

ICTR-2001-72-I
24-3-2004
(2069 - 2067)

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UNITED NATIONS
NATIONS UNIES

International Criminal Tribunal for Rwanda
Tribunal pénal international pour le Rwanda

OR: ENG

TRIAL CHAMBER III

Before Judges: Lloyd G. Williams, Q.C., Presiding
Andrésia Vaz
Khalida Rachid Khan

Registrar: Adama Dieng

Date: 24 March 2004

THE PROSECUTOR

v.

Simon BIKINDI

Case No. ICTR-2001-72-I

2004 MAR 24 P 12:20
ICTR

**DECISION ON DEFENCE URGENT APPLICATION FOR STAY OF
PROCEEDINGS AND FOR SUSPENSION OF THE 30-DAY PERIOD PURSUANT
TO RULE 50(C) OF THE RULES OF PROCEDURE AND EVIDENCE**

Office of the Prosecutor:

Stephen Rapp
William T. Egbe
Amanda Reichman
Charity Kagwi
Jane Mukangira

Defence Counsel

Wilfred Ngunjiri Nderitu

THE INTERNATIONAL CRIMINAL TRIBUNAL FOR RWANDA (“Tribunal”),

SITTING as Trial Chamber III composed of Judges Lloyd G. Williams, Q.C., Presiding, Judge Andréia Vaz, and Judge Khalida Rachid Khan (“Chamber”);

BEING SEIZED of the Defence “Urgent Application for Stay of Proceedings and for Suspension of the Running of the Period of 30 Days Pursuant to Rule 50(C) of the Rules of Procedure and Evidence” (“Motion”) filed on 16 March 2004;

CONSIDERING the Prosecutor’s Response filed on 17 March 2004;

RECALLING the Decision rendered by the Presiding Judge sitting as the Trial Chamber for the further initial appearance on 8 March 2004;¹

CONSIDERING the Statute of the Tribunal (“Statute”) and the Rules of Procedure and Evidence (“Rules”);

NOW DECIDES the matter solely on the basis of the briefs of the parties pursuant to Rule 73(A) of the Rules.

Arguments of the Parties

Defence

1. Relying on Articles 1, 18(2), 19(1)-(3), and 20 of the Statute, the Defence is requesting the Trial Chamber to order a stay of the proceedings and accordingly a suspension of the 30-day period for the filing of preliminary motions, pursuant to Rule 50(C) of the Rules. The Defence argues that the Amended Indictment has not been confirmed, and therefore submits that the subsequent plea by the Accused during the further initial appearance is irregular and unlawful. The Defence contends that it will file a substantive motion raising weighty issues of law in this regard. In light of the Defence’s position on the validity of an unconfirmed Amended Indictment, it moves for the Trial Chamber to suspend the 30-day time-limit to file preliminary motions until such time that a decision is rendered on its “substantive motion.”

Prosecution

2. The Prosecution submits that the relief being sought had already been decided upon during the further initial appearance of the Accused on the 8 March 2004, at which the Presiding Judge held that the Indictment was amended pursuant to a Court Order, and therefore does not need further confirmation. The Prosecution accordingly moves that the present Motion be dismissed.

¹ T. 8 March 2004, pp. 2-3.



Deliberations

3. The Chamber holds the view that where leave is granted to amend an indictment, or where such an amendment is made following an order of the Court, the Rules do not require such an amendment to be further confirmed.

4. Regarding the 30-day period for the filing of preliminary motions, Rule 72(G) states that "The Trial Chamber may [...] grant relief from the waiver upon showing good cause".

5. In the present case, the Chamber is of the view that the preparation of a substantive motion regarding the need for confirmation of an amended indictment and challenging the lawfulness of the further initial appearance cannot be considered as good cause for a stay of the 30-day time-limit for the filing of preliminary motions. The Chamber considers the present and, any further substantive motion, to fall within the category of preliminary motions. The Accused is therefore required to comply with the provisions of Rule 50(C). The Application therefore falls to be dismissed.

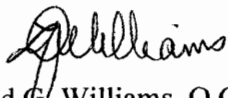
FOR THE ABOVE-MENTIONED REASONS,

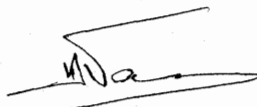
THE CHAMBER


DENIES the Motion; and

ORDERS the Defence to file any further preliminary motions within the prescribed time limit, which expires on 7 April 2004.

Arusha, 24 March 2004


Lloyd G. Williams, Q.C.
Presiding Judge


Andréia Vaz
Judge


Khalida Rachid Khan
Judge

