

78/H



Tribunal Pénal International pour le Rwanda
International Criminal Tribunal for Rwanda

IN THE APPEALS CHAMBER

ICTR-99-52-R
31 January 2008
(78/H - 76/H)

Before: Judge Fausto Pocar, Presiding
Judge Mohamed Shahabuddeen
Judge Mehmet Güney
Judge Andréia Vaz
Judge Theodor Meron

P.T.

Registrar: Mr. Adama Dieng

Decision of: 31 January 2008

HASSAN NGEZE

v.

THE PROSECUTOR

Case No. ICTR-99-52-R

JUDICIAL RECORDS/ARCHIVES
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ICTR Appeals Chamber
Date: 31 January 2008
Action: P.T.
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DECISION ON HASSAN NGEZE'S MOTIONS AND REQUESTS RELATED TO RECONSIDERATION

The Applicant

The Office of the Prosecutor

Mr. Hassan Ngeze, *pro se*

Mr. Hassan Bubacar Jallow

International Criminal Tribunal for Rwanda
Tribunal pénal International pour le Rwanda
CERTIFIED TRUE COPY OF THE ORIGINAL. SEEN BY ME
COPIE CERTIFIÉE CONFORME À L'ORIGINAL. PAR NOUS
NAME / NOM: *Patrice T. Cludimbwa*
SIGNATURE: *[Signature]* DATE: *31/01/08*

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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 and 31 December 1994 ("Appeals Chamber" and "Tribunal", respectively),

BEING SEIZED OF the following motions and requests filed by Hassan Ngeze ("Applicant"):

- Request dated 5 December 2007, filed by the Registry on 12 December 2007 and received by the Appeals Chamber on 14 January 2008 ("Request of 5 December 2007"), in which the Applicant requests the assignment of a bench of the Appeals Chamber to deal with his upcoming motion for reconsideration of the Judgement rendered by the Appeals Chamber on 28 November 2007 in *Ferdinand Nahimana et al. v. The Prosecutor*, Case No. ICTR-99-52-A ("Appeal Judgement");
- Motion dated 7 December 2007, filed by the Registry on 12 December 2007 and received by the Appeals Chamber on 14 January 2008¹, in which the Applicant appears to request authorisation to submit a motion for reconsideration of the Appeal Judgement either personally or through his counsel at the appeal stage ("Motion of 7 December 2007");
- Motion dated 14 December 2007 filed on 11 January 2008, in which the Applicant requests the Appeals Chamber "to instruct the registry to promptly assign [him] with [his] lawyer[s] Bharat B. Chadha and Dev Nath Kapoor" so that they file a motion for reconsideration of the Appeal Judgement ("Motion of 14 December 2007");²
- Request dated 21 December 2007, filed on 28 December 2007, in which the Applicant seeks permission from the Appeals Chamber to file a motion for reconsideration of the Appeal Judgement ("Request of 21 December 2007");

NOTING that the Prosecution has not responded to these motions and requests;³

NOTING the Applicant's argument that the Appeals Chamber has inherent power to reconsider "any decision, including a judgement where it is necessary to do so in order to prevent an injustice";⁴

¹ A corrigendum, dated 12 December 2007, was filed on 11 January 2008.

² Motion of 14 December 2007, p. 7. See also pp. 1-2.

³ As these motions and requests are not requests for review pursuant to Rule 120 of the Rules of Procedure and Evidence of the Tribunal, a response, if any, was due within ten days of its filing. Practice Direction on Procedure for the Filing of Written Submissions in Appeal Proceedings before the Tribunal, para. 11, by analogy.

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CONSIDERING that the Appeals Chamber has held that there is no power to reconsider a final judgement as the Statute of the Tribunal only provides "for a right of appeal and the right of review but not for a second right of appeal by the avenue of reconsideration of a final judgement";⁴

CONSIDERING, further, that these motions and requests appear to be nothing more than an attempt to re-litigate matters decided on appeal;

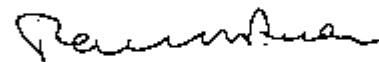
FINDING therefore that the motions and requests filed by the Applicant are inadmissible;

FOR THE FOREGOING REASONS,

DENIES the motions and requests.

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

Done this 31st day of January 2008,
At The Hague, The Netherlands.



Fausto Pocar
Presiding Judge



[Seal of the Tribunal]

⁴ Request of 21 December 2007, p. 2. See also Request of 5 December 2007, paras 3 and 30; Motion of 7 December 2007, paras 2 and 29; Motion of 14 December 2007, p. 3.

⁵ *Prosecutor v. Zoran Žigić*, Case No. IT-98-30/1-A, Decision on Žigić's "Motion for Reconsideration of Appeals Chamber Judgement IT-98-30/1-A Delivered on 28 February 2005", 26 June 2006, para. 9. See also *Eliizer Niyizengeka v. The Prosecutor*, Case No. ICTR-96-14-R, Decision on Request for Reconsideration of the Decision on Request for Review, 27 September 2006; *Prosecutor v. Timohir Blaskić*, Case No. IT-95-14-R, Decision on Prosecutor's Request for Review or Reconsideration, 23 November 2006, paras 79-80 (Public Redacted Version); *Georges Anderson Nderubumwe Rutaganda v. The Prosecutor*, Case No. ICTR-96-03-R, Decision on Requests for Reconsideration, Review, Assignment of Counsel, Disclosure, and Clarification, 8 December 2006, para. 6; *Prosecutor v. Pavle Strugar*, Case No. IT-01-42-Misc.1, Decision on Strugar's Request to Reopen Appeal Proceedings, 7 June 2007, para. 23.



International Criminal Tribunal for Rwanda
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APPEALS CHAMBER – PROOF OF SERVICE
CHAMBRE D'APPEL - PREUVE DE NOTIFICATION

31 January 2008	Case Name / <i>Affaire</i> : NGEZE.	Hassan NGEZE v. THE PROSECUTOR
	Case No / <i>No. de l'affaire</i> : ICTR-99-52-R	
To: A:	<p>ARUSHA</p> <p>✘ Judicial Archives Fax Number: 1799251</p> <p>APPEALS UNIT</p> <p>✘ Ms Félicité Talon</p> <p>