



U.C. Berkeley War Crimes Studies Center

Sierra Leone Trial Monitoring Program

Charles Taylor Monthly Trial Report (April 1, 2010 – April 30, 2010)

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1. Overview

The Defense case moved ahead steadily in April, with three new witnesses taking the stand for Charles Taylor. By the end of this reporting period, Taylor's Defense team had called a total of eleven witnesses. Much of the testimony this month focused on events occurring before the indictment period (which spans from 1996 to 2002), including the formation and training of the RUF in 1991, its first incursions into Sierra Leone, and the early years of the war. This testimony can help the Defense disassociate Taylor from allegations that he created and/or supported the RUF from 1991 through the conclusion of the war in 2002.

Witnesses who testified during this reporting period include:

- 1) DCT-146, Charles Ngebeh
- 2) DCT-306, Fayia Musa
- 3) DCT-062, Martin George a.k.a. "Flomo"
- 4) DCT-131, Karneh Edward Minneh

This report summarizes witness testimony heard during the month of April and identifies important issues that have arisen at trial. As with previous WCSC monitoring reports, it is available at http://socrates.berkeley.edu/~warcrime/SL_Monitoring_Reports.htm.

2. Defense Themes and Strategies

The Defense strategy has to been to disassociate Taylor from the RUF. Therefore, witnesses have testified about the early days of the RUF, including training, ammunition supplies, and its first incursions into Sierra Leone. Defense witnesses corroborated Taylor's testimony that Taylor's support of the RUF ended in 1992, after Top Final. Witnesses further testified that the RUF obtained weapons from attacking its enemies and from ULIMO—not from Charles Taylor or the NPFL.

3. Prosecution Themes and Strategies

The Prosecution continued its strategy of discrediting the Defense witnesses through prior inconsistent statements, inconsistencies in Defense witness testimony, personal knowledge, bias, and implicating the witnesses in RUF crimes. The Prosecution also asked RUF insiders about crimes that the RUF

had committed during the war. Witnesses admitted that the RUF committed many brutal crimes, but denied both personal culpability for such crimes as well as Taylor's culpability for those crimes.

4. Legal and Procedural Issues

a. Disclosure of Witness Statements

As with previous Defense witnesses, the Prosecution continued to request disclosure of witness statements prior to cross-examination. With Witness DCT-306, the Prosecution focused its arguments on what it considered the patent insufficiency of the Defense witness summary for DCT-306. The Prosecution argued that according to SCSL jurisprudence, witness summaries must enable the Prosecution and Court "to appreciate and understand the nature and content of a witness's proposed testimony" and must

include detailed summaries of the incidents and/or events which a witness is called to testify upon: Exact location and date if available of these alleged incidents and/or events; position and/or role of a witness in relation to the crimes charged in the indictment; nexus between the accused and the proposed testimony of a witness; and other details as counsel deems necessary and would clearly demonstrate the essence of that testimony.¹

Initially, the Prosecution argued that because the Defense witness summaries to date had not met that standard, it would be in the interests of justice and the efficiency of the trial for the Court order that the Defense disclose its witnesses' statements ten days before a witness testifies so that this issue would not continue to occur. The Prosecution ultimately dropped this request before the Judges had the opportunity to rule, however. In lieu of blanket disclosure, the Prosecution simply pressed for DCT-306's witness statement.

The Defense opposed the motion for disclosure of the full witness statement, reminding the Court that there is no blanket right for the Prosecution to see the witness statements, and that the Prosecution only has the right to apply on a case-by-case basis for disclosure of a witness statement after the witness has testified. Counsel for the Defense opined that, in the case of DCT-306, the summary provided the Prosecution with sufficient information to properly cross-examine the Witness: "a summary is exactly what it says. It is not exhaustive; it is a summary."²

¹ *RUF*, Case No. SCSL-04-15-746, "Consequential orders concerning the preparation and the commencement of the Defence case," 28 March 2007, 4-5.

² *Taylor*, Trial Transcript, 16 April 2010, pg. 43 (lines 16-17).

Trial Chamber II acknowledged that the summary for Witness DCT-306 was indeed brief, but concluded that it was not grossly insufficient. The Trial Chamber agreed that the Witness's evidence did include areas not specifically mentioned in the summary, but concluded that the Prosecution had not demonstrated undue or irreparable prejudice, pursuant to the relevant legal standard. Accordingly, the Court denied the Prosecution's motion for full disclosure of the witness statement. Instead, the Chamber held that the proper remedy was to allow the Prosecution additional time to prepare its cross-examination in relation to those areas not contained in the summary. Court adjourned an hour early for this purpose, although Counsel for the Prosecution indicated that the adjournment was unnecessary. He noted that Prosecution's request for additional time was to research some 40,000 pages of transcripts for the cross-examination, and that the little time granted by the Court was unhelpful in that regard.

