

UNITED NATIONS
NATIONS UNIES

**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: 27 September 2000

**Clément KAYISHEMA and
Obed RUZINDANA
(Appellants)**

**THE PROSECUTOR
(Cross-Appellant)**

Case No: ICTR-95-1-A

2000 OCT -3 A 11:4
ICTR
JUDICIAL RECORDS/ARCHIVES
RECEIVED

ORDER

(PROSECUTION MOTION ON THE FILING OF THE PROSECUTION'S BRIEF IN
RESPONSE TO THE APPEAL BRIEF OF CLÉMENT KAYISHEMA)

Counsel for the Appellant Clément KAYISHEMA:

Mr André FERRAN
Mr Phillipe MORICEAU

Counsel for the Appellant Obed RUZINDANA:

Mr Pascal BESNIER
Mr William van der GRIEND

Counsel for the Prosecutor :

Mr Solomon LOH

ICTR Appeals Chamber

Date: 27/Sept./2000

Action:

Copied To: AW Judges, ALB,
OTP, Defence, Judicial Archives,
MB, KM

1647/H
FTA
Shuganto
2/10/2000

ICTR-95-1-A

27/sept./2000

(1647/H-1644/H)

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NOTING the response, filed on 8 August 2000 by the first Appellant, to the Motion in which the first Appellant submits that the Registry, relying on the records of its Communications Centre, stated categorically that it had not received the Brief in Response on 15 June 2000, that there was therefore cause to rule the Prosecutor time-barred and the

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Brief in Response inadmissible, and that consequently the Motion must be dismissed;

CONSIDERING that the Prosecutor maintains in her written submissions that she did file the Brief in Response on 15 June 2000 and that to that end produced three fax transmission sheets to attest to the fact that transmission actually took place;

CONSIDERING that it is apparent from the transmission sheets that the Brief in Response was not transmitted in its entirety; and that in particular 75 pages out of the 149 in the document were not transmitted, as shown by Annex III to the Motion;

CONSIDERING that the Prosecutor had attempted transmission, although incomplete, of the Brief in Response; and that that act demonstrates a desire on her part to comply with Rule 112 of the Rules of Procedure and Evidence;

CONSIDERING that under Rule 116 the Appeals Chamber may grant leave to file after expiry of the time limit if the delay is justified and if such filing does not prejudice the interests of the other Party;

CONSIDERING that the late filing of the Brief in Response is justified by the aforementioned circumstances; and that the Appellants do not plead that filing the Brief in Response would prejudice their case;

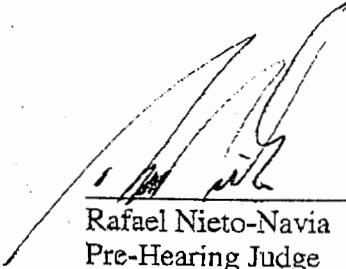
FOR THESE REASONS

GRANTS an extension of time for the filing of the Brief in Response to 24 July 2000, and

ORDERS that filing be confirmed as having occurred on the date on which the Registry did register the Brief in Response.

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

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Rafael Nieto-Navia
Pre-Hearing Judge

Dated this twenty-seventh day of September 2000
At The Hague,
The Netherlands.



[Seal of the Tribunal]