



U.C. Berkeley War Crimes Studies Center

Sierra Leone Trial Monitoring Program

**Charles Taylor Monthly Trial Report (February 22, 2010 – March 31, 2010)**  
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**1. Overview**

The Defense called its second witness, Yankuba Samateh, a.k.a. Yanks Smythe, on Monday February 22, 2010. By the second week of March, the Defense had increased the pace at which it was calling witnesses, with six witnesses completing testimony during this reporting period. The witnesses testified primarily about Taylor's time in Libya, the use of child soldiers, and how the RUF acquired guns and ammunition. Many witnesses during this period were granted protective measures, and much of their testimony took place in closed session.

Witnesses who testified during this reporting period include:

- 1) DCT-179, Yankuba Samateh (a.k.a. "Yanks Smythe")
- 2) DCT-125
- 3) DCT-068
- 4) DCT-025
- 5) DCT-146, Charles Ngebeh
- 6) DCT-215, John Vincent

The legal issue of most importance during this reporting period involved Prosecution requests for access to Defense witness statements. With three of the witnesses who testified, the Prosecution argued that the summaries provided by the Defense were inadequate for the Prosecution to prepare its cross-examination of the witness. The Prosecution argued that there were inconsistencies between the witnesses' in-Court testimony and the Defense summaries. On one occasion, the Court granted the Prosecution's request, and on two, granted more time for preparation but denied disclosure of the witness statement.

During the first week of this reporting period, Senior Trial Lawyer for the Prosecution Brenda Hollis was named the Special Court Prosecutor, taking over from Deputy Prosecutor Joseph Kamara, who had been Acting Prosecutor since Stephen Rapp's departure from the OTP. Also during this reporting period, Binta Mansaray was confirmed as the Registrar, after having served as Acting Registrar since June 2009.

With the conclusion of testimony by the Accused, this report marks a return to our regular monthly reporting intervals on the Taylor trial. This report summarizes witness testimony heard during the period of February 22

through March 31, 2010, and identifies important issues that have arisen at trial. As with previous WCSC monitoring reports, this document is available online at [http://socrates.berkeley.edu/~warcrime/SL\\_Monitoring\\_Reports.htm](http://socrates.berkeley.edu/~warcrime/SL_Monitoring_Reports.htm).

## **2. Defense Themes and Strategies**

Continuing the Defense's chronological approach to its case, evidence during this period focused on disputing the Prosecution's allegation that there was a connection between Taylor and Sankoh in the late 1980s. The Defense also called witnesses that could testify about RUF operations, in particular where the RUF received its guns and ammunition. The Prosecution has alleged that Taylor supplied arms and ammunition to the RUF, which the RUF used to commit heinous crimes against the civilian population of Sierra Leone. The Defense also questioned witnesses about the RUF using child soldiers and rape during the Sierra Leonean conflict; the witnesses denied that these crimes were committed.

## **3. Prosecution Themes and Strategies**

The Prosecution's primary strategy with Defense witnesses has been to try to impeach the witnesses through prior inconsistent statements and suggesting bias. The Prosecution alleged that one of the Defense witnesses had been paid large sums of money to testify, mirroring prior Defense arguments regarding alleged payments to Prosecution witnesses. The Prosecution also used cross-examination as an opportunity to elicit evidence that could strengthen its case, as well as discredit Taylor's testimony.

## **4. Legal and Procedural Issues**

### ***a. Prosecution's Application for Access to Defense Witness Statements***

A frequent issue in the Taylor Defense case has been whether or not the Prosecution can have access to Defense witness statements (Defense case documents based on interviews with the witness), in addition to the witness summaries (summaries of what the witness will testify about, written by the Defense) provided by the Defense to the Prosecution before the witness's testimony. This issue initially arose with the first Defense witness called after Taylor. Just before the Prosecution commenced cross-examination of Yanks Smythe, it filed an application for the Trial Chamber to order the Defense to provide the Prosecution with the Witness's statements. It argued that Rule 73*ter* allowed the Trial Chamber to make such an order.<sup>1</sup> The Prosecution argued that this application was in the interests of justice, and essential in order to conduct a thorough cross-examination of Smythe. According to the Prosecution, this was necessary for the Trial Chamber to get all information relevant to making a determination of the truth of his testimony. Counsel for

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<sup>1</sup> Rule 73*ter*(B) states that "The Trial Chamber or the said Judge may order the Defence to provide the Trial Chamber and the Prosecutor with copies of the written statements of each witness whom the Defence intends to call to testify."

the Prosecution said that the witness summary and a short letter from the Defense, which in total allegedly amounted to about a page, was the only information they had in order to prepare for its cross-examination. The Prosecution felt that this was an unfair representation of the Witness's testimony, since transcripts of his direct examination reached 600 pages. They further explained that according to the summary given by the Defense, the Witness was present when Taylor travelled to Voinjama in 1991. The Prosecution hoped to determine exactly when Taylor went to Voinjama. March 1991 was when the attack on Sierra Leone was launched, and there has been evidence in the case about Mr. Taylor's presence in Voinjama in March 1991 before the attack. According to the Prosecution, Smythe's statement gave the date as March 1991, but he later testified in Court that the date was October 1991.

Citing a February 21, 2006 decision from *Norman et al.*<sup>2</sup>, the Defense replied that the Prosecution had no right, as a matter of course, to disclosure of Defense witness statements. Rather, according to the Defense, although it is not in Rule 73ter, the presumption is that the Prosecution will receive summaries of a witness's statement, not the complete statements. According to the Defense, for the Court to order disclosure of Defense witness statements, the Prosecution must prove by *prima facie* evidence that it would suffer undue or irreparable prejudice should it not receive a witness statement.<sup>3</sup> The Defense argued that the jurisprudence of the SCSL, ICTR, and ICTY supported its contention that Defense witness summaries need not be as detailed as those provided by the Prosecution to the Defense. In this situation, the Defense maintained that it had provided a sufficiently thorough witness summary. The Prosecution, counsel argued, had given no showing of an undue burden or irreparable prejudice, and was therefore not entitled to receive the Witness's statement.