The Prosecution filed a motion seeking leave to appeal the decision. Under Rule 73(B), the Court may grant leave to appeal a decision on a motion in exceptional circumstances and to avoid irreparable prejudice to a party.³ The Prosecution argued, *inter alia*, that the decision condoned the Defense's "systematic failure to provide adequate summaries," which impairs the Prosecution's ability to test the evidence and in turn may constitute an interference with the course of justice.⁴ The Prosecution warned that this practice was likely to continue throughout the Defense case, causing the Prosecution irreparable prejudice.⁵

The Defense argued that there were no exceptional circumstances and that no irreparable prejudice existed, because the issue involved the Trial Chamber's discretionary and consistent application of settled jurisprudence.⁶ The Defense further contended that the decision would not prevent the Prosecution from effectively challenging evidence.⁷

The Trial Chamber denied the Prosecution's application. The Court considered that the Prosecution's refusal of extra time to prepare for its cross-examination of DCT-306 was inconsistent with its claim to irreparable prejudice for lack of the witness statement. The Court further considered that the issue was not one of a fundamental legal nature, since the decision involved the case-by-case discretionary application of settled law.⁸

b. Taylor Refused to Appear in Court

On April 28, 2010, Taylor refused to attend trial due to what he considered demeaning and undignified treatment by the personnel at the security center

³ Rule 73(B), Rules.

⁴ *Taylor*, Case No. SCSL-03-01-T-953, "Decision on urgent Prosecution application for leave to appeal decision of 16 April 2010," 5 May 2010, 2.

⁵ *Id.*

⁶ *Id.* at 3.

⁷ *Id.*

⁸ *Id.* at 5-6.

where he is held. Taylor objected to the method of transport whereby the security personnel leave him waiting handcuffed in a van while they retrieve an accused on trial at the ICC in order to transport both accused in a single convoy. This issue had arisen earlier in the course of his defense case, in January.⁹ In the past, Counsel for the Defense claimed Taylor had been left for 30 minutes in the van. On this occasion, Taylor complained that he had been left sitting for ten to fifteen minutes. Taylor gave his team permission to continue in his absence. The Presiding Judge directed the Registrar of the Special Court to once again look into this issue and find a way to ensure that it would not happen again.

After the mid-morning break, Counsel for the Defense told the Court that although Taylor was ready and willing to come to Court and in spite of an order from the Registrar to the Dutch authorities ordering him to be brought to Court, the authorities would be unable to transport Taylor that afternoon. Apparently, the Dutch security company only had one team able to do such transports, and they were unable to bring Taylor for the afternoon session. The Defense moved for an order from the Bench that Taylor be transported to Court that afternoon. After conferring, the Judges unanimously declined to make such an order. In the Court's view, the wait was not unreasonable, inhumane or degrading, and its previous order to the Registrar to rectify the matter was sufficient. The Registrar's subsequent filing on the matter was confidential, and thus not accessible to trial monitors.¹⁰

5. Witness Testimony

a. DCT-146, Charles Ngebeh, Cross-Examination

Ngebeh's cross-examination had been suspended on March 24, 2010, in an effort to remedy an insufficient witness summary. Upon resumption of his testimony, the Prosecution questioned Ngebeh extensively about the RUF and AFRC joint command structure during the junta. The Witness testified that Bockarie ordered the AFRC and RUF commanders to work together as a team. However, he claimed that it was the AFRC acting under SAJ Musa's orders that attacked Freetown in January 1999, and that the RUF was not responsible for that attack. Ngebeh contended that the RUF attempted to join the AFRC in Freetown, but were blocked by ECOMOG.

Under cross-examination, Ngebeh testified that although Taylor supported the RUF in 1991, Taylor was not responsible for atrocities committed in Sierra Leone. He agreed with the Prosecution that the atrocities committed in Sierra Leone by the RUF were terrible, but insisted that Taylor had nothing to do with them. The Witness denied that he had personally committed crimes during the war.

⁹ See Judy Mionki and Jennifer Easterday, "Charles Taylor Trial Report (November 10, 2009 – February 18, 2010)," War Crimes Studies Center, (March 2010), pg. 11.

