



International Criminal Tribunal for Rwanda
Tribunal pénal international pour le Rwanda

IN THE APPEALS CHAMBER

Before: Judge Mohamed SHAHABUDEEN, Pre-Appeal Judge

Registrar: Mr. Adama DIENG

Decision of: 4 December 2003

Eliézer NIYITEGEKA
(Appellant)

V.

THE PROSECUTOR
(Respondent)

Case No. ICTR-96-14-A

DECISION ON THE LENGTH OF THE APPELLANT'S BRIEF

Counsel for the Appellant

Ms. Sylvia Geraghty

Counsel for the Prosecutor

Mr. Mélanie Werrett

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 Notice of Appeal re-filed on 17 October 2003 by Eliézer Niyitegeka (“Appellant”);

NOTING the “Decision on Prosecution Motion concerning Defects in the Appellant’s Notice of Appeal” rendered on 26 September 2003, which reminded the Appellant that, “pursuant to the Practice Direction on the Length of Briefs and Motions on Appeal , the Appellant’s brief should not exceed 100 pages or 30,000 words, whichever is greater”;

NOTING the “Decision on Prosecution’s Urgent Motion concerning Defects in the Appellant’s Notice of Appeal” rendered on 27 November 2003, which ordered the Appellant to file his Appellant’s Brief no later than 2 December 2003;

NOTING the “Appeal Brief of Eliézer Niyitegeka” filed on 2 December 2003 which is made of 100 pages and 45, 386 words (“Appellant’s brief”);

NOTING that, contrary to established case law of the Tribunal , the Appellant has not filed a motion for leave to exceed the prescribed number of words before filing his oversized Appellant’s brief;

CONSIDERING that the Appellant’s brief, made of 45, 386 words without the cover page, does not respect the Practice Direction on the Length of Briefs and Motions on Appeal and it is necessary for the Appellant to re-file the Appellant’s brief in accordance with the requirements of the Practice Direction on the Length of Briefs and Motions on Appeal;

CONSIDERING also that it is appropriate to bear in mind the established case law of the International Tribunal and the International Criminal Tribunal for the former Yugoslavia on the standard of review on appeal, according to which “an appeal is not an opportunity for a party to have a de novo review of their case” and that “an appellant must therefore clearly set out his grounds of appeal as well as the arguments in support of each ground” ;

CONSIDERING also, that, as a result, the Appeals Chamber has already taken the view, when dealing with errors of facts, that it “ought to consider in writing only those challenges to the findings of facts which demonstrate a possible error of fact resulting in a miscarriage of justice. The Appeals Chamber will in general, therefore, address only those issues for which the aforementioned prerequisites have been demonstrated precisely”;

FOR THE FOREGOING REASONS,

ORDER the Appellant to re-file the Appellant’s brief in accordance with the requirements of the Practice Direction on the Length of Briefs and Motions on Appeal no later than 18 December 2003;

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

Mohamed Shahabuddeen
Pre-Appeal Judge

Done this fourth day of December 2003,
At The Hague,
The Netherlands.

[Seal of the International Tribunal]