

ICTR-99-52-A

11 NOVEMBER 2004

(16761H - 16741H)

1676



UNITED NATIONS  
NATIONS UNIES



Tribunal Pénal International pour le Rwanda  
International Criminal Tribunal for Rwanda

IN THE APPEALS CHAMBER

Before:

Judge Theodor Meron, Presiding  
Judge Mohamed Shahabuddeen  
Judge Florence Mumba  
Judge Fausto Pocar  
Judge Inés Mónica Weinberg de Roca

ICTR Appeals Chamber  
Date: 11 November 04  
Action: PG  
Copied To: Concerned

Registrar:

Mr. Adama Dieng

Parties, Judicial Archi  
LOs, LSS

Order of:

11 November 2004

Ferdinand NAHIMANA  
Jean-Bosco BARAYAGWIZA  
Hassan NGEZE  
(Appellants)

v.

THE PROSECUTOR  
(Respondent)

Case No. ICTR-99-52-A

JUDICIAL RECORDS/ARCHIVES  
ICTR  
2004 NOV 12 / A 11: 14

ORDER CONCERNING APPOINTMENT OF LEAD COUNSEL TO HASSAN NGEZE

Counsel for the Appellants

Mr. Jean-Marie Biju-Duval  
Mr. Bharat Chadha

Counsel for the Prosecutor

Mr. James Stewart  
Ms. Melanie Werrett

International Criminal Tribunal for Rwanda  
Tribunal pénal international pour le Rwanda  
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NAME / NOM: ROSETTE MUZIGO-MORRISON  
SIGNATURE: [Signature] DATE: 11/11/04

**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 1994 and 31 December 1994 (“Appeals Chamber” and “Tribunal”, respectively);

**NOTING** that the Registrar terminated the assignment of Mr. John Floyd III as lead counsel for Appellant Hassan Ngeze (“Appellant Ngeze”) on 21 June 2004;<sup>1</sup>

**NOTING** the “Decision on Ngeze’s Motion for a Stay of Proceedings” of 4 August 2004, in which the Pre-Appeal Judge stayed the proceedings in relation to Appellant Ngeze until a new lead counsel is appointed by the Registrar;

**NOTING** the “Registrar’s Representation Pursuant to Rule 33(B) of the Rules of Procedure and Evidence Regarding the Order of the Appeals Chamber Regarding Assignment of Counsel to Hassan Ngeze” of 8 November 2004,<sup>2</sup> in which the Registrar explains that the delay in appointing lead counsel has been caused by Appellant Ngeze, who has failed to fully comply with the requirement that he submit three names of eligible counsel for consideration for appointment as lead counsel, and has instead selected his co-counsel Mr. Chadha and two names that are not on the list of eligible counsel;

**NOTING** the Registrar’s concern that such non-compliance with the established procedures for the appointment of counsel pursuant to the Tribunal’s Legal Aid System should not be encouraged;<sup>3</sup>

**NOTING** that Article 10 *bis* of the Directive on the Assignment of Defence Counsel (“Directive”),<sup>4</sup> provides:

**Assignment of Counsel in the Interests of Justice**

If a suspect or accused,

- (i) Either requests an assignment of Counsel but does not comply with the requirement set out above within a reasonable time; or
- (ii) Fails to obtain or to request assignment of Counsel, or to elect in writing that he intends to conduct his own defence,

the Registrar may nevertheless assign him Counsel in the interests of justice in accordance with Rule 45(E) of the Rules and without prejudice to Article 18.

<sup>1</sup> Decision of Withdrawal of Mr. John C. Floyd III as Lead Counsel for the Accused Hassan Ngeze, 21 June 2004.

<sup>2</sup> Submitted pursuant to a request by the Pre-Appeal Judge, Order to Registrar, 2 November 2004.

<sup>3</sup> Registrar’s Representation Pursuant to Rule 33(B) of the Rules of Procedure and Evidence Regarding the Order of the Appeals Chamber Regarding Assignment of Counsel to Hassan Ngeze, 8 November 2004, para. 18.

<sup>4</sup> Directive on the Assignment of Defence Counsel, document prepared by the Registrar and approved by the Tribunal on 9 January 1996 as amended 6 June 1997, 8 June 1998, 1 July 1999, 27 May 2003 and 24 April 2004.

**CONSIDERING** that the appeals proceedings in this case have been stayed until Appellant Ngeze has lead counsel and that further delays in appointing counsel may have an adverse effect on the rights of the other Appellants in this case;

**FINDING** that, notwithstanding the Appellant's failure to comply with the procedures for appointing counsel, it would be in the interests of justice and would expedite resolution of the issues before the Tribunal for the Registrar to assign counsel to Appellant Ngeze;

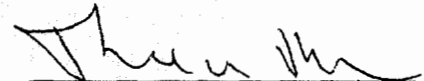
**CONSIDERING** that Appellant Ngeze has indicated that he wishes to be represented by Mr. Chadha, his currently appointed co-counsel;

**CONSIDERING** that the Registrar has stated that he is prepared to "immediately appoint as Lead Counsel Mr. Chada (sic)";

**HEREBY ORDERS** the Registrar to appoint Mr. Bharat Chadha as lead counsel for Appellant Ngeze pursuant to Rule 10 *bis* of the Directive, no later than 18 November 2004;

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

Dated this eleventh day of November 2004,  
At The Hague, The Netherlands.

  
Theodor Meron  
Presiding Judge

**Seal of the International Tribunal**

