

ICTR-97-23-A
03-04-2000
(233-230)

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Hm



Tribunal Pénal International pour le Rwanda
International Criminal Tribunal for Rwanda

IN THE APPEALS CHAMBER

Before: Judge Rafael NIETO-NAVIA
Registrar: Mr Agwu U OKALI
Decision of: 31 March 2000

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Jean KAMBANDA
(Appellant)
v
THE PROSECUTOR
(Respondent)
Case No.: ICTR-97-23-A

DECISION

(APPELLANT'S MOTION FOR EXTENSION OF TIME TO FILE BRIEF)

International Criminal Tribunal for Rwanda
Tribunal pénal international pour le Rwanda
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NAME / NOM: *Felicite T. Atoungire*
SIGNATURE: *[Signature]* DATE: *3-4-2000*

Counsel for the Appellant
Mr Tjarda Eduard van der SPOEL
Mr Gerard P M F MOLS

Counsel for the Prosecutor
Mr Bernard MUNA
Mr Mohamed OTHMAN
Mr Upawansa YAPA
Mr Norman FARRELL
Mr ZHU Wen-qi

I, JUDGE Rafael NIETO-NAVIA, designated by the Presiding Judge as a Pre-Hearing Judge, pursuant to Rule 108bis of the Rules of Procedure and Evidence (the 'Rules'),

NOTING the Judgement and Sentence of Trial Chamber I in the *Prosecutor v Jean Kambanda*, rendered on 4 September 1998; that Mr Kambanda had pleaded guilty to the indictment confirmed against him; and, that he was sentenced to life imprisonment;

NOTING that a 'Notice of Appeal against Sentence of Trial Chamber I' was filed on 7 September 1998 on behalf of Mr Kambanda (the 'Appellant');

NOTING FURTHER that a 'Supplementary Notice of Appeal against Sentence of Trial Chamber I' was filed on 8 October 1998 on behalf of the Appellant;

NOTING the letter from the Registry to Mr Tjarda Edouard van der SPOEL, dated 13 August 1999, assigning him thenceforth as the Appellant's Counsel (the 'Appellant's Counsel'), and that Mr van der Spoel thereby replaced the Appellant's former Counsel of record;

NOTING that by a Scheduling Order of 29 September 1999, this Chamber ordered that (a) the Appellant shall file his appellate brief by 8 December 1999, (b) the Prosecutor (the 'Respondent') shall file her response by 4 January 2000, and (c) the Appellant may file a reply by 19 January 2000;

NOTING that by a motion dated 24 November 1999, the Appellant's Counsel requested leave from this Chamber further to supplement the Appellant's Notice of Appeal and, consequently sought an extension, by three months, of the time-limit within which to file his appellate brief;

NOTING that, in the absence of any objection from the Respondent, this Chamber, by a decision of 8 December 1999, did grant the Appellant's motion of 24 November 1999, and hence ordered, among other things, that the parties shall file their briefs by the following time-limits:

- (i) the Appellant shall file his appeal brief by 8 March 2000
- (ii) the Respondent shall file her responding brief by 7 April 2000, and
- (iii) the Appellant may file a reply brief by 22 April 2000;

NOTING the motion from the Appellant's Counsel, dated 7 February 2000 (the 'Appellant's Motion'), together with the fourteen documents attached to it, requesting this Chamber to:—

- (a) order the Registrar to assign one Mr Gerald P M F MOLS as the Appellant's co-counsel, and to make that assignment retroactive to 1 December 1999, and
- (b) extend by three months (from the date of this decision) the time within which the Appellant may file his brief in this appeal;

NOTING that on 7 March 2000, the Pre-Hearing Judge, for reasons stated, decided as follows:

- (1) rejected the Appellant's prayer for assignment of Mr Mols as co-counsel;
- (2) granted the Appellant's prayer for extension of time within which to file the parties' briefs only to the extent of three weeks beyond the time-limits ordered in the decision of 8 December 1999, consequently, the parties were ordered to file their briefs according to the following time-limits:
 - (i) the Appellant shall file his appeal brief by 29 March 2000
 - (ii) the Prosecutor shall file her response by 28 April 2000, and
 - (iii) the Appellant may file a reply to the Prosecutor's response by 12 May 2000;

NOTING that on 30 March 2000, Counsel for the Appellant filed 'Provisional Appellant's Brief and Motions for Extension of Time-Limits and for Admission of New Evidence on Appeal pursuant to Rules 115 and 116 of the Rules of Procedure and Evidence';

NOW BEING SEISED of the two motions, filed together with the appellant's brief as indicated in the preceding paragraph, for:—

- (i) extension of time (the 'Motion for Extension of Time'), and

- (ii) for admission of new evidence (the 'Motion for Admission of New Evidence');

CONSIDERING that the Motion for Extension of Time is, in essence, a repeat of the Appellant's motion of 7 February 2000, which motion was decided on 7 March 2000;

AND CONSIDERING THEREFORE that there is no need to await the response of the Respondent in relation to the Motion for Extension of Time;

NOTING that the Motion for Admission of New Evidence is both new and discrete, in relation to the Motion for Extension of Time, and includes a request 'that all the time-limits for appeal be suspended, pending the decision of the court on the present motion';

NOW THEREFORE DECIDE AND ORDER as follows:

- (1) the Appellant's Motion for Extension of Time is **DISMISSED**; and
- (2) the Prosecutor shall respond to the Motion for Admission of New Evidence within five days of this Decision.

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

Rafael NIETO-NAVIA
Pre-Hearing Judge

Dated this 31 March 2000
At The Hague
The Netherlands.

[Seal of the Tribunal]