¹⁰ Taylor, Case No. SCSL-01-03-T-952, "Submission of the Registrar pursuant to Rule 33(B) regarding the transport of the accused to court on 28 April 2010," 4 May 2010.

The Prosecution also inquired about ownership of diamonds mined by the civilians, asking if they were considered to be government property. The Witness responded that during the time that RUF was in power (1991 - 1996), diamonds were government (*i.e.* RUF) property, but when the RUF and the AFRC started working together after the 1997 coup, the diamonds became personal property. “When you get your diamonds you can sell them wherever you want to sell them. After the coup diamonds no longer were government property,” Ngebeh told the Court.¹¹ However, Ngebeh said that if someone found a large diamond (seven carats or larger), they were required to hand it over to the RUF/AFRC “government”—or face arrest. He also claimed that the RUF maintained RUF mines, but individuals could also mine for themselves.

The Prosecution asked Ngebeh about 2001, during which time the Witness claimed the RUF was at peace. He denied that the RUF was committing crimes such as rape, murder, and other brutalities against civilians at that time. The Prosecution, attempting to impeach his testimony, introduced human rights reports that attested to such crimes being committed by the RUF against refugees returning to Sierra Leone in 2001. Ngebeh admitted that the RUF had previously committed such crimes, but adamantly denied that it continued in 2001.

Again mirroring a Defense cross-examination strategy, the Prosecution asked the Witness whether he had been paid or promised payment from anyone at the SCSL. The Witness denied that he had received funds from the Defense, but said he had received funds from the WVS including a daily allowance, travel assistance, assistance paying rent for his home, and funds for medical expenses for him and his family. The Prosecution alleged that according to WVS records, the total amount was 1,661,000 Leones, or approximately \$423 USD. The Witness said that this might be true, but he was not sure because he had not been keeping his own records.

a. DCT-306, Fayia Musa

Witness DCT-306, Fayia Musa, is a Sierra Leonean national of the Kissi tribe, born in Kailahun District in 1956. He served in the RUF as an agricultural officer (teaching civilians how to farm) and later as an RUF spokesperson and a member of the RUF delegation at the Abidjan peace talks.

The Witness described how the RUF established collective farms, and sold coffee and cocoa crops at the Sierra Leone/Guinea border for cooking supplies and ammunition. Musa testified that there was no trade across the Sierra Leone/Liberian border because the Liberian border region was controlled by ULIMO. He claimed that this barter system began in 1992 after Top Final, when Liberians were expelled from the RUF, and ended in 1995 when the RUF began engaging with the international community for peace talks. Musa denied that civilians were forced to farm.

¹¹ *Taylor*, Trial Transcript, 12 April 2010, pg. 14 (lines 2-4).

i. NPFL- RUF Relationship

Musa acknowledged that there were Liberians in the RUF, but claimed that many of them had familial or tribal ties to Sierra Leone. The Prosecution alleges that the presence of Liberians in the RUF indicates Taylor's control and/or support of the RUF. Musa's testimony casts doubt onto that theory by suggesting that Liberian nationals might have fought with the RUF for reasons other than being under Taylor's command.

The Witness testified that the two groups had a falling out in 1992, leading to battles between Liberians and Sierra Leoneans known as Top 20, Top 40, and Top Final. After Top Final, Musa claimed that Sankoh announced that he would never go back to Liberia. According to the Witness, Sankoh kept his word. Asked by the Presiding Judge why Sankoh made this vow, Musa said that Sankoh had relied a lot on Charles Taylor for support, but that support did not come, and instead the Liberians had attacked the Sierra Leoneans. This helps corroborate Taylor's claims that he did not assist Sankoh or the RUF after 1992.

ii. Rape

The Witness told the Court that the RUF had rules, which if broken, would lead to punishment. Relying on "Footpaths to Democracy," a book co-authored by the Witness and launched by the RUF on December 1995, Musa said that if an RUF member raped, he would be punished. He gave an example of a man who was killed for raping a pregnant woman.

iii. Sam Bockarie was "A Devil"

Musa told the Court that after Foday Sankoh was arrested in Nigeria, he and other members of the RUF delegation to the Abidjan peace talks concluded that Sankoh should no longer be leader of the RUF. For this, Sankoh had them arrested by Sam Bockarie, who took over the leadership of the RUF. The Witness testified that after Bockarie arrested him, he spent two and a half years as an RUF prisoner. Musa referred to Bockarie as a devil who ordered the daily physical and mental torture of him and other prisoners. The Witness stood up in Court to show scars from beatings Bockarie purportedly ordered. "Sam Bockarie, I have started and I will end with this: He is – he was a devil," he told the Judges.¹² Musa reiterated that the punishments administered to RUF members were on Bockarie's orders, and not Taylor's.

iv. Cross-Examination

1) Liberians in the RUF

¹² *Taylor*, Trial Transcript, 13 April 2010, pg. 81 (lines 21-22).

