

ICTR-99-52-A
27 October 2005
(5405/H - 5403/H)

5405/H
JA



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 Ndepele Mwachande Mumba
Judge Fausto Pocar
Judge Andréia Vaz

Registrar: Mr. Adama Dieng

Decision of: 27 October 2005

Ferdinand NAHIMANA
Jean-Bosco BARAYAGWIZA
Hassan NGEZE
(Appellants)

v.

THE PROSECUTOR
(Respondent)

Case No. ICTR-99-52-A

International Criminal Tribunal for Rwanda Tribunal pénal international pour le Rwanda CERTIFIED TRUE COPY OF THE ORIGINAL, SEEN BY ME COMP. CERTIFIE CONFORME A L'ORIGINAL PAR MOI	NAME / NOM: KASEELI, KUMERAKO, A. ALEXANDER SIGNATURE: [Signature] DATE: 27/10/2005
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ICTR Appeals Chamber Date: 27 October 2005 Action: R-T Copied To: See P. 1 of Summary + Original 3LO, 1LO, ALD
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ORDER ON 'PROSECUTOR'S APPLICATION FOR REDACTION OF CERTAIN ANNEXES FROM HASSAN NGEZE'S APPELLANT'S BRIEF'

The Prosecutor v. Joseph Nzirorera

Counsel for the Applicant Joseph Nzirorera
Mr. Peter Robinson

Office of the Prosecutor
Mr. Don Webster
Mr. Gregory Lombardi
Mr. Iain Morley

Nahimana, Barayagwiza and Ngeze v. The Prosecutor

Counsel for the Appellants
Mr. Jean-Marie Biju-Duval
Mr. D. Peter Herbert
Mr. Bharat B. Chadha

Office of the Prosecutor
Mr. James Stewart
Mr. Neville Weston
Mr. Abdoulaye Seye

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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"),

NOTING the "Decision on 'Joseph Nzirorera's Motion for Access to Appeal Briefs'", issued on 9 September 2005 ("Decision"), in which the Appeals Chamber ordered that the Prosecution, Ferdinand Nahimana, Jean-Bosco Barayagwiza and Hassan Ngeze identify which, if any, portions of Hassan Ngeze's Appellant's Brief ("Appellant's Brief") contain confidential information and must, therefore, be redacted prior to its disclosure to Joseph Nzirorera ("Nzirorera"), an accused in another case,¹ who requested access to the Appellants' Briefs to verify the representations made by the Prosecution in his case;²

BEING SEISED OF the "Prosecutor's Application for Redaction of Certain Annexes from Hassan Ngeze's Appellant's Brief", filed confidentially on 16 September 2005 ("Prosecution" and "Application" respectively), whereby the Prosecution requests that Annexes 4 and 5 of the Appellant's Brief be redacted prior to the Appellant's Brief's disclosure to Nzirorera;³

NOTING that, in support of his Application, the Prosecution explains that Annexes 4 and 5 consist of two protected witnesses' statements which identify the witnesses⁴ and that these statements are not material for the purpose of Nzirorera's access to the Appellant's Brief;⁵

CONSIDERING that the Prosecution has shown that these statements serve no forensic purpose to Nzirorera, and furthermore are not related to the six facts adjudicated at trial in this case, of which the Prosecution requests the Trial Chamber to take judicial notice in Nzirorera's case;

CONSIDERING that the need to protect the witnesses outweighs any interest Nzirorera might have in gaining access to Annexes 4 and 5 of the Appellant's Brief for preparing his case;

HEREBY ORDERS the Prosecution to provide the confidential Appellant's Brief with Annexes 4 and 5 redacted to the Registry; **DIRECTS** the Registry to provide the confidential redacted Appellant's Brief to Nzirorera, his Counsel and any employee who has been instructed or

¹ *Prosecutor v. Édouard Karemera, Mathieu Ngirumpatse and Joseph Nzirorera*, Case No. ICTR-98-44.

² Decision, p. 4.

³ Application, para. 2.

⁴ Application, paras. 3-4.

⁵ Application, paras. 6-11.

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authorised by his Counsel and **RECALLS** that the protective measures applicable to the Appellant's Brief, as set out in the Decision, are still in effect.⁶

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



Theodor Meron
Presiding Judge

Dated this 27th day of October 2005,
At The Hague, The Netherlands



[Seal of the Tribunal]

⁶ Decision, pp. 4-5.