



International Criminal Tribunal for Rwanda
Tribunal pénal international pour le Rwanda

BEFORE THE PRE-APPEAL JUDGE

Before: Judge Inés Weinberg de Roca, Pre-Appeal Judge
Registrar: Mr. Adama Dieng
Decision of: 2 December 2004

Ferdinand NAHIMANA
Jean-Bosco BARAYAGWIZA
Hassan NGEZE

(Appellants)

V.

THE PROSECUTOR

(Respondent)

Case No. ICTR-99-52-A

DECISION ON HASSAN NGEZE'S MOTION FOR THAN EXTENSION OF TIME

Counsel for the Appellants

Mr. Jean-Marie Biju-Duval

Mr. Bharat B. Chadha

Counsel for the Prosecutor

Mr. James Stewart

Ms. Melanie Werrett

I, Inés Mónica Weinberg de Roca, Pre-Appeal Judge in this case,^[1]

BEING SEISED of “Appellant Hassan Ngeze’s Motion for the Grant of Extension of Time to File Motion for the Amendment of Notice of Appeal and Appeal Brief,” filed 29 November 2004, in which Appellant Hassan Ngeze seeks an extension of “at least 18 months commencing after the constitution of a full defense team and supply of a complete set of documents (hard copy)/material including audio and video recordings by the Registry and the determination of the intended motion for presenting additional evidence” before filing a motion to amend his Notice of Appeal and Appeal Brief, and in which Appellant Ngeze explains that this extension is required, *inter alia*, because:

- (i) The current Notice of Appeal and Appeal Brief were submitted by Mr. John Floyd III (“Former Counsel”), whose appointment was withdrawn by the Registrar for reasons of conflict of interest and lack of trust;
- (ii) The necessity of providing sufficient time for the newly appointed Lead Counsel, Mr. Bharat B. Chadha, to review the complex case and the large volume of transcripts and exhibits, totalling 750,000 pages, in conformance with Counsel’s ethical obligations;
- (iii) The delay in appointing a full defence team, to be comprised of lead counsel, co-counsel, and three legal assistants, and in authorising an exemption for the defence team from the maximum number of hours usually imposed by the Registry;
- (iv) The failure of the Registry to supply an index of the case, documents and materials from the Former Counsel, and video and audio CD recordings of the entire proceedings in both English and French;
- (v) The imposition of the normal time limits would result in grave injustice to the Appellant;

NOTING that Former Counsel for the Appellant Ngeze filed a Notice of Appeal on 9 February 2004,^[2] and an Appellant’s Brief on 21 June 2004;^[3]

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 the appointment of a new Lead Counsel and noted that Appellant Ngeze may file a motion to vary or substitute the Notice of Appeal and Appellant’s Brief filed by his Former Counsel;

NOTING that the stay was therefore lifted on 17 November 2004, when Mr. Chadha was appointed as Lead Counsel;

NOTING that, pursuant to Rule 108 of the Rules, the Appellant’s Notice of Appeal is due thirty days from the delivery of the Judgement and that, pursuant to Rule 111 of the Rules, the Appellant’s Brief is due seventy-five days thereafter;

CONSIDERING that the Judgement and Sentence was delivered on 3 December 2003;

CONSIDERING that Mr. Chadha has been assigned to the case, first as Co-counsel and then as Lead Counsel, since 6 May 2004 and therefore has had time to familiarize himself with the relevant aspects of the case;

CONSIDERING that Ms. Nathalie Leblanc, who was a legal assistant at trial, is currently assigned as a legal assistant on the appeal;

CONSIDERING that Appellant Ngeze has not identified any specific documents which are missing from his files and has not provided any explanation why the audio and visual recordings of the entire proceedings in both English and French are necessary for the preparation of the appeal;

CONSIDERING that the responsibility for communicating relevant documents and materials to Appellant Ngeze lies with the Registry and that if the Appellant Ngeze is missing necessary materials, then he should first request the Registry to provide the specific materials, and in the event of a continued failure to provide necessary materials relevant to the preparation of the appeal, the Appellant may apply to the Appeals Chamber for assistance;

HEREBY ORDER Appellant Ngeze to file a motion to amend his Notice of Appeal, if any, no later than 17 December 2004, and to file his Appellant's Brief no later than 1 March 2005; and

REQUEST the Registry to facilitate and expedite the appointment of a co-counsel for Appellant Ngeze and to ensure that Appellant Ngeze is provided with the necessary documents and materials for his defence.

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

Dated this 2 December 2004,
At The Hague, The Netherlands.

Judge Inés Mónica Weinberg de Roca
Pre-Appeal Judge

[Seal of the International Tribunal]

^[1] Order of the Presiding Judge Assigning Judges and Designating the Pre-Appeal Judge, 19 December 2003.

^[2] Order Concerning Filings by Hassan Ngeze, 24 May 2004.

^[3] Defence Appeal Brief, 21 June 2004.