The Witness refuted claims from another Defense Witness that NPFL soldiers were part of the RUF group that initially invaded Kailahun district. John Vincent, a Liberian former member of the RUF, had told the court that Liberian nationals from the NPFL helped capture Koindu.¹³ Asked by the Prosecution if Vincent was lying, the Witness responded, “I cannot tell whether he was lying or not, but the group which met us was RUF.”¹⁴ Musa testified that he was captured by the RUF in Kailahun, and therefore had personal knowledge of the rebels that participated in the invasion. This is one of several inconsistencies in the testimony of Defense witnesses the Prosecution has highlighted, with the aim of discrediting their testimony.

2) Forced Labor

The Prosecution also delved into the topic of forced labor. Asked if the civilians felt like slaves working for the RUF, the Witness responded that the reality on the ground was that they all had to work in order for them to eat. The Witness said that he did not know if other people were treated as slaves but could only talk about what he knew—that everyone willingly worked to get food.

3) Links between the RUF and Taylor

The Prosecution asked the Witness about Dr. Addai-Sebo, who had been instrumental in publishing the RUF book “Footpaths to Democracy.” The Witness agreed that Dr. Addai-Sebo had been especially involved in the editing. Asked if Dr. Addai-Sebo had worked elsewhere before showing up in RUF territory, the Witness said that he had not. The Prosecution said that Addai-Sebo was Taylor’s publicist and introduced the RUF delegation in Ivory Coast to Musa Cisse (Taylor’s chief of protocol). The Witness agreed that Addai-Sebo introduced them to Cisse but insisted that he did not know how they knew each other.

4) Child Soldiers

The Prosecution asked the Witness if the RUF armed children. The Witness responded that they did, admitting that the children were about eleven years old and older. The Witness also admitted that in the book, “Footpaths to Democracy,” the RUF stated that they armed children. The Prosecution also asked about the RUF anthem, which said, “Go and tell my parents they may see me no more.”¹⁵ The Witness admitted that children were indeed taken from their families.

5) Taylor lying under oath?

¹³ *Taylor*, Trial Transcript, 25 March 2010, pg. 51 (lines 12-18).

¹⁴ *Taylor*, Trial Transcript, 19 April 2010, pg. 77 (lines 5-7).

¹⁵ *Taylor*, Trial Transcript, 20 April 2010, pg. 104 (lines 21-22).

The Witness testified that Foday Sankoh spent about six months with Taylor at his NPFL headquarters in Gbarnga, Liberia. However, Taylor had testified that Sankoh was not based in Gbarnga, but only visited for a few days.¹⁶ The Witness stuck with his answer, and maintained that Foday Sankoh had been in Gbarnga until the end of the Top 40 operation in mid-1992. The Prosecution said that this inconsistency implied that Taylor lied under oath.

The Prosecution also managed to point out another inconsistency between the Witness's testimony and that of Taylor. Asked by the Prosecution if he travelled to Gbarnga in July 1995 and then travelled with Taylor to Accra in August 1995, the Witness responded that he did—but denied that the visit had anything to do with military support. The Prosecution then referred to Taylor's testimony where Taylor testified that he moved to Monrovia in July 1995 and never left Monrovia until the elections in 1997.¹⁷ Taylor has also testified that he cut all ties with the RUF in 1992. Both of these statements from Taylor contradict Musa's testimony.

b. DCT-062, Martin George a.k.a. "Flomo"

Witness DCT-062, Martin "Flomo" George, was born on June 15, 1970 in Bong County, Gbarnga. He was recruited by the RUF on January 8, 1991. He held the position of Colonel in the RUF.

i. RUF Arms and Ammunition

George told the Court that he and other RUF recruits trained at Crab Hole, part of Camp Naama in Liberia. The Witness said he never saw Taylor at Crab Hole, and claimed that the RUF trainees did not mix with NPFL trainees from other parts of Camp Naama.

