



Tribunal Pénal International pour le Rwanda  
International Criminal Tribunal for Rwanda

ICTR-01-66-A  
11 May 2007  
(207/H - 204/H)

BEFORE THE PRE-APPEAL JUDGE

*P.T.*

Before: Judge Mohamed Shahabuddeen, Pre-Appeal Judge

Registrar: Mr. Adama Dieng

Decision of: 11 May 2007

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THE PROSECUTOR

v.

Athanase SEROMBA

Case No. ICTR-2001-66-A

ICTR Appeals Chamber  
Date: 11 May 2007  
Action: P.T.  
Copied To: concerned J...  
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*[Signature]*

**DECISION ON THE "PROSECUTOR'S EXTREMELY URGENT APPLICATION FOR DIRECTIONS REGARDING THE FILING OF THE PROSECUTOR'S RESPONDENT'S BRIEF"**

Counsel for the Prosecution

Mr. Hassan Bubacar Jallow  
Mr. James Stewart  
Ms. Amanda Reichman

Counsel for the Appellant

Mr. Patrice Monthé  
Ms. Sarah N. Bihegué

International Criminal Tribunal for Rwanda  
Tribunal pénal international pour le Rwanda  
CERTIFIED TRUE COPY OF THE ORIGINAL SEEN BY ME  
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NAME / NOM: *Patrice Tchidimbe*

**I, MOHAMED SHAHABUDEEN**, Judge of 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 and 31 December 1994 ("Tribunal"), and Pre-Appeal Judge<sup>1</sup> in this case;

**BEING SEIZED** of the "Prosecutor's Extremely Urgent Application for Directions Regarding the Filing of the Prosecutor's Respondent's Brief" ("Application"), filed on 10 May 2007;

**NOTING** that Trial Chamber III pronounced its Judgement ("Trial Judgement") in the present case on 13 December 2006, and issued a reasoned opinion in writing on 19 December 2006;

**NOTING** that the Appeals Chamber is presently seized of appeals by both parties in this case;<sup>2</sup>

**NOTING** the "*Memoire d'Appel*" ("Appellant's Brief"), which was filed confidentially by Athanase Seromba ("Appellant") on 3 April 2007;

**NOTING** that the prescribed time limit for the filing of the Prosecution's Respondent's Brief will expire on 14 May 2007;<sup>3</sup>

**NOTING** that the Appeals Chamber is presently seized of the "Prosecutor's Urgent Motion Objecting to the Filing of Athanase Seromba's Appellant's Brief", filed by the Prosecution on 20 April 2007 ("Prosecution Motion of 20 April 2007"), in which the Prosecution "objects to the filing of the Appellant's Brief in its present form" on the basis that it: 1) impermissibly includes new grounds and sub-grounds of appeal which amount to a substantive variation of the Appellant's Notice of Appeal; and 2) fails to comply with the requirements of the Practice Direction on Formal Requirements for Appeals from Judgement<sup>4</sup> ("Practice Direction on Formal Requirements");<sup>5</sup>

**NOTING** that I, as Pre-Appeal Judge, granted the Appellant's request for an extension of time<sup>6</sup> on 8 May 2007 and ordered him to file his response, if any, to the Prosecution Motion of 20 April 2007, on or before 14 May 2007;<sup>7</sup>

<sup>1</sup> See Order Designating a Pre-Appeal Judge, 12 March 2007.

<sup>2</sup> Prosecutor's Notice of Appeal, 11 January 2007; *Act d'appel de Athanase Seromba*, 19 January 2007.

<sup>3</sup> See Rule 112 of the Rules of Procedure and Evidence of the Tribunal ("Rules").

<sup>4</sup> 4 July 2005.

<sup>5</sup> Prosecution Motion of 20 April 2007, para. 2.

<sup>6</sup> Requête de la Défense aux fins de prorogation du délai de dépôt de la réponse à la requête du procureur intitulée « *Prosecutor's Urgent Motion Objecting to the Filing of Athanase Seromba's Appellant's Brief* » sur le fondement des articles 116 du Règlement de procédure et de preuve et 20.4 du Statut du Tribunal, 26 April 2007.

<sup>7</sup> Decision on "Requête de la Défense aux fins de prorogation du délai de dépôt de la réponse à la requête du procureur intitulée « *Prosecutor's Urgent Motion Objecting to the Filing of Athanase Seromba's Appellant's Brief* » sur le fondement des articles 116 du Règlement de procédure et de preuve et 20.4 du Statut du Tribunal", 8 May 2007, p. 3.

**NOTING** that the Prosecution may file a reply within four days of the filing of the Appellant's response, if any, to the Prosecution Motion of 20 April 2007;<sup>8</sup>

**NOTING** that in its Application, the Prosecution submits that "[i]t is impossible for the Prosecution to anticipate, at this moment, whether the Appellant will file any response" or to "anticipate what the Appeals Chamber's decision will be [on the Prosecution Motion of 20 April 2007], particularly with regard to the new grounds of appeal impermissibly submitted in the Appellant's Brief";<sup>9</sup>

**NOTING** that the Prosecution therefore requests directions from the Appeals Chamber "with respect to the way to proceed with the new grounds of appeal and, consequently, the date upon which it must file its Respondent's Brief in the circumstances of this appeal";<sup>10</sup>

**CONSIDERING** that in the Prosecution Motion of 20 April 2007, the Prosecution requests the Appeals Chamber to reject the Appellant's allegedly new grounds of appeal and to order the Appellant to re-file his Appellant's Brief in accordance with the requirements of the Practice Direction on Formal Requirements;<sup>11</sup>

**CONSIDERING** that the status of the Appellant's Brief is uncertain pending the outcome of the Appeals Chamber's decision on the Prosecution Motion of 20 April 2007;

**CONSIDERING**, therefore, that an extension of time is warranted pursuant to Rule 116 of the Rules for the filing of the Prosecution's Respondent's Brief until the Appeals Chamber decides the Prosecution Motion of 20 April 2007;

**FOR THE FOREGOING REASONS,**

**HEREBY GRANT** the Application;

**VARY** the time limit for the filing of the Prosecution's Respondent's Brief until the Appeals Chamber decides the Prosecution Motion of 20 April 2007; and

**NOTE** that any further variation of the time limit for the filing of the Prosecution's Respondent's Brief will be set out in the Appeals Chamber's forthcoming decision on the Prosecution Motion of 20 April 2007.

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<sup>8</sup> See Practice Direction on Procedure for the Filing of Written Submissions in Appeal Proceedings Before the Tribunal, 8 December 2006, para. 14.

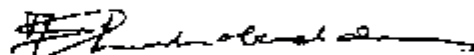
<sup>9</sup> Application, para. 5.

<sup>10</sup> *Ibid.*, para. 7.

<sup>11</sup> Prosecution Motion of 20 April 2007, para. 10.

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

Dated this 11th day of May 2007,  
The Hague,  
The Netherlands.



Mohamed Shahabuddeen  
Pre-Appeal Judge

[Seal of the Tribunal]