The Judges agreed with the principle laid down by the ICTY Appeals Judgment in *Prosecutor v. Tadić*, where the Appeals Chamber held that there is no blanket right for the Prosecution to see the witness statement of a Defense witness.<sup>4</sup> The *Taylor* Trial Chamber held that the Prosecution only has the right to apply for disclosure of a statement after a witness has testified, with the Chamber retaining the discretion to make a case-by-case decision. The Judges noted that Rule 73ter is not applicable to the circumstances of this particular case because that rule applies to disclosures before the commencement of the Defense case—and therefore is limited to witnesses that the Defense intends to call in the future. The Judges further agreed with the principle in the *Tadić* judgment that once a witness has testified, it is for the Trial Chamber to ascertain the credibility of his or her testimony. If he or she has made a prior statement, the Court opined, a Trial

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<sup>2</sup> Prosecutor v. Norman et al, Case No. SCSL-04-14-T-562, "Decision on Prosecution request for order to Defense pursuant to Rule 73ter(B) to disclose written witness statements," 21 February 2006, pg. 6.

<sup>3</sup> *Id.*

<sup>4</sup> Prosecutor v. Tadić, Case No. IT-94-1-A, Appeals Judgment, July 15, 1999, ¶ 319.

Chamber must be able to evaluate the testimony in light of this statement in its quest for the truth and for the purpose of ensuring a fair trial.

The Trial Chamber agreed with the Prosecution that there was an apparent contradiction between the information provided in the Witness's summaries and in his evidence-in-chief regarding a period relevant to the indictment. They did not feel that the explanation given by Defense counsel explaining the apparent contradiction was sufficient, especially considering that the contradiction did not come from the Witness himself but from the Defense team. The Court therefore agreed with the Prosecution that in the circumstances, it was in the interests of justice for the Defense to disclose DCT-179's witness statement to the Prosecution before cross-examination could commence. The Chamber did not rule on the matter of undue or irreparable prejudice, as was the practice of their colleagues in Trial Chamber I, but apparently limited its determination to a consideration of the interests of justice.

The Prosecution again requested a full witness statement following the direct examination of DCT-125, arguing that the summary given by the Defense was too short and inadequate in light of the Witness's testimony. The Prosecution noted that the summary curiously claimed no witness statement was available. They further complained about late disclosure, noting that the Defense released the name of the Witness to the Prosecution on February 15, 2010, just over two weeks before he appeared in Court.<sup>5</sup> Lastly, Counsel for the Prosecution said that they were told that direct examination of DCT-125 would last five days, but it had only taken three. For these reasons, they felt inadequately prepared for cross and insisted they needed access to the witness statement.

The Defense objected to the application for the Witness's statement, on the same grounds as it had with the first. The Defense also noted that Witness DCT-125 had been referred to by Prosecution witnesses TF1-371, Moses Blah, Suwandi Camara, and others. This, the Defense maintained, was enough for the Prosecution to prepare for its cross-examination by conducting at least an internet search of this widely referenced witness. The Defense did concede that they had not disclosed the summary in time, but argued that this did not prove irreparable damage. The Defense told the Court that the summary did not mention a statement because they had received the statement after the summary was filed.

The Judges ruled that there was no great divergence between DCT-125's summary and his testimony, and that the Prosecution had not demonstrated a contradiction between the two. They therefore felt that a statement need not be given to the Prosecution. However, as the Defense agreed that they did not comply with disclosure rules, the Prosecution was allowed an adjournment before commencing on cross-examination. The Prosecution began the cross-

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<sup>5</sup> See *Taylor*, Case No. SCSL-03-01-T-782, "Decision on Urgent Defence Application for Protective Measures for Witnesses and for Non-Public Materials," 27 May 2009, ¶ 31.

examination of DCT-125, but asked for the next Defense witness to be called the next day, and resumed DCT-125's cross after the next witness's direct-examination.

The issue arose a third time, on similar grounds, with Defense Witness DCT-146. The Prosecution and the Defense reiterated their previous arguments. This time, the Defense emphasized that the test is not merely that it is in the interests of justice to order the disclosure, although the Defense conceded that this was an important part of what it characterized as a conjunctive test (presumably, that disclosure is both within the interests of justice and necessary to either protect the Prosecution from an undue burden or irreparable prejudice). The Defense conceded that there might appear to be some sort of contradiction between the first two paragraphs of the witness summary. However, Counsel for the Defense contended that the Witness's evidence as a whole was completely consistent. The Defense also reiterated that the summary was not meant to capture detail; it was meant to describe the essence of what the Witness would testify about, and that is precisely what they argued this summary had done.

The Trial Chamber found that in this particular instance, the summary pertaining to witness DCT-146 fell short of describing the essence of the Witness's testimony and did not adequately enable the Prosecution to cross-examine the Witness. However, the Trial Chamber was of the view that although the summary was inadequate, it was not necessarily inconsistent with the Witness's testimony. The Trial Chamber therefore allowed the Prosecution extra time (the rest of the day) to prepare its cross-examination, but did not order the Defense to disclose the witness statement.

*b. Admitting Witness Statements as Evidence*

After Smythe concluded his testimony, the Defense moved to have his witness statement entered as evidence. The Prosecution objected to the statement being admitted in its totality. Counsel for the Prosecution argued that only those sections that were dealt with in cross-examination or redirect should be considered, because that Prosecution had not cross-examined the Witness on everything in his statement, due to the inconsistencies between Smythe's statement and his testimony. The Defense countered that the statement was important for the Judges to have a proper idea of who the Witness is and the context in which to evaluate his evidence, and that in any event, the Prosecution had used the statement extensively in cross-examination. Counsel for the Defense pointed out that, although the Prosecution cited the Voinjama issue in its disclosure motion, the Prosecution spent very little time cross-examining on that topic, addressing Voinjama only on the last day.

The Judges noted that it was not the Defense who initially introduced this statement into the record; rather, it was the Prosecution that obtained a court order for the disclosure of the statement, intending to use it in cross-examination, *inter alia*, to impeach the credibility of the Witness. The Judges said that the Prosecution had unfettered opportunity to cross-examine the Witness on the entire contents of the document, and that the Prosecution

could not claim to suffer irreparable prejudice arising from its tender into evidence. They added that since the credibility of the Witness had been called into question arising from the alleged inconsistencies between his testimony in Court and his prior statement, the Trial Chamber could not evaluate his evidence by referring only to the parts of the statement that had been referred to by the parties in Court. The Judges concluded by saying that it was in the interests of justice to admit the whole document into evidence.