The Witness told the Court that he left Crab Hole on March 1, 1991 to attack Sierra Leone. He said that there were a total of 381 RUF fighters that left Crab Hole, which were divided equally into two battalions. He said that it took eighteen days of travel before his battalion reached Bo Waterside, a town on the Liberian side of the border with Sierra Leone. George claimed that they were unarmed when they left Camp Naama, but found arms and ammunition waiting for them under tarps near the border. He said he did not know how the weapons had arrived there. The Witness and other members of the RUF purportedly used these weapons to launch an attack on barracks in Sierra Leone. He testified that although his group encountered NPFL soldiers along the way, they did not provide the RUF any manpower or weapons for their initial attack.

Indeed, the Witness testified that the RUF never received arms and ammunition from the NPFL, but rather obtained all of their materiel from

¹⁶ *Taylor*, Trial Transcript, 25 November 2009, pg. 76 (lines 11-14).

¹⁷ *Taylor*, Trial Transcript, 13 April 2010, pg. 105 (lines 23-25).

attacking SLA soldiers. George contended that the RUF later bought arms and ammunition from ULIMO, including a shipment delivered from Abu Keita to Sam Bockarie before the RUF attack on Kono in 1998. The Witness denied that Taylor had provided any guns or ammunition from Taylor for this attack. Moreover, George denied that diamonds mined in Kono were given to Taylor or Benjamin Yeaten.

ii. Liberians in the RUF and their Contact with Taylor

The Witness testified that the Liberians in the RUF never had any communication with Taylor. He added that the entire time (between 1991 and 2002) that he was in RUF, he never heard anybody having radio contact with Taylor. This testimony contradicts Prosecution witness Isaac Mongor, who testified about having communicated with Taylor. However, George said that he and Mongor used to “pass the night” in the same place, and he never heard any communication between Mongor and Taylor or Taylor’s commanders.¹⁸

iii. Cross-Examination

During cross-examination, the Prosecution attempted to impeach the Witness’s credibility by questioning him on the accuracy of his previous testimony and his personal knowledge of what he testified about. The Prosecution also asked the Witness about crimes committed by the RUF, including using child soldiers and amputations.

George admitted that the RUF kept SBUs, and that there were children under fifteen years old with their group. He said that he had more than three small boys with him, who he would feed and take care of. However, George denied that the boys were used for military purposes, telling the court that they were used only for domestic chores, including at times carrying fighting materiel. The Witness said that the SBUs were technically RUF members though, because “as long as you were RUF, you just had to be a member. [. . .] When an enemy captured you, you cannot say you are not a member of the RUF. You can’t deny that. So we considered them to be members of the RUF.”¹⁹

Prosecutors have alleged that the RUF, under Taylor’s command, began to amputate civilians’ hands in order to keep them from voting in the 1996 elections. Many crime-base witnesses have testified in the *Taylor* trial about such amputations. George denied that Sankoh gave an order to cut off hands to prevent people from voting. The Witness told the Court that he was present when Sankoh ordered RUF commanders to put a stop to the election, but claimed that Sankoh did not order amputations.

c. DCT-131, Karnah Edward Mineh

¹⁸ *Taylor*, Trial Transcript, 26 April 2010, pg. 11 (lines 21-26).

¹⁹ *Taylor*, Trial Transcript, 28 April 2010, pg. 67 (lines 13-16).

The 10th Defense Witness is Karneh Edward Mineh born on February 12, 1952. He became a farmer but later joined the Armed Forces of the Republic of Liberia. He later moved to Nimba County where he became the bodyguard of Joseph Fangalo, a general in the Armed Forces of Liberia at the same time and superintendent of the county. He later served as a commander in the NPFL.

The Witness testified that four men who were then part of the NPFL (Anthony Mekunagbe, Degbon, Oliver Varney and One Man One) stole NPFL supplies and sent them to ULIMO. Asked by the Defense why they did this, the Witness responded that the four later joined ULIMO and formed a unit called the Black Kaddafa. Mineh was an NPFL commander fighting ULIMO alongside these other commanders in the Cape Mount region of Liberia until this group changed sides and started fighting with ULIMO as the Black Kaddafa. This testimony is in line with Taylor's claims that the Black Kaddafa was set up by NPFL fighters who were trying to eliminate him, and that the members of the group were investigated and ultimately executed.²⁰

²⁰ Kimberley Punt and Jennifer Easterday, "Direct Examination of the Accused Charles Taylor," War Crimes Studies Center, (December 2009), pg. 22, available at http://socrates.berkeley.edu/~warcrime/SL_Monitoring_Reports.htm.



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