

ICTR-99-52-A  
25 May 2004  
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UNITED NATIONS  
NATIONS UNIES



Tribunal Pénal International pour le Rwanda  
International Criminal Tribunal for Rwanda

**BEFORE THE PRE-APPEAL JUDGE**

**Before:** Judge Weinberg de Roca, Pre-Appeal Judge  
**Registrar:** Mr. Adama Dieng  
**Decision of:** 25 May 2004

ICTR Appeals Char.  
Date: 25 May 2004  
Action: MGS  
Copied To: Concerned Judges,

Ferdinand NAHIMANA  
Jean-Bosco BARAYAGWIZA  
Hassan NGEZE  
(Appellants)

Parties, Judicial Archives,  
LSS, LOS  
*[Signature]*

V.

**THE PROSECUTOR**  
(Respondent)

Case No. ICTR-99-52-A

**DECISION DENYING FURTHER EXTENSION OF TIME**

**Counsel for the Appellants**

Mr. Jean-Marie Biju-Duval  
Mr. Giacomo Barletta-Caldarera  
Mr. John C. Floyd III

**Counsel for the Prosecutor**

Mr. James Stewart  
Ms. Melanie Werrett

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 MUZIGO-MORRISON  
SIGNATURE: *[Signature]* DATE: 25/05/04

JUDICIAL RECORDS SECTION  
2004 MAY 25 P 4:30  
*[Signature]*

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I, Inés Mónica Weinberg de Roca, Pre-Appeal Judge in this case,<sup>1</sup>

**BEING SEISED OF** the “*Requête de la défense aux fins de report du délai de dépôt du mémoire de l’appellant et du délai de dépôt de la requête aux fins de présentation de moyens de preuve supplémentaires*” filed 14 May 2004 and re-filed 18 May 2004 (“Nahimana’s Motion”), in which Appellant Ferdinand Nahimana (“Appellant Nahimana”) seeks a further extension of time in which to file his Appellant’s Brief and motion to present additional evidence and submits that good cause has been shown on the basis of the extension of time granted to another appellant in a different case pending before the Appeals Chamber,<sup>2</sup> Article 20(4)(b) of the Statute of the Tribunal and Rules 108bis (B), and Rule 116 of the Rules of Procedure and Evidence (“Rules”);

**BEING SEISED OF** “Ngeze Defence’s Motion in support to the Nahimana’s Motion dated 14 May 2004 requesting an extension of time to file the appeal brief and the motion to present additional evidence (pursuant to rules 111, 115 and 116 of the Rules of Procedure and Evidence)”, filed 21 May 2004 (“Ngeze’s Counsel’s Motion”), in which Counsel for Appellant Hassan Ngeze (“Appellant Ngeze”) argues that if an extension of time is granted to Appellant Nahimana, then it would be in the interest of justice to grant Appellant Ngeze the same extension of time;

**HAVING ALSO RECEIVED** a document entitled “Appellant Hassan Ngeze Motion to support counsel Bijou Duval Motion «*requête de la défense aux fins de report du délai de dépôt du mémoire de l’appellant et du delay (sic) de dépôt de la requête aux fins de présentation de moyens de preuve supplémentaires* filed 14<sup>th</sup> May 2004”, filed 20 May 2004 (“Ngeze’s Motion”);

**FINDING** that Ngeze’s Motion, which duplicates Ngeze’s Counsel’s Motion, is unclear and fails to conform to the Practice Direction on Formal Requirement for Appeals from Judgement dated 16 September 2002;

**CONSIDERING** that paragraph 18 of the Practice Direction on Procedure for the Filing of Written Submissions in Appeal Proceedings of 16 September 2002 provides that an extension of time may be disposed of without giving the other party the opportunity to respond to the motion;

**NOTING** the “Decision on Motions for an Extension of Time to File Appellants’ Notices of Appeal and briefs” of 19 December 2003 (“19 December 2003 Decision”) and the “Decision on Ngeze’s Motion for Clarification of the Schedule and Scheduling Order” of 2 March 2004, which ordered each Appellant to file his Notice of Appeal no later than thirty days from the

<sup>1</sup> “Order of the Presiding Judge Assigning Judges and Designating the Pre-Appeal Judge” 19 December 2003.

<sup>2</sup> *Jean de Dieu Kamuhanda*, Case No. ICTR-99-54A-A, Decision on Motion for Extension of Time for Filing of Notice of Appeal and Appellant’s Brief Pursuant to Rules 108, 111, 115 and 116 of the Rules of Procedure and Evidence, 8 March 2004.

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communication of the Judgement in the French language and to file his Appellant's Brief no later than seventy-five days from the communication of the Judgement in the French language;

**CONSIDERING** that the 19 December 2003 Decision took the linguistic skills of the lead counsel and Appellant Nahimana into account in granting an extension of time for filing the Notice of Appeal and Appellant's Brief, but noted that preparatory work could begin even without the translation;

**CONSIDERING** that good cause depends on the circumstances of the case and cannot be demonstrated merely by showing that an extension of time was granted in a different case;

**CONSIDERING**, moreover, that, since the 19 December 2003 Decision, Anglophone co-counsel, Ms. Diana Ellis, has been assigned to represent Appellant Nahimana;

**FINDING** that Appellant Nahimana has not demonstrated good cause as required by Rule 116 of the Rules for a further extension of the time limit for the filing of his Appellant's Brief;

**FINDING** that the time for filing motions to present additional evidence before the Appeals Chamber expired seventy-five days after the date of the Judgement pursuant to Rule 115(A) of the Rules and that Appellant Nahimana failed to request an extension of time prior to the expiration of this time limit;

**FINDING** that no good cause has been shown for further delay in relation to any particular motion to present additional evidence;

**FINDING** that since Ngeze's Counsel's Motion is premised on the success of Nahimana's motion, his request for an extension of time is also denied;

**FOR THE FOREGOING REASONS,**


**DISMISS** Nahimana's Motion;

**DISMISS** Ngeze's Counsel's Motion; and

**DISMISS** Ngeze's Motion.

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

Dated this 25th day of May 2004,  
At The Hague, The Netherlands.

  
Judge Inés Mónica Weinberg de Roca  
Pre-Appeal Judge

