



International Criminal Tribunal for the
Prosecution of Persons Responsible for
Genocide and Other Serious Violations of
International Humanitarian Law Committed
in the Territory of Rwanda and Rwandan
Citizens responsible for genocide and other
such violations committed in the territory of
neighbouring States between 1 January and
31 December 1994

ICTR
CRIMINAL REGISTRY
RECEIVED
Case No: ICTR-97-34-A
Date: 18 December 1998
Original: English

IN THE APPEALS CHAMBER

Before: Judge Gabrielle Kirk McDonald, Presiding
Judge Mohamed Shahabuddeen
Judge Lal Chand Vohrah
Judge Wang Tieya
Judge Rafael Nieto-Navia

Registrar: Mr. Agwu U. Okali

Decision of: 18 December 1998

PROSECUTOR

v.

GRATIEN KABILIGI


DECISION REJECTING NOTICE OF APPEAL

The Prosecution:

Mr. David Spencer
Mr. William Egbe
Mr. Chile Eboe-Osuji
Mr. Mathias Marcussen

Counsel for the Appellant:

Mr. Jean Yaovi Degli
Ms. Macha Sinagre-David

International Criminal Tribunal for Rwanda Tribunal pénal international pour le Rwanda	
CERTIFIED TRUE COPY OF THE ORIGINAL SEEN BY ME COPIE CERTIFIÉE CONFORME À L'ORIGINAL PAR NOUS	
NAME / NOM:	ANTOINE MINDUA
SIGNATURE:	 DATE: 24-05-99

THE APPEALS CHAMBER of the International Criminal Tribunal for the Prosecution of Persons Responsible for Genocide and Other Serious Violations of International Humanitarian Law Committed in the Territory of Rwanda and Rwandan Citizens responsible for genocide and other such violations committed in the territory of neighbouring states, between 1 January 1994 and 31 December 1994 (“the Tribunal”),

NOTING the “Decision of the Trial Chamber II on the Defence Motion to Lodge Complaint and Open Investigations into Alleged Acts of Torture under Rules 40 (C) and 73 (A) of the Rules of Procedure and Evidence” (“the Decision”), filed on 6 October 1998, dismissing a Defence motion (“the Defence Motion”) seeking to open an investigation into Defence allegations of torture and other cruel, inhuman or degrading treatment or punishment inflicted on the Accused, Gratién Kabiligi (“the Appellant”), by the investigators;

NOTING the “Notice of Appeal from the Trial Chamber II Decision” (“the Notice of Appeal”), filed by the Appellant on 13 October 1998;

NOTING the “Prosecutor’s Response to Defence’s Appeal of the Decision on Defence Motion to Lodge Complaint and Open Investigations into Alleged Acts of Torture under Rules 40 C and 73 of the Rules of Procedure and Evidence”, filed on 24 November 1998;

NOTING that the Notice of Appeal relies on Rule 72 of the Rules of Procedure and Evidence (“the Rules”);

CONSIDERING that Sub-rule 72 (D) of the Rules provides that decisions on preliminary motions are without interlocutory appeal, save in the case of dismissal of an objection based on lack of jurisdiction, where an appeal will lie as of right;

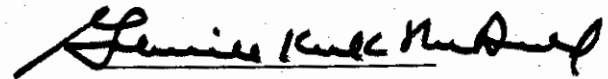
NOTING that the Notice of Appeal does not challenge the jurisdiction of the Tribunal;

FINDING that the Notice of Appeal does not contain an objection based on lack of jurisdiction within the meaning of Sub-rules 72 (B) (i) and 72 (D) of the Rules;

FINDING, accordingly, that there is no right of appeal against the Decision;

HEREBY REJECTS the Notice of Appeal.

Done in both English and French, the English text being authoritative.



Gabrielle Kirk McDonald
Presiding Judge

Dated this eighteenth day of December 1998
At The Hague,
Netherlands.



[Seal of the Tribunal]