

ICTR-99-50-T
17-06-2004
(15010 — 15008)

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TRIAL CHAMBER II

Before: Judge Khalida Rachid Khan, Presiding
Judge Lee Gacuiga Muthoga
Judge Emile Francis Short

Registrar: Mr. Adama Dieng

Date: 17 June 2004

The PROSECUTOR
v.
Casimir BIZIMUNGU
Justin MUGENZI
Jérôme-Clément BICAMUMPAKA
Prosper MUGIRANEZA
Case No. ICTR-99-50-T

2004 JUN 17 11:57

**DECISION ON CASIMIR BIZIMUNGU URGENT MOTION OPPOSING THE
TESTIMONY OF WITNESS GKD**

Office of the Prosecutor:

Mr. Paul Ng'arua
Mr. Ibukunolu Babajide
Mr. Elvis Bazawule
Mr. Justus Bwonwonga
Mr. Shyamlal Rajapaksa

Counsel for the Defence:

Ms. Michelyne C. St. Laurent and Ms. Alexandra Marcil for Casimir Bizimungu
Mr. Howard Morrison, Q.C. and Mr. Ben Gumpert for Justin Mugenzi
Mr. Pierre Gaudreau and Mr. Michel Croteau for Jérôme-Clément Bicomumpaka
Mr. Tom Moran for Prosper Mugiraneza

2004

15009

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

SITTING as Trial Chamber II, composed of Judge Khalida Rachid Khan, Presiding, Judge Lee Gacuiga Muthoga and Judge Emile Francis Short, (the “Trial Chamber”);

BEING SEIZED of “Casimir Bizimungu’s Urgent Motion Opposing the Testimony of Witness GKD” filed on 14 June 2004, (the “Motion”);

NOTING the “Decision on Motion from Casimir Bizimungu Opposing to the Admissibility of the Testimony of Witnesses GKB, GAP, GKC, GKD and GFA” of 23 January 2004, (the “Decision of 23 January 2004”);

CONSIDERING that the only relief sought by the Defence is to oppose the testimony of Witness GKD as the latter’s testimony regarding events involving Casimir Bizimungu in the Ruhengeri préfecture was excluded by the Decision of 23 January 2004.

CONSIDERING that the Decision of 23 January 2004 reads as follows:

In the particular circumstances of the case and taking into consideration the facts alleged in the indictment, which was confirmed in 1999, *the Prosecutor is directed not to lead any evidence in relation to the events involving Casimir Bizimungu in Ruhengeri préfecture* from Witnesses GKC, GKD and GFA¹

CONSIDERING that the Defence allegation that the Trial Chamber has excluded Witness GKD’s testimony in whole constitutes a clear misunderstanding and a wrong interpretation of the Decision of 23 January 2004 by the Defence.

CONSIDERING that the Prosecutor is bound by the Decision of 23 January 2004 and that he will conduct the presentation of his case according to the rulings of this Trial Chamber.

CONSIDERING that it is not the Defence’s role to instruct the Prosecutor on which witnesses he should call to testify.

CONSIDERING FURTHER that, as long as the Prosecutor does not lead any evidence in relation to the events involving Casimir Bizimungu in Ruhengeri *préfecture*, he will be in absolute conformity with the Trial Chamber’s Decision of 23 January 2004 and that there is no reason for the Defence to argue that the Prosecutor will not proceed accordingly.

CONSIDERING that the Trial Chamber does not find any merit in the Motion, the Trial Chamber is of the view that the Motion should be denied in its entirety.

CONSIDERING FINALLY that the Motion is not founded in law and in facts, the Trial Chamber is of the view that the Motion is frivolous and that that the fees associated to the

¹ Decision of 23 January 2004, para. 16. (Emphasis added)

Motion should be denied to the Defence pursuant to Rule 73(F) of the Rules of Procedure and Evidence.

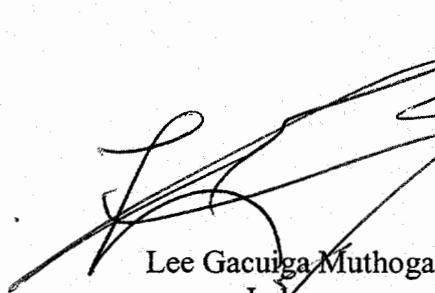
FOR THE ABOVE REASONS, THE TRIAL CHAMBER

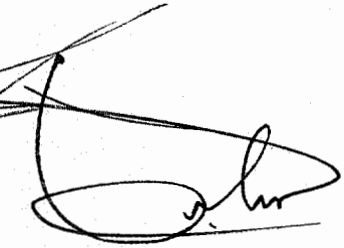
DENIES the Motion in its entirety

DIRECTS the Registrar to deny the fees associated to the Motion pursuant to Rule 73(F).

Arusha, 17 June 2004


Khalida Rachid Khan
Presiding Judge


Lee Gacunga Muthoga
Judge


Emile Francis Short
Judge