### *c. Courtroom Management*

The Special Court for Sierra Leone has faced numerous logistical challenges stemming from its move to the Netherlands for the *Taylor* trial. In early 2010, the Court faced a new administrative challenge—the ICC needed the SCSL to relinquish time in the courtroom where the *Taylor* trial has been conducted to date. The SCSL was forced to share the courtroom schedule with the ICC, reduce courtroom hours, and maintain a frequently-changing trial schedule. However, in spite of the challenges this presented, the Court and the parties managed the new schedule efficiently. The Judges made an effort to use all available courtroom time and ensure a speedy process. The Court also made arrangements to move the trial to the courtroom at the Special Tribunal for Lebanon, which is not currently in use. This move will likely take place in early May, allowing the SCSL uninterrupted use of dedicated courtroom facilities.

Departing from the more passive courtroom management style of previous Presiding Judges in the *Taylor* case, Justice Sebutinde seems to be taking an active role in managing courtroom interactions and witness testimony. This is a refreshing change, and will hopefully yield more efficient trial sessions. For example, Defense witness Yanks Smythe was a difficult witness for the Prosecution to cross-examine. There were several tense moments with the Prosecution, causing Justice Sebutinde to intercede in the exchanges. With previous Presiding Judges, such interjections from the Bench were less common, rendering proceedings less efficient.

## **5. Witness Testimony**

### *a. DCT-179, Yankuba Samateh (a.k.a. “Yanks Smythe”)*

Mr. Smythe is a Mandingo Gambian who gained Liberian citizenship in 1998. He served as Taylor’s bodyguard in the early 90s, and in 1999 he became the Assistant Director of Operations of the SSS. He later became Liberia’s ambassador to Libya.

The Defense questioned Smythe primarily on the veracity of the testimony of various Prosecution witnesses. The Defense used Smythe to discredit the testimony of a key Prosecution witness, ZigZag Marzah, who Smythe claims was a low-level bodyguard for Benjamin Yeaten with no access to Taylor or Taylor’s residence, White Flower. Smythe denied that Taylor and his NPFL recruited child soldiers. Possibly detrimental to the Defense, Smythe directly contradicted Taylor’s testimony that Benjamin Yeaten was not involved in the

death of Samuel Dokie and his family; Smythe claimed that Yeaten was involved, and was subsequently punished by Taylor.

*i. Challenging Suwandi Camara's Testimony*

The Prosecution has alleged that Taylor met RUF leader Foday Sankoh and Gambian dissident Kukua Sambasanja, a.k.a. "Doctor Manneh" in Libya in the 1980s and that the three men formulated a common plan to destabilize Sierra Leone, Liberia and Gambia, starting with Liberia. Taylor has denied these allegations, and the second Defense witness, Yanks Smythe, testified to this. Smythe was asked if he knew that Suwandi Camara (also a Gambian) testified as a Prosecution witness. Smythe answered that he read it in the newspapers in Monrovia. The Defense went back to Camara's testimony where Camara said that in 1990 he met Taylor with Sankoh and Doctor Manneh at the Mataba, a guesthouse for the revolutionaries in Libya.<sup>6</sup> Smythe refuted this, saying that to the best of his knowledge, Taylor was at the Liberian border and that Sankoh was not at the Mataba. Smythe added that there was no way Camara was at the Mataba, as he did not have enough status to live there.

The Defense introduced more testimony from Camara, including his claim that Taylor, Sankoh and Manneh made a deal while in Burkina Faso to help each other in their respective wars.<sup>7</sup> Smythe responded that he did not see Taylor meet with Sankoh, and added that since he was Taylor's bodyguard at the time, he would have known. The Defense asked if Manneh sent Smythe and other Gambians to protect Taylor in exchange for assistance in Manneh's conflict, to which Smythe responded in the negative. Camara had also testified that he was trained in four locations in Libya, including Sebha, Tripoli and Benghazi, that he met with Smythe during his time there, and that he left Libya in 1991. However, Smythe disputed this, saying that Gambians were only trained in Tripoli, that he never met Camara there, and that he was the last Gambian to leave Libya in November 1989. Camara also testified that Ibrahim Bah brought diamonds from the RUF to Taylor in Liberia sometime in 2002.<sup>8</sup> Smythe responded that around 1992, Ibrahim Bah did something, which Smythe could not remember, but that when Smythe went to arrest him, Bah had already been tipped and ran away to Burkina Faso. Since then, Smythe said, Bah never returned to Liberia.

*ii. Challenging TF1-371's Testimony*

The Defense also questioned Smythe about statements made during the testimony of TF1-371, a protected Prosecution witness who testified in entirely closed sessions. Witness TF1-371 said during his testimony on January 25, 2008, that Taylor and Sankoh met in March 1991 in Voinjama to discuss the Sierra Leone attack. Smythe answered that he was Taylor's bodyguard at the time and would go everywhere with Taylor, and was not

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<sup>6</sup> *Taylor*, Trial Transcript, 7 February 2008, pg. 97 (lines 21-25).

<sup>7</sup> *Taylor*, Trial Transcript, 8 February 2008, pg. 15 (lines 6-11).

<sup>8</sup> *Taylor*, Trial Transcript, 11 February 2008, pg. 79 (lines 22-28).

aware of any such meeting. TF1-371 had provided the Court with the NPFL command structure between 1990-1991. Smythe testified that many things were wrong in this hierarchy. For example, Smythe said that people like Foday Sankoh, Benjamin Yeaten, Sam Bockarie, Morris Kallon, and Dr. Manneh were not in the NPFL hierarchy. TF1-371 had also provided the Court with the RUF command structure after the invasion of Sierra Leone between March and June 1991. According to TF1-371, Taylor was at the top of the command. Smythe disagreed with the whole structure.

