



UNITED NATIONS  
NATIONS UNIES



Tribunal Pénal International pour le Rwanda  
International Criminal Tribunal for Rwanda

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IN THE APPEALS CHAMBER

**Before:** Judge Claude JORDA, Presiding  
Judge Lal Chand VOHRAH  
Judge Mohamed SHAHABUDEEN  
Judge Rafael NIETO-NAVIA  
Judge Fausto POCAR

ICTR-97-34-AR72  
(422-420)  
5-06-2000

**Registrar:** Mr Agwu U OKALI

**Decision of:** 2 June 2000

ICTR  
COURT REGISTRY  
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GRATIEN KABILIGI  
(Appellant)

v

THE PROSECUTOR  
(Respondent)

Case No: ICTR-97-34-AR72

**DECISION**

(INTERLOCUTORY APPEAL AGAINST THE DECISION ON NULLITY OF  
PROCEEDINGS AND RELEASE)

**Counsel for the Appellant:**

Mr Jean Yaovi Degli

**Counsel for the Prosecutor:**

Mr David Spencer  
Mr Frédéric Ossogo

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**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 and 31 December 1994 (“the Appeals Chamber” and “the Tribunal” respectively),

**BEING SEISED OF** a Notice of Appeal filed by Gratien KABILIGI (“the Appellant”) on 22 November 1999 (“the Notice of Appeal”);

**NOTING** the “Appellant’s Brief in support of appeal against decision on Defence motion for nullity of proceedings and release” filed on 13 December 1999;

**NOTING** that the Notice of Appeal is directed against a decision of Trial Chamber II dated 4 November 1999, filed in French on 30 November 1999 (“the Decision”), rejecting the Appellant’s “*Requête aux fins de nullité de procédure et de mise en liberté*” (“the Motion”);

**NOTING** that the Motion was filed by the Registry of the Tribunal on 19 February 1998, but that it bears a stamp showing that it was received by the Tribunal on 25 September 1997;

**CONSIDERING** that there is no right of appeal against interlocutory decisions of the Tribunal, with the exception of dismissals of objections based on lack of jurisdiction made as preliminary motions under Rule 72 of the Rules of Procedure and Evidence of the Tribunal (“the Rules”), in which case an appeal lies as of right under Rule 72 (D) of the Rules;

**NOTING** the Appellant’s claim that the Motion was not filed as a preliminary motion pursuant to Rule 72, but rather prior to the period for filing of preliminary motions and before confirmation of the indictment against him, on 25 September 1997, pursuant to either Rule 40 (C) or Rule 40 bis (K) of the Rules;

**CONSIDERING** that this claim is supported by the date stamped on the face of the Motion;

**CONSIDERING**, as asserted by the Appellant, that the Notice of Appeal does not therefore

fall within the scope of Rule 72(D);

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**HEREBY REJECTS** the Notice of Appeal.

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

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Claude Jorda  
Presiding Judge

Dated this second of June 2000  
At The Hague,  
The Netherlands



**[Seal of the Tribunal]**