

ICTR-96-70-14-A
13 June 2003
(13/h-10/h)

13/h
RMM



Tribunal Pénal International pour le Rwanda
International Criminal Tribunal for Rwanda

IN THE APPEALS CHAMBER

Before: Judge Mohamed SHAHABUDEEN, Pre-Appeal Judge

Registrar: Mr. Adama DIENG

Decision of: 13 June 2003

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ICTR Appeals Chamber
Date: 13 June 2003
Action: PG
Copied To: Concerned Judges,

Eliézer NIYITEGEKA
(Appellant)

Parties, Judicial Archiv
LOs, LSS
[Signature]

v.

THE PROSECUTOR
(Respondent)

Case No. ICTR-96-70-14-A

DECISION ON ELIEZER NIYITEGEKA'S MOTION FOR AN EXTENSION OF TIME FOR THE FILING OF HIS NOTICE OF APPEAL

Counsel for the Appellant

Ms. Sylvia Geraghty

Counsel for the Prosecutor

Ms. Melinda Pollard

International Criminal Tribunal for Rwanda
Tribunal pénal international pour le Rwanda
CERTIFIED TRUE COPY OF THE ORIGINAL SEEN BY ME
COPIE CERTIFIÉE CONFORME A L'ORIGINAL PAR NOUS
NAME / NOM: ROSETTE MUZIGA-MORRISON
SIGNATURE: *[Signature]* DATE: 13/06/03

12/h

I, MOHAMED SHAHABUDEEN, Judge of 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 ("International Tribunal"),

NOTING the "Judgement and Sentence" rendered in this case by Trial Chamber I on 16 May 2003 ("Judgement");

NOTING the "Order of the Presiding Judge designating the Pre-Appeal Judge" filed on 4 June 2003, which designated me to serve as Pre-Appeal Judge in this case;

NOTING that, by virtue of Rule 108*bis* (B) of the Rules of Procedure and Evidence of the International Tribunal ("Rules"), a Pre-Appeal Judge shall "ensure that the proceedings are not unduly delayed and shall take any measures related to procedural matters, including the issuing of decisions, orders and directions with a view to preparing the case for a fair and expeditious hearing";

BEING SEISED OF the "Motion of Eliézer Niyitegeka Pursuant to Rule 116 of the Rules of Procedure and Evidence of the International Criminal Tribunal for Rwanda seeking an extension of time" ("Appellant" and "Motion" respectively) filed on 21 May 2003, in which the Appellant notes that, as a French speaker, he is unable to understand the Judgement rendered only in English and to help his counsel in the elaboration of the notice of appeal; he therefore requests from the Appeals Chamber:

- (i) an extension of time for filing his notice of appeal until 30 days after the date on which the translation of the French version of the Judgement is served upon the Appellant;
- (ii) an extension of time for filing his Appeal brief, until 75 days after the filing of the notice of appeal;
- (iii) a direction to the Registrar that he arrange for the translation of the Judgement into French without delay;
- (iv) a direction to the Registrar that he shall notify the Lead Counsel on the same day that the said French version of the Judgement has been served on the Appellant;

11/h

NOTING the "Response of Prosecutor to Defence Motion seeking an extension of time for filing notice of appeal" ("Prosecutor's Response") filed on 2 June 2003, in which the Prosecutor does not oppose the Appellant's request for an extension of time;

NOTING that the Appellant did not file a reply to the Prosecutor's Response;

NOTING that Rule 108 of the Rules provides that "a party seeking to appeal a judgement or sentence shall, not more than thirty days from the date on which the judgement or the sentence was pronounced file a notice of appeal setting forth the grounds";

NOTING that Rule 116 (A) of the Rules provides that the "Appeals Chamber may grant a motion to extend a time limit upon a showing of good cause";

NOTING that Rule 116(B) of the Rules provides that "where the ability of the accused to make full answer and defence depends on the availability of a decision in an official language other than that in which it was originally issued, that circumstance shall be taken into account as a good cause under the present Rule";

CONSIDERING that the filing of a notice of appeal marks the very beginning of the appeal proceedings in a case, and that since the time limits for the filing of Appellant's briefs, Respondent's briefs and briefs in reply are calculated as of the date on which the notice of appeal is filed, any delays at such an early stage will affect subsequent filings;

CONSIDERING that, the Lead Counsel, speaking English fluently, is able to understand the Judgement rendered on 16 May 2003, to discuss with the Appellant possible grounds of appeal and to advise him as to potential errors of facts and law contained therein;

CONSIDERING that the determination of potential grounds of appeal falls primarily within the purview of Defence Counsel and that therefore "good cause" within the meaning of Rule 108(A) of the Rules has not been shown;

CONSIDERING that, if application is made after the Judgement becomes available in French and good cause is shown, leave will be granted to vary the grounds of appeal;

10/h

CONSIDERING however, that it is in the interests of justice to allow the Appellant adequate time to read the Judgement in a language he understands and to consult with his counsel before filing his Appellant's brief;

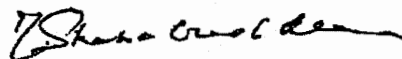
FINDING that, pursuant to Rule 116(B) of the Rules, "good cause" is shown to grant an extension of time of 45 days, from the date of filing of the French translation of the Judgement, for the filing of the Appellant's brief;

FOR THE FOREGOING REASONS,

ORDER the Appellant to file his notice of appeal no later than 20 June 2003 and to file his Appellant's brief no later than 15 October 2003;

DIRECT the Registrar to have the translation of the Judgement available in French and communicated to the parties no later than 31 August 2003.

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



Mohamed Shahabuddeen

Pre-Appeal Judge

Done this thirteenth day of June 2003,
At The Hague,
The Netherlands.

[Seal of the International Tribunal]