*iii. Small Boys Unit*

Smythe refuted Prosecution allegations that Taylor and his NPFL recruited children and assigned them into groups called Small Boys Units (SBUs) also known as Ghankay Tigers. Prosecution witnesses testified that children younger than 15 years old were used for combat purposes by the NPFL. Taylor had himself testified that children were used to man gates.<sup>9</sup> Smythe told the Court, “We the commanders created that name because most of the commanders have these orphans with them, some of their families, some people, . . . they go to the front and found this child who has no father no mother, bring him with you and he stays with you, so you can call him a Small Boys Unit.”<sup>10</sup> He added that he had five of these small boys who he took care of. This testimony is significant because although Smythe admits that NPFL commanders did have SBUs, it places direct responsibility for these children onto the commanders and individuals, and not Charles Taylor. It also negates that the children were used for military purposes, and suggests that they were kept as orphans, not soldiers.

*iv. Benjamin Yeaten*

During cross-examination, Taylor told the Judges that the arrest and execution of Samuel Dokie and his family was not ordered by Benjamin Yeaten, as alleged by Prosecution. The former president said that those responsible for the arrest and execution of the Dokie family did so without the orders of Yeaten, and that those responsible were punished. However, Taylor claimed, no action was taken against Yeaten because he did not bear any responsibility for such actions. Taylor has also repeatedly said that even in hindsight he would hire Yeaten again. However, Smythe contradicted Taylor’s account, saying that Yeaten was indeed suspended by Taylor for ordering the arrest of Dokie and his family, and their subsequent execution. “Benjamin was suspended by President Taylor because he ordered the arrest of Dokie and that was not an instruction from Mr. Taylor,” Smythe told the Court.<sup>11</sup>

*v. Zigzag Marzah*

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<sup>9</sup> *Taylor*, Trial Transcript, 16 July 2009, pg. 109 (lines 7-9).

<sup>10</sup> *Taylor*, Trial Transcript, 23 February 2010, pg. 79 (lines 25-29).

<sup>11</sup> *Taylor*, Trial Transcript, 24 February 2010, pg. 89 (lines 20-21).



Yanks Smythe was also asked about Zigzag Marzah, who Smythe explained was not a member of the SSS but a private bodyguard hired by Benjamin Yeaten. In his 2008 testimony for the Prosecution, Marzah told the Judges that he was an SSS officer who had access to Taylor and that on numerous occasions he acted on direct instructions from Taylor to take arms and ammunitions to RUF rebels in Sierra Leone. Asked if he knew if Marzah had testified on behalf of the Prosecution, Smythe answered that he had read in a newspaper in Monrovia about Marzah testifying that he fed on human beings with Taylor. Smythe added that this was ridiculous because he never saw Marzah inside White Flower. This supports Taylor's testimony that Marzah was an ordinary orderly with whom he could not have interacted.

*vi. Cross-Examination*

The cross-examination saw heated exchanges between the Prosecution and the Witness. On some occasions, the Witness blatantly refused to answer the questions posed by the Prosecution and only answered after the Bench intervened. The Prosecution attempted to impeach Smythe's testimony, questioning him on several inconsistencies between his prior statements and his in-court testimony, and also sought to elicit information in support of its case.

1) Child Soldiers

During the Prosecution's case-in-chief, several witnesses, including Taylor's former vice president Moses Blah, testified that child soldiers were used by Taylor's NPFL, and that some served as bodyguards for the former president and other NPFL commanders. This was used by the Prosecution to prove a pattern of conduct related to the charges he faces for similar crimes committed in Sierra Leone. Under cross-examination, Smythe testified to the contrary. He reiterated that the NPFL did not use child soldiers.

2) Arms in Liberia

The Prosecution asked Smythe if, as part of Taylor's security between 1998 and 2000, he had arms. Smythe responded that the security had arms. The Prosecution read from Taylor's testimony where Taylor had reiterated that he did not send any arms to Sierra Leone as there were no arms in Liberia in 1997, 1998, and 1999. Taylor had also added that the situation was so bad that his security did not have arms.<sup>12</sup> This was one of the many instances that the Witness's testimony contradicted Taylor's.

3) Dokie's Death

The Prosecution asked Smythe about Dokie's death. Smythe testified that he had heard about it and that Yeaten was placed under house arrest when word got around about what had taken place without Taylor's orders. Smythe

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<sup>12</sup> *Taylor*, Trial Transcript, 30 September 2010, pg. 97 (lines 24-26).

testified that to the best of his recollection, Taylor would generally not re-appoint somebody who had disobeyed his orders. This was of course contrary to the fact that Taylor did re-appoint Yeaten after the Dokie incident. The Prosecution showed a photograph of Benjamin Yeaten where Yeaten was dressed in army clothes and asked if Yeaten was promoted to four stars before or after the arrest and subsequent killing of Dokie and his wife. Smythe responded that he did not know.

#### 4) Suwandi Camara

The Prosecution referred to Smythe's transcript where he was asked about Suwandi Camara. Smythe testified that he did not listen to, or follow, Camara's testimony and that he never discussed Camara's testimony with anyone.<sup>13</sup> The Prosecution introduced Smythe's written statement, taken by Defense lawyers in 2009. In his statement, Smythe said that he heard Camara's testimony in The Hague, and that after that he started asking around. Smythe explained this inconsistency by denying that he had spoken to anyone about Camara's testimony. By "asking around," he claimed to have meant he checked previous newspapers that contained Camara's testimony.

Smythe testified that Camara did not go to Libya with Dr. Manneh. However, in his statement, Smythe said that Camara came to Libya with a group brought by Manneh. Smythe conceded that he said this in his statement but claimed that after "reflecting in his mind," he realized that Camara was not with Manneh. Smythe was asked by the Prosecution if there was training in Benghazi, Libya, to which he answered that he did not know of any training in Benghazi as he was training in Tajura camp in Tripoli, Libya.<sup>14</sup> However, in his statement, Smythe said that he knew there was training in Beghazi, but said it was too specialized for him to participate. Confronted with this inconsistency by the Prosecution, Smythe responded that he was told there was training in Beghazi, but since he did not see or know it himself, he decided to say what he knew in his testimony (that he was not aware of training in Beghazi.) This is important, as Smythe has been trying to discredit Camara's testimony. Camara, whose sister is married to Smythe's uncle, had said that he had been trained in four places, including Benghazi.

