 March 2007, para. 39.