

ICTR-98-44A-A
15 June 2004
(788/H-785/H)

788/H
RMM



Tribunal Pénal International pour le Rwanda
International Criminal Tribunal for Rwanda

IN THE APPEALS CHAMBER

Before: Judge Florence Ndepele Mwachande Mumba, Pre-Appeal Judge
Registrar: Mr. Adama Dieng
Decision of: 15 June 2004

ICTR Appeals Chamber
Date: 15 June 2004
Action: PG
Copied To: Concerned J

Juvénal KAJELIJELI
(Appellant)

v.

THE PROSECUTOR
(Respondent)

Parties, Judicial Arc
LOs, LSS
[Signature]

2004 JUN 16 A 0:54
ICTR
JUDICIAL RECORDS

Case No. ICTR-98-44A-A

**DECISION ON NOTICE OF LEAVE TO FILE EXTREMELY URGENT
MOTION FOR PERMISSION TO SUPPLEMENT DEFENSE'S DETAILED
EXPLANATION FILED ON MAY 24 2004**

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: 15/06/04

Counsel for the Prosecution
Melanie Werrett
James Stewart

Counsel for the Appellant
Lennox Hinds

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I, FLORENCE NDEPELE MWACHANDE MUMBA, 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 "Order of the Presiding Judge Assigning Judges and Designating the Pre-Appeal Judge", filed on 10 December 2003, which designated me to serve as Pre-Appeal Judge in this case;

BEING SEISED OF the "Notice of Leave to File Extremely Urgent Motion for Permission to Supplement Defense's Detailed Explanation Filed on May 24 2004", filed confidentially by counsel for Kajelijeli ("Defence" and "Appellant", respectively) on 3 June 2004 ("Motion");

NOTING the "Defense Motion for the Admission of Additional Evidence Pursuant to Rule 115 of the Rules of Procedure and Evidence", filed on 16 February 2004;

NOTING that on 26 February 2004, the Prosecution filed its "Prosecution Response to Defence Motion for Admission of Additional Evidence Pursuant to Rule 115 of the Rules of Procedure and Evidence";

NOTING the "Order for the Defence to File Additional Evidence in Support of Defence Motion for the Admission of Additional Evidence Pursuant to Rule 115 of the Rules of Procedure and Evidence", issued on 26 February 2004;

NOTING the "Addendum to Defense Motion for Admission of Additional Evidence Pursuant to Rule 115 of the Rules of Procedure and Evidence and Reply to Prosecutor's Response", filed by the Defence on 8 March 2004;

NOTING that on 12 March 2004, the Prosecution filed its "Amended Prosecution Response to Defense Motion for Admission of Additional Evidence Pursuant to Rule 115 of the Rules of Procedure and Evidence";

NOTING the "Order for the Defence to File a Detailed Explanation on the Availability of the Additional Evidence Sought for Admission Pursuant to Rule 115 of the Rules of Procedure and Evidence", issued on 4 May 2004;

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NOTING the “Defense’s Detailed Explanation on the Availability of the Additional Evidence Sought for Admission Pursuant to Rule 115 of the Rules of Procedure and Evidence”, filed confidentially on 13 May 2004;

NOTING that on 18 May 2004, the Prosecution filed its “Prosecution’s Response to Defense’s Detailed Explanation on the Availability of the Additional Evidence Sought for Admission Pursuant to Rule 115 of the Rules of Procedure and Evidence” (“Prosecution’s Response”);

NOTING the letter of 20 May 2004, in which the Appellant requested an extension of time to reply to the Prosecution’s Response;

NOTING the “Appellant’s Reply to Prosecution’s Response to Defense’s Detailed Explanation on the Availability of the Additional Evidence Sought for Admission Pursuant to Rule 115 of the Rules of Procedure and Evidence”, filed on 24 May 2004;

NOTING that on 14 June 2004, the Prosecution file its “Prosecution Response to Notice of Leave to File Extremely Urgent Motion for Permission to Supplement Defense’s Detailed Explanation Filed on May 24, 2004”;

NOTING that, under Rule 108 *bis* (B) of the Rules of Procedure and Evidence of the International Tribunal (“Rules”), “the 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”;

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

CONSIDERING that the Defence had until 24 May 2004 to file its reply to the Prosecution’s Response, given that the fifth day fell on a Sunday; but that the Appellant was not served with the Prosecution’s Response until 17:45 on 20 May 2004, and that since the fourth and fifth day fell on a weekend, the Appellant was not able to communicate with his counsel;

CONSIDERING that, as the Appellant is represented by counsel, only motions filed by counsel, in accordance with the Rules of Procedure and Evidence and Practice Directions, shall be recognised by the Appeals Chamber and the parties;

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CONSIDERING however, that the instructions of the Appellant are important for the preparation of the reply to the Prosecution's Response;

FINDING that "good cause" has been shown within the meaning of Rule 116 of the Rules to extend the time for filing an amended reply to the Prosecution's Response, including the submissions of the Appellant;

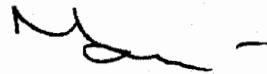
CONSIDERING that the Defence has had ample opportunity to present arguments with respect to the additional evidence sought for admission on appeal;

FOR THE FOREGOING REASONS,

GRANT the Motion in part, and

ORDER the Defence to file an amended reply to the Prosecution's Response, which shall be limited to submissions directly related to the Prosecution's Response and shall not contain any new materials or arguments, no later than 22 June 2004.

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



Florence Ndepele Mwachande Mumba
Pre-Appeal Judge

Done this 15th day of June 2004,
At the Hague,
The Netherlands.

[Seal of the International Tribunal]