#### 5) Inconsistencies in Smythe's Testimony

The Prosecution asked Smythe about when and where he first saw Taylor in Libya. Smythe answered that he saw Taylor once or twice at the Mataba. His statement says that the first time he saw Taylor was in Tajura in 1987, and not at the Mataba. Smythe explained that the inconsistency must be a typing error in his statement or a misrepresentation of his words<sup>15</sup>, as he never saw Taylor in Tajura. Smythe's statement says that he believes Taylor met Sankoh in Tajura. However, Smythe again changed his testimony in Court, saying that

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<sup>13</sup> *Taylor*, Trial Transcript, 1 March 2010, pg. 137 (lines 6-7).

<sup>14</sup> *Taylor*, Trial Transcript, 26 February 2010, pg. 60 (lines 17-27).

<sup>15</sup> An excuse frequently used by Prosecution witnesses faced with such inconsistencies.

he would not know if the two had met as he was never in Tajura. He insisted that at the time of the statement he was just speculating but had decided to stop speculating during his testimony. Smythe added that his statement was inconclusive because his signature was not on it and he had not had the opportunity to correct his statement before approving it.

*b. DCT-125*

Witness DCT-125 testified with protective measures granted by a Trial Chamber decision dated January 22, 2010.<sup>16</sup> To ensure privacy, the Defense did not provide any background information on the Witness. All that is publically known is that DCT-125 is an insider, as he was present in meetings at the Mataba in Libya, specifically one meeting discussed at length, held March 15-18, 1986. This meeting was held for revolutionaries from all over the world including Africans, Palestinians, Latin Americans, Filipinos, persons from the Caribbean, Native Americans, and also revolutionaries from the Kurdish regions and Green movements in Europe. This meeting also coincided with the Reagan administration bombing of Libya. The Witness explained that contrary to information that these meetings led to the rise of terrorist groups, these meetings were held for revolutionaries fighting against imperialism.

*i. Libya*

DCT-125 testified that at the Mataba, there was a revolutionary body which stood against Zionism, colonialism, Apartheid and racism. This body was led by Col. Gaddafi and was located in Tripoli. The Defense asked whether it was possible that revolutionaries from different groups had access to each other. The Witness claimed that one of the principles of the Mataba was non-interference in the internal affairs of other movements. The Defense can use this testimony to show that there was no way Sankoh, Taylor and Dr. Manneh could have met to plan the destabilization of West Africa, given that they were from different revolutionary groups. According to DCT-125, they would not have had access to each other. The Witness also said that he saw Sierra Leoneans in Libya led by Alie Kabbah. He added that he knew Kabbah as Kabbah studied in Cape Coast, Ghana.

*ii. Charles Taylor*

The Witness maintained that he had heard of Taylor when Taylor was arrested in Ghana, accused of being an agent for the CIA (after Taylor's escape from an American prison). The Witness then met Taylor in 1985 at the Mataba. The Witness testified that in matters of opinion, he differs with Taylor, as he is a Marxist and Taylor "a pure product of the capitalist system."<sup>17</sup> However, he added that he was impressed by Taylor, as Taylor felt genuine concern for

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<sup>16</sup> *Taylor*, Case No. SCSL-03-01-T-885, "Decision on public with Annex A and B and confidential Annex C urgent Prosecution request for an order for the Registry to disclose non-privileged information," January 22, 2010.

<sup>17</sup> *Taylor*, Trial Transcript, 4 March 2010, pg. 26 (line 9).

Liberians and was a nationalist. He added that he also felt that Taylor was a “bourgeois capitalist intellectual.”<sup>18</sup> This last comment elicited a rare smile from Taylor.

The Witness then said that he left Libya for Burkina Faso in 1987 where he lived “not even a mile” from Taylor. DCT-125 said the two would meet frequently to talk about revolutionary ideas promulgated by people like Nkrumah, Gaddafi, Nyerere and others.

*iii. Conspiracy to Destabilize the West African Region*

The Defense then told the Witness of the Prosecution allegation that Taylor had conspired with the Witness and others to destabilize the West African region. The Witness responded that this was a deep insult as he, Taylor and others were fighting for the downtrodden. The Witness said that he moved to Liberia to help provide security for Taylor, after the NPFL was split into two when Prince Johnson led his breakaway faction from the NPFL. He added that there was no conspiracy and that they only went to Liberia to protect Taylor, whose life was threatened.

*iv. Cross-Examination*

The Prosecution began cross-examination of DCT-125, but paused while the Defense called witness DCT-068. The Prosecution had requested disclosure of DCT-125’s witness statement, which the Court denied. The Court did however grant additional time to prepare for cross-examination. The Prosecution began by asking the Witness about the RUF and Foday Sankoh before re-commencing during the fourth week of this reporting period to question DCT-125 on monies received from the Defense and ECOMOG.

1) RUF and Foday Sankoh

DCT-125 testified that he did not consider the RUF a terrorist organization, or Foday Sankoh a terrorist. Judge Sebutinde asked the Witness to describe what he thought a terrorist organization was. He answered that a terrorist organization is one that destroys lives and property without meaning.

The Prosecution then re-introduced the BBC Mary Harper interview where Taylor can be clearly heard saying, “. . . it is known by everyone that I have been friendly with Sankoh for many years before the revolution.” The Prosecution asked DCT-125 what revolution Taylor was talking about. The Witness replied that he only knew of one revolution that took place in 1989. This was helpful to the Prosecution as their case alleges that Taylor and Sankoh met in the 80s. Taylor had insisted that he met Sankoh for the first time 1991.

2) Witness Bribed to give Testimony

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<sup>18</sup> *Taylor*, Trial Transcript, 4 March 2010, pg. 27 (lines 5-6).

