

No Remedy for Charles Taylor's Application to Appeal Decision on his Motion for Transfer to Rwanda

On 30 January 2015, a special Trial Chamber convened by Justice Philip Waki dismissed Taylor's motion demanding that he be transferred to Rwanda where other Special Court for Sierra Leone (SCSL) convicts have been imprisoned. In his decision, Justice Waki upheld the Trial Chamber's decision on Taylor's "Motion for Termination of Enforcement of Sentence in the United Kingdom and for Transfer to Rwanda". The Judge also refused Taylor's "Application to Appeal Decision on Motion for Termination of Enforcement of Sentence in the United Kingdom and the Transfer to Rwanda" filed on 6 February 2015.¹

Taylor's Defence argued relying on the wording of Rule 73(B) on interlocutory appeals which provides that:

Decisions rendered on such motions are without interlocutory appeal. However, in exceptional circumstances and to avoid irreparable prejudice to a party, the president or an Appellate Judge designated by the President may give leave to appeal. Such leave should be sought within 7 days of the decision and shall not operate as a stay of proceedings unless the President, Designated Judge or Trial chamber so orders.

Building on this provision, the Defence submits that there is an implied meaning that this is applicable to the special Trial Chambers empaneled by the President. They further contend that they had met the conjunctive tests of "exceptional circumstances"² and "irreparable prejudice"³ prescribed by this Rule. In response, the Prosecution argued that Rule 73(B) applied only to motions arising in the course of judicial proceedings, and not "in the post administrative designation of place of confinement."

Justice Waki, citing SCSL jurisprudence, ruled that Rule 73(B) was inapplicable. "Even if it was permissible to seek leave to appeal against the decision of the special Trial Chamber in this case, which it is not, I am not satisfied, he said that the Defence has demonstrated the

¹ SCSL, <http://www.rscsl.org/Documents/Press/2015/pressrelease-052115.pdf>, [Access 19 July 2015].

² See *Taylor Appeal Judgment*, para. 25, *Norman et al. Subpoena Decision*, para. 7; *Sesay et al. Appeal Judgment*, para. 31.

³ The Defence submits that by the Trial Chamber's assessment of the accuracy of Adjudicated Fact 15 in its Judgment, Taylor suffered irreparable prejudice, in that he had no notice that Adjudicated Fact 15 was in contest and that he was denied the opportunity to adduce additional evidence to confirm the adjudicated fact. See *Taylor Appeal Judgment*, para. 102.

existence of 'exceptional circumstances' or 'irreparable prejudice' which are the standards upon which the application for leave would be considered," Justice Waki wrote. "I have carefully examined the record compiled by the Honorable Judges who sat in the special 'Trial Chamber' which I set up on the Motion for Transfer, and I am satisfied that they dispassionately gathered and evaluated the information placed before them," Justice Waki said. "I have further considered the reasoning of the Honorable Judges on the material placed before them and I concur with, and adopt, this as the final decision made by the Trial Chamber."⁴

The Appeals Chamber on 26 September 2013 handed down the case of *Prosecutor v. Charles Ghankay Taylor, case No. SCSL-03-01-A*, Mr. Taylor was sentenced to 50 years of imprisonment considering the period already served in detention, this is pursuant to Article 22 of the Statute of the Special Court (Statute), Rule 103(B) of the Rules of procedure and Evidence of the Special Court (Rules)⁵ and in line with paragraph five and six of the Practice Direction for designation of State Enforcement of Sentence, issued on 10 July 2009 (Practice Direction)⁶

In his first motion, Charles Taylor had prayed the Court to serve his sentence in Liberia. However, this request was turned down by the Trial Chamber on a decision arrived at on 30 January 2015. This decision is final and seals any further queries concerning the case of Charles Taylor.

⁴ SCSL, <http://www.rscsl.org/Documents/Press/2015/pressrelease-052115.pdf>, [Access 19 July 2015].

⁵ Rule 103 of the Rules of Procedure and Evidence of the Special court titled Place of Imprisonment provides that:

- (A) Pursuant to Article 23 of the RSCSL Statute, imprisonment may be served in Sierra Leone or another state that has concluded an agreement to that effect with the Special Court or the Residual Special Court. The Residual Special Court may conclude agreements with other countries willing to accept and imprison convicted persons.
- (B) The place of imprisonment for each convicted person shall be designated by the President.
- (C) Transfer of the convicted person to the place of imprisonment shall be effected as soon as possible after the time limit for appeal has lapsed.

⁶ SCSL, <http://www.rscsl.org/Documents/Decisions/Taylor/Appeal/1391/SCSL-03-01-ES-1391.PDF> [Access date 21 July 2015]; <http://www.rscsl.org/Documents/Decisions/Taylor/Appeal/1391/SCSL-03-01-ES-1391.PDF>, [Access date 26 April 2014]; *Taylor Appeal Judgment*, para. 31; *Sesay et al. Appeal Judgment*, para. 36. The Appeals Chamber has previously elaborated in detail many of the types of deficient submissions that may be summarily quashed without reasoning. *Sesay et al. Appeal Judgment*, paras 37-44.

He was convicted of eleven counts of war crimes, crimes against humanity, and other serious violations of international humanitarian law in April 2012 and sentenced to 50 years in May 2012 cognizant of the period already spent in detention since March 2006. On appeal, the Appeals Chamber on the 26th of September 2013 upheld the verdict. Taylor was transferred to FRANKLAND Prison in the United Kingdom where he will serve his sentence.⁷

⁷ SCSL, <http://www.rscsl.org/Documents/Decisions/Taylor/Appeal/1391/SCSL-03-01-ES-1391.PDF>, [26 April 2015].