

223

UNITED NATIONS

REGISTERED-ICTR-97-34-0021



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

Case No: ICTR-97-34-A

Date: 28 July 1999

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: 28 July 1999

GRATIEN KABILIGI

v.

THE PROSECUTOR

1999 JUL 29 A 10:12
ICTR
CRIMINAL REGISTRY
RECEIVED

DECISION REJECTING NOTICE OF APPEAL

The Office of The Prosecutor:

Mr. David SPENCER
Mr. William EGBE
Mr. Chile EBOE-OSUJI
Mr. Mathias MARCUSSEN

Counsel for the Appellant:

Mr. Jean Yaovi DEGLI
Mrs. Macha SINEGRE-DAVID

International Criminal Tribunal for Rwanda
Tribunal penal international pour le Rwanda
CERTIFIED TRUE COPY OF THE ORIGINAL SEEN BY ME
COPIE CERTIFIEE CONFORME A L'ORIGINAL PAR NOUS
NAME / NOM: Tehebi Talon Affoumbo
SIGNATURE: [Signature] DATE: 29-07-99

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* ("Appeals Chamber" and "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", filed on 6 October 1998 ("Decision I"), dismissing a 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, Gratien Kabiligi ("Appellant"), by the investigators from the Office of the Prosecutor;

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

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 the "Decision Rejecting Notice of Appeal" by the Appeals Chamber, filed on 21 December 1998 ("Decision II");

NOTING, however, the "Scheduling Order" of the Appeals Chamber, filed on 20 May 1999 ("scheduling order"), whereby the appeal was re-opened on account of the complaint of the Appellant that he had yet to receive a copy of Decision I in a working language he understood;

NOTING further that the scheduling order accepts as an Appellant's brief the document entitled "Mémoire d'appel interjeté par la défense à l'encontre de la décision du 5 octobre 1998 rendue par la 2ème chambre de première instance du TPIR", filed by the Appellant on 5 January 1999;

NOTING the "Mémoire additionnel de la Défense suite à la décision de la Chambre d'appel du TPIR du 28 Mai 1999", filed on 4 June 1999;

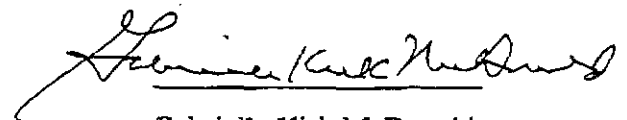
NOTING the "Mémoire du Procureur en réponse, en exécution de l'ordonnance du 20 Mai 1999 de la Chambre d'appel, sur l'admissibilité et le fondement de l'acte d'appel de l'accusé Gratien Kabiligi contre la Décision de la Chambre de première instance II du 05 octobre 1998 statuant en matière de plainte aux fins d'ouverture d'une enquête pour actes de tortures sur la base des articles 40 (C) et 73 (A) du Règlement de procédure et de preuve", filed on 14 June 1999;

CONSIDERING that the right of the Appellant to a fair trial and to be informed in a working language which he understands of decisions taken in respect of his case, has been satisfied as a result of the issuance of the scheduling order;

CONSIDERING that the Appellant has not raised an issue within the jurisdiction of the Appeals Chamber after the re-opening of the appeal;

HEREBY DECIDES to reinstate Decision II and reject the Notice of Appeal.

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



Gabrielle Kirk McDonald
Presiding Judge

Dated this twenty-eighth day of July 1999
At The Hague,
Netherlands.



[Seal of the Tribunal]

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International Criminal Tribunal for the
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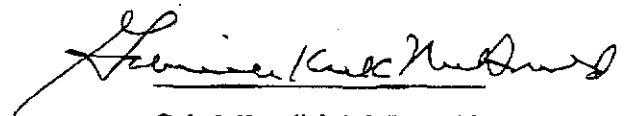
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Presiding Judge

Dated this twenty-eighth day of July 1999
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[Seal of the Tribunal]

International Criminal Tribunal for Rwanda - Tribunal pénal international pour le Rwanda

Date: 29.7.1999

Case No/Affaire ICTR-97-34-A: Gratien Kabiligi

From/De:


- Deputy Registrar
- Prisca Nyambe, Senior Legal Officer/ *Juriste principal*
- Mindua Antoine, Legal Officer/ *Juriste*
- Félicité Ahouandogbo, Legal Officer/ *Juriste* 

To/A

- | | | |
|--|---|---|
| <input type="checkbox"/> President Pillay/
<i>Présidente Pillay</i> | <input checked="" type="checkbox"/> Prosecutor Arbour
<i>Procureur Arbour</i> | <input checked="" type="checkbox"/> Accused
Mr. Kabiligi |
| <input type="checkbox"/> Trial Chamber I/
<i>Chambre de première instance I</i> | <input checked="" type="checkbox"/> Procureur Adjoint
<i>Deputy Prosecutor</i> | <input checked="" type="checkbox"/> Defence Counsel/
Mr. Degli |
| <input type="checkbox"/> Trial Chamber II/
<i>Chambre de première instance II</i> | <input type="checkbox"/> Chief of Press and information
<i>The Hague</i> | <input checked="" type="checkbox"/> Chief -wvss
<input type="checkbox"/> Office of Legal
Affairs - Mr. Miller
Fax.212-963-6430 |
| <input type="checkbox"/> Trial Chamber III/
<i>Chambre de première instance III</i> | <input type="checkbox"/> Chief of Press and Information/
<i>Chef, Bureau Presse et
information</i> | <input type="checkbox"/> Legal Officer/
<i>Juriste hors classe</i> |
| <input checked="" type="checkbox"/> Appeals Chamber/
<i>Chambre d'appel</i> | | |

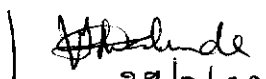
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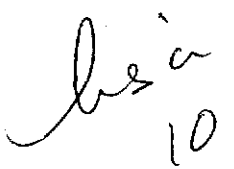
- Application for deferral/ *Demande de dessaisissement*
- Notice of designation of
- Notice of appeal
- Observations to be submitted by/ *Observations présentées par*
- Notice of the hearing on/ *Notification de l'audience du/...../.....*
- Order/warrant issued by a Trial Chamber or a Judge on/
Ordonnance/mandat émis par une Chambre de première instance ou un Juge le/...../.....
- Advertisement of indictment/ *Publicité de l'acte d'accusation*
- Communication from/ *Communication de*
- Submission by a State/ *Amicus curiae/ Déclaration d'un Etat/ Amicus curiae*
- Motion submitted by Prosecution/ *Defence Counsel on...../...../.....*
Motion présentée par l'Accusation/le Conseil de la Defense le...../...../.....
- Judgement pronounced on/ *Jugement rendu le/...../.....*
- Sentence pronounced on/ *Sentence rendue le/...../.....*
- Other/ *Autre: Decision rejecting notice of appeal*
- Filed on: 29.7.1999

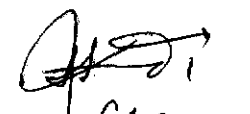

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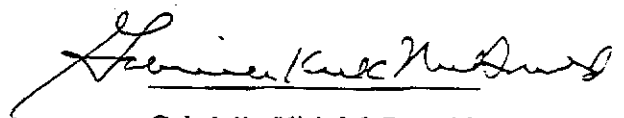
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