Mirroring the Defense's constant arguments that Prosecution witnesses had been paid to testify—an allegation the Prosecution has staunchly denied—the Prosecution asked the Witness if he received money to testify for the Defense. The Witness vehemently denied the allegation. The Prosecution alleged that the Witness received 424,400 Leones (approximately \$109 USD) through a Western Union transfer, \$2,000 USD as an advance to his Daily Subsistence Allowance (DSA) before coming to The Hague and €100 after arriving. The Witness responded that the only money he received was for the purchase of his visa, the transportation to go to the Dutch embassy and back to the hotel and also some money through Western Union from the Special Court in Sierra Leone. He however said that to his knowledge, this was all part of the DSA. The Prosecution further asked the Witness about some \$10,612 USD he received as part of his DSA while in The Hague. The Witness denied that he had been paid and told the Court that the funds were to cover expenses during his stay.

The Defense objected that the line of questioning was “unfair and uncalled for.”<sup>19</sup> Counsel for the Defense added that Yanks Smythe and Moses Blah stayed in a hotel and received DSA from the Witness and Victims Service. The Prosecution responded that the Defense had used the same line of questioning directed to the Prosecution witnesses and it was therefore hypocritical for it to object. The Presiding Judge overruled the objection and allowed the questions.

### 3) Arrest National from ECOMOG Contributing States

The Prosecution then pointed out inconsistencies between Taylor's testimony and that of the Witness. Asked if he recalled Nigerians and nationals of other countries that contributed to ECOMOG being detained in Liberia when he was in Liberia, the Witness responded that the NPFL did not arrest any foreign nationals from West Africa. This is inconsistent with Taylor's testimony, as Taylor said that the NPFL began a process of picking up certain nationals, especially targeting Nigerians.<sup>20</sup> Asked by the Prosecution who was lying between the two, the Witness reiterated that he was telling the truth.

#### *v. Re- Direct Examination*

##### 1) Libya

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<sup>19</sup> *Taylor*, Trial Transcript, 19 March 2010, pg. 6 (line 15).

<sup>20</sup> *Taylor*, Trial Transcript, 20 July 2009, pg. 12 (lines 6-9).

Asked about Libya, and whether the various movements could meet inside the Mataba, the Witness reiterated that the various groups could not meet. He added that there was a central kitchen but only one member of the group was allowed to get the food and thus meetings between groups were impossible. This line of questioning can help disprove Prosecution allegations that Sankoh and Taylor met in Libya.

## 2) Suwandi Camara

The Witness denied ever introducing Suwandi Camara to Taylor either in Libya or Burkina Faso. Suwandi Camara had testified before the Court that he met Taylor in Libya and that Taylor, Sankoh and Dr. Manneh conspired in Libya to destabilize the West African region.

## 3) Alleged Bribe

The Witness told the Court that he has a real fear for his life—he feels threatened by the President of the country he is from (the identity of which was not disclosed due to protective measures). The Defense asked the Witness what he valued more, money or his life. The Witness answered that he valued his life more than money. The Prosecution had alleged that the Defense offered the Witness approximately \$11,000 in exchange for his testimony. The Defense thus tried to show that a man who fears for his life would not travel all the way to The Hague just for money.

### *c. DCT-068*

The Witness, known as DCT-068, is a former non-combatant member of the RUF. He testified in open session but his name and personal information were not shared with the public.

DCT-068 testified about his life in Sierra Leone growing up. He discussed the corrupt nature of the government and student protests. The Witness said that he and some friends started a group that would meet to discuss the bad state of their country. This is allegedly how he met Foday Sankoh around 1980. The Witness stated a number of times that this group did not have a name or a leader. He said they all felt inspired by revolutionaries like Nkrumah, Mandela, Castro, and Nasser. Asked by the Defense if he had heard of Charles Taylor at this time, the Witness said no.

The Defense asked the Witness if was aware of people going to Libya in the 1980s. DCT-068 maintained that although he knew of people who went to Libya in the 1980s, he chose not to go because he believed that fight against the oppressive must be done internally. He said that of course there were those who chose to fight externally and went to Libya. The Witness claimed he last spoke to Sankoh before Sankoh went to Libya in 1986, and did not speak with him again until after the war began. From 1986 to 1991 when the war started, the Witness maintained he had not heard from or of Sankoh, and was mining diamonds. He said he fled to Freetown when the war started, afraid of arrest or persecution due to his previous association with Sankoh.

*i. Cross Examination*

The Witness testified that he first heard of the RUF in 1991, when Sankoh broadcast an ultimatum to Sierra Leonean President Joseph Momoh. DCT-068 testified that in 1992, he went to meet Sankoh in Kenema. The Witness claimed that he saw civilians being mistreated, and felt his security was at risk. Therefore, he testified, he went to see Sankoh. He became a civilian coordinator for the RUF, and later joined the RUF/AFRC secretariat.

1) Kailahun Massacre

The Prosecution questioned DCT-068 about crimes allegedly committed by the RUF, including a 1998 massacre in Kailahun. The Witness explained that he was sent to Kailahun, but was in Dodo (a village on the way to Kailahun) when the massacre occurred. He explained that he heard that Bockarie and his men had captured some CDF members. However, he testified that he got to Kailahun a month after the massacre. The Prosecution asked if, when he arrived, the Witness could smell the rotting bodies that were still on the streets. The Witness answered that he did not see any dead bodies but could smell a stench and did not know where it was coming from. The Witness said that he did not know if it was Bockarie who had ordered the killing.

2) Child Soldiers

The Prosecution referred to an RUF ideology book, "Footpaths to Democracy," that discussed how the RUF should urge everybody to be a fighter, to protect their rights, and therefore to give arms and training to children, youth, men and women. The Witness said that he recognized the book but said that by "arming," the RUF probably meant arming with words and ideology. Asked by the Prosecution what age a child can be able to handle an AK-47, the Witness said 14-years-old. The Witness testified that SBUs were boys who were enthusiastic to join the RUF. The Witness claimed that although these persons were small in size, he could not be sure of their age or whether they were under eighteen.

3) Liberians in the RUF

As explained earlier, the Prosecution has alleged that Taylor formed the RUF in Liberia. Counsel for the Prosecution introduced an RUF logbook. The book contained a couple names of commanders in the RUF, amongst them Major Mingo a.k.a. "Superman," Major Isaac, Major Raki, and Major Rambo. The Prosecution asked the Witness if he knew who these people were and where they came from. The Witness responded that he could not tell where they were from but that they all had Liberian accents. This is significant in that it suggests that high commanders in the RUF were Liberians, and therefore possibly under the control of Taylor.

