



ICTR-05-84-T
22-06-2006
(467-464)
International Criminal Tribunal for Rwanda
Tribunal pénal international pour le Rwanda

467
S. Muna

ORIGINAL: ENGLISH

TRIAL CHAMBER I

Before: Judge Erik Møse, presiding
Judge Jai Ram Reddy
Judge Sergei Alekseevich Egorov

Registrar: Adama Dieng

Date: 22 June 2006

THE PROSECUTOR

v.

Joseph SERUGENDO

Case No ICTR-2005-84-I

2006 JUN 22 A 6:16
ICTR
SERUGENDO

DECISION ON MOTION FOR PARTIAL ENFORCEMENT OF SENTENCE

Office of the Prosecutor

Hassan Bubacar Jallow
Stephen Rapp
William Egbe

Counsel for the Defence

Cecil Maruma

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THE INTERNATIONAL CRIMINAL TRIBUNAL FOR RWANDA

SITTING as Trial Chamber I, composed of Judge Erik Mose, presiding, Judge Jai Ram Reddy, and Judge Sergei Alekseevich Egorov;

BEING SEIZED of the Defence "Extremely Urgent Motion for Partial Enforcement of Sentence under Article 26 of the Statute and Rule 104 of the Rules", filed on 12 June 2006;

NOTING the Prosecution's response and the Registrar's submissions, both filed on 19 June 2006;

HEREBY DECIDES the motion.

INTRODUCTION

1. On 12 June 2006, following Joseph Serugendo's earlier guilty plea, the Trial Chamber sentenced him to a term of six years imprisonment.¹ In light of his very fragile health and poor prognosis, the Chamber noted the need for a modified regime of detention and accordingly instructed the Registry to ensure that Serugendo continued to receive adequate medical treatment, including hospitalization to the extent needed.²

SUBMISSIONS

2. The Defence requests that Serugendo be immediately transferred to a specialized treatment facility in France "or any other suitable institution to save his life".³ It also contends that the ICTR medical personnel responsible for his care are "in neglect of their professional duty and obligation" and "in contempt of the specific directives" of the Chamber regarding Serugendo's modified regime of detention.⁴ It is further requested that his wife should be with him in light of his condition.⁵

3. In response, the Prosecution notes that on 14 June 2006, Serugendo was evacuated to Nairobi for further medical follow up, "leaving open the argument that this response is now moot".⁶ It observes that as enforcement of sentence is a Registry competence under the Tribunal's Rules of Procedure and Evidence ("the Rules"), the Registry is competent to deal with this matter.⁷ As grave allegations are made in the motion, with no factual basis provided in support of the alleged acts of contempt of a court decision or dereliction of duty on the part of Tribunal medical officials, the Prosecution submits that the Registry must be heard on the matter before a decision is reached.⁸ The Prosecution continues to support all measures that

¹ *Prosecutor v. Joseph Serugendo*, Case No. ICTR-2005-84-1, Judgement and Sentence (TC), 12 June 2006.

² *Id.*, paras. 70-74, 94, Section VI (disposition).

³ Motion, para. 20.

⁴ *Id.*, paras. 16-17.

⁵ *Id.*, para. 21.

⁶ Response, preliminary statement.

⁷ *Id.*, para. 2.

⁸ *Id.*, para. 3.

are necessary and feasible in the current circumstances regarding the enforcement of Serugendo's sentence.⁹

4. The Registrar has provided submissions to the Chamber under Rule 33 (B) of the Rules, describing the medical treatment provided to Serugendo under the Registry's supervision. According to information contained in a confidential report from the ICTR Chief Medical Officer, Serugendo's condition has deteriorated. The Chief Medical Officer's opinion is that the only medical care that can be administered to him at this stage of his illness is of a palliative nature.¹⁰

5. It follows from the Registrar's submissions that at the time of filing of the motion, Serugendo remained at the AICC Hospital in Arusha where he was provided with the required medical care for his condition. As a result of a sudden deterioration in his condition, he was evacuated to the Nairobi Hospital in the Republic of Kenya on 14 June 2006. Serugendo is being treated by a specialist there. It is envisaged that he will remain under the care of Nairobi Hospital until such time as the hospital sees fit to release him.¹¹ The Registrar notes that no grounds are specified in the motion for why Serugendo, who is terminally ill, would benefit from better care and medical treatment at the suggested medical facility in France than at the AICC Hospital in Arusha or the Nairobi Hospital. Measures have been taken by the Registry to enable Mrs. Serugendo to be with her husband.¹²

6. The Registrar undertakes to continue to abide by the advice of the medical professionals entrusted with Serugendo's care in providing appropriate medical care and support measures to him, in accordance with the Chamber's instructions.¹³

DELIBERATIONS

7. In its judgement, the Chamber instructed the Registry to ensure that Serugendo continued to receive adequate medical treatment, including hospitalization to the extent required. To date, the Registrar has placed him under the care of the ICTR Chief Medical Officer and a medical specialist. The Registry has further provided all measures indicated by these medical professionals as necessary for Serugendo's ongoing palliative care. This has included his emergency air evacuation to Nairobi Hospital when this was adjudged to have been medically necessary by the ICTR Chief Medical Officer. The medical professionals entrusted with Serugendo's care have not indicated that medical evacuation to France is likely to benefit him, given the latter's current medical condition and prognosis.

8. The assessment of the medical professionals responsible for Serugendo's ongoing care is that his present condition and prognosis are inherent consequences of the terminal illness with which he has been diagnosed. The Chamber has been provided with no basis which would cause it to depart from this assessment. The Defence allegations appear to be unsubstantiated.

⁹ *Id.*, para. 5.

¹⁰ Registrar's Submissions, para. 1.

¹¹ *Id.*

¹² Registrar's Submissions, para. 1 (v).

¹³ *Id.*, para. 3.

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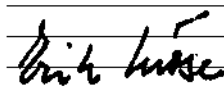
9. The Chamber observes that the Registry is presently making all efforts to facilitate Mrs. Serugendo's travel to Nairobi in the Republic of Kenya so that she may rejoin her husband there before the end of the present week.

FOR THE ABOVE REASONS, THE CHAMBER

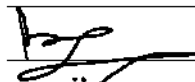
DENIES the Defence request that Serugendo be transferred to a medical facility in France;

INSTRUCTS the Registry to continue its efforts to facilitate the transfer of Mrs. Serugendo to Nairobi with all expeditiousness.

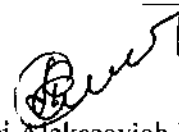
Arusha, 22 June 2006



Erik Møse
Presiding Judge



Jai Ram Reddy
Judge



Sergei Alekseevich Egorov
Judge

[Seal of the Tribunal]