#### 4) Rape in the RUF

The Prosecution asked if the RUF commanded women to go with particular commanders. The Witness responded that he never heard of this. He added that he never heard of the RUF raping women or of any civilian complaints. The Prosecution again referred to the logbook, which had two columns—one with names of civilian women and the other containing names of RUF/AFRC commanders. Counsel for the Prosecution alleged that the women were assigned to those commanders as wives. The Witness responded that these commanders had wives of their own and therefore the women in the list could not have been assigned as wives. He added that he thought the list indicated women who had been helped by the commanders. He explained that during the war civilians would come to the commanders to seek protection.

#### 5) Diamonds

The Witness, a diamond miner himself, admitted to the Prosecution that diamonds were important to advance the war. The Prosecution asked about Peleto, the mining commander of the RUF. The Prosecution told of how Peleto found a big diamond (of “twenty-something” carats, according to the Witness) and alleged that the diamond was given to Issa Sesay who later gave it to Taylor. The Witness agreed that the diamond was given to Issa Sesay, but claimed that he was there when it was given to Foday Sankoh and that it never crossed the border. He added that the diamond was still in Sankoh’s house when his house was raided by forces sent by Tejan Kabbah. The Prosecution then asked about mining, how taxation worked and whether the RUF paid landowners for their mining. The Witness answered that it was lawless at the time and taxation was impossible. He evaded the question on whether the RUF paid landowners, saying that the RUF was the government at the time and therefore had no one to pay. The Prosecution pointed out that in the mining fields there were RUF forces with guns, and alleged that these guns were to force civilians to work and dissuade them from stealing. The Witness responded that the guns were there to protect the civilians.

#### *d. DCT-025*

This Witness testified in open session, but his name and personal information were not shared with the public. He is a Liberian member of the RUF that trained under Foday Sankoh at Camp Naama in Liberia in the early 1990s.

#### *i. Training in Camp Naama*

The Witness testified that he trained in Camp Naama with Issa Sesay, Morris Kallon, and Augustine Gbao, amongst others. Asked how many Sierra Leoneans were at the training base, the Witness responded that there were many and that they were trained by four commanders, including Foday Sankoh. He added that there were 300 Liberians and Sierra Leoneans. The Prosecution has alleged that RUF rebels were trained at the camp but Taylor has denied the allegations.



The Witness also testified that on March 20, 1991, he left Camp Naama with a group of 150 trainees. This group purportedly went to the Sierra Leone border, from where the Witness claimed Sankoh led a group of 100 men to attack Koindu. The Witness, not in the group that carried out the attack, said he was told that the group attacked the police station in Koindu and took over the town.

*ii. Arms and Ammunition*

The Defense asked the Witness if he knew of a trip that Sankoh made to Gbarnga where he allegedly gave Taylor diamonds in exchange for arms and ammunition. This is in reference to testimony by Prosecution Witness TF1-567, who said that Sankoh informed them that he gave Taylor some diamonds in exchange for some arms and ammunition.<sup>21</sup> The Witness said he knew nothing about it, and added that the RUF traded coffee and cocoa with Guineans in exchange for arms and ammunition. According to the Witness, the RUF also captured arms and ammunition from enemy forces. The Prosecution has alleged that the RUF means of obtaining weapons was through an exchange of diamonds and arms with Taylor

*iii. Rape*

Charles Taylor is charged with three counts of sexual violence, including rape, sexual slavery, and outrages upon personal dignity. The Prosecution introduced a significant amount of testimony relating to these crimes during its case-in-chief. The Defense asked Witness DCT-025 if the RUF captured women for sexual purposes. The Witness said that Sankoh had instructed that if any such thing occurred, the soldier was to be severely punished. The Defense then wanted to know if any soldier was punished for this. The Witness responded that he did not hear or see of any punishment as he also did not hear of rape cases.

*iv. Cross-examination*

1) NPFL Fighters amongst the RUF

DCT-025 denied that there were NPFL fighters in Sierra Leone helping to train RUF fighters from August 1991 to May 1992. The Witness also denied that anyone ever brought supplies from outside Sierra Leone during that period. The Prosecution then asked DCT-025 whether it would be a lie if another witness testified before the Court that between August 1991 and May 1992, NPFL fighters were in Sierra Leone fighting alongside the RUF. The Witness said it would be a lie. The Prosecution then introduced Taylor's testimony where he said that he sent NPFL soldiers to Sierra Leone from August 1991 to May 1992.<sup>22</sup> Asked by the Prosecution if Taylor was telling a lie, the Witness responded that if Taylor had forces there he did not know about it. He added

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<sup>21</sup> *Taylor*, Trial Transcript, 2 July 2008, pg. 53 (lines 17-23).

<sup>22</sup> *Taylor*, Trial Transcript, 23 November 2009, pg. 35 (lines 2-5).

that he would not believe that NPFL soldiers were there, since he was not a frontline fighter and had not heard anything about it.

## 2) Child Soldiers and Rape

The Prosecution asked DCT-025 about the use of child soldiers in Naama. The Witness responded that Sankoh instructed C.O. Mohammed (an RUF field commander) to recruit only people seventeen years and above. The Witness added that he would be very surprised if somebody told the Court that there were children present, as he did not see any. The Witness testified that he did not receive any reports about rape or women being taken by the RUF as bush wives. Counsel for the Prosecution referred to the Sierra Leone Truth and Reconciliation Commission report, which reported on the RUF use of child soldiers, rape, and bush wives. The Witness again reiterated that he did not know of any such thing and that if it had happened, it was not to his knowledge.

### *e. DCT-146, Charles Ngebeh*

Witness DCT-146, Charles Ngebeh, was born in Kailahun district in 1965. After school, he started working as a miner. He claimed he was then captured by the RUF and trained as a guerilla by what he called a combined system of RUF/NPFL. He testified that he was trained to repair arms.

#### *i. RUF/NPFL Infighting*

The Witness testified about infighting between the RUF and the NPFL in 1991, when they realized that there were more Liberians than Sierra Leoneans in the RUF. Ngebeh claimed that Bockarie ordered Sierra Leonean Vanguard and Commandos to kill the Liberians. The Witness said that an investigation was conducted which resulted to the jailing of C.O. Mohammed and Issa Sesay, but that Bockarie managed to escape to the jungle. Ngebeh said that Taylor then sent an investigator and later ordered that all Liberians should evacuate within seventy-two hours and bring all their weapons with them.

#### *ii. Help from Taylor*

The Defense asked Ngebeh what kind of help the RUF received from Taylor. The Witness, who refers to Taylor as "Pa Taylor," said that they received some ammunition but mostly food. He added that most of their ammunition came from attacking the Sierra Leone Army and the Guineans. Ngebeh testified that after the RUF/NPFL infighting, Taylor withdrew his support. The Witness testified that the RUF received arms and ammunition from ULIMO in 1996.

#### *iii. RUF Treatment of Civilians*

The Prosecution has alleged that the RUF committed the crime of forced labor by forcing civilians to mine diamonds, which would in turn go to Taylor in exchange for arms and ammunition. Asked about this by the Defense, the

Witness said that indeed the soldiers would go out to look for civilians and force them to do the mining. Telling the Court what would happen if the civilians did not follow RUF orders, Ngebeh said, “If you [were] unlucky, they would kill you. If you [were] lucky, they would beat you up.”<sup>23</sup>

*f. DCT-215, John Vincent*

The seventh Defense witness, DCT-215, is John Vincent, a Liberian from Bomi County, who joined the NPFL in 1990. Before receiving any training from the NPFL, he was recruited by the RUF and served as training commandant for the RUF and later as Colonel in the Armed Forces of Liberia (AFL).

*i. RUF Training Child Soldiers*

The Witness testified about the RUF training children between the ages of ten and eighteen. The Defense asked the Witness why children under seventeen were trained, to which the Witness said that they would follow the soldiers everywhere and therefore needed to know how to escape in case of trouble. He claimed that the children were not used as fighters, but only for domestic work.

*ii. Training at Camp Naama*

The Witness testified that he was trained in Camp Naama at a training site they called Crab Hole. Asked by the Defense if he saw or met Taylor at the site, the Witness responded that he did not. “No I did not even know him. Not even a day,” he said.<sup>24</sup> The Prosecution has alleged that both Liberians and Sierra Leoneans were trained at Camp Naama before the invasion of Sierra Leone, with the knowledge and assistance of Taylor. Taylor has denied this allegation.

*iii. Invasion of Sierra Leone*

The Defense referred to Prosecution Witness Isaac Mongor’s testimony where he said that just before the invasion of Sierra Leone in March 1991, Taylor and Sankoh met in Voinjama.<sup>25</sup> The Prosecution has alleged that Taylor helped Sankoh invade Sierra Leone. However, Vincent told the Court that if Sankoh met Taylor, he would have told them, and if Taylor was there, he would have seen Taylor. Additionally, Mongor testified that the NPFL left Voinjama with trucks full of arms and ammunition that were passed out to RUF troops in Foya.<sup>26</sup> Vincent disputed this, saying that to the best of his knowledge, nothing of the sort happened.

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<sup>23</sup> *Taylor*, Trial Transcript, 23 March 2010, pg. 69 (lines 7-9).

<sup>24</sup> *Taylor*, Trial Transcript, 25 March 2010, pg. 39 (line 13).

<sup>25</sup> *Taylor*, Trial Transcript, 10 March 2008, pg. 78 (lines 6-15).

<sup>26</sup> *Taylor*, Trial Transcript, 10 March 2008, pg. 81 (lines 17-24).

#### *iv. Cross-Examination*

##### **1. Witness's Switch from NPFL to RUF**

In an attempt to demonstrate a fluid relationship between the NPFL and the RUF, two groups which the Prosecution alleges were under the joint control of Taylor, the Prosecution questioned the Witness on how he transferred from the NPFL to the RUF. The Prosecution asked whether John Kagbo (who had recruited the Witness into the RUF) was part of the NPFL at the time of the recruitment. The Witness responded that Kagbo was in the RUF at the time. "A person can turn from NPFL to RUF at any moment, isn't that true?" asked Counsel for the Prosecution.<sup>27</sup> The Witness responded that it was not that easy. Noting that the Witness switched from the NPFL to the RUF, the Prosecution asked if anybody could just as easily switch to the Kamajors. The Witness responded that no one announced switches as it would cost them. He explained that people left quietly. The Prosecution asked how the Witness got past the checkpoints to join the RUF, to which the Witness responded that he did not tell anyone what he was up to. The Prosecution asked the Witness if he hid the fact that he was in the RUF when he went back to Liberia. The Witness responded that he did not.

##### **2. Child Soldiers**

The Prosecution has alleged the use of child soldiers at the frontline by both the RUF and the NPFL. The Witness had earlier testified that children as young as ten and eleven years old were in the military base. The Witness testified that the boys left their families for military training with their older brothers as they had nowhere to go. Additionally, the Witness said that the SBUs (Small Boys Unit) would also be referred as Small Boys Soldiers. The Witness said that he trained the boys on how to assemble an AK-47 so that when they got to the required age, they could go to battle and fight. Vincent told the Court that he had an SBU called Mortiga.

##### **3. RUF Rituals**

The Prosecution introduced documentary evidence from an RUF investigation concerning vanguards (including the Witness) who met together on November 15, 1999 for a sacrifice. The Prosecution asked the Witness if the RUF sacrificed people, to which the Witness responded that this was just a memorial ceremony for the dead. The Prosecution asked the Witness if he knew about the sacrifice of Alice Pyne's child. The Witness responded that he heard that Bockarie buried Alice Pyne's child alive but that nobody dared ask Bockarie about it. "We did not support it nor did we take action because he was the highest in command," he said.<sup>28</sup>

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<sup>27</sup> *Taylor*, Trial Transcript, 30 March 2010, pg. 62 (line 13).

<sup>28</sup> *Taylor*, Trial Transcript, 31 March 2010, pg. 27 (lines 15-16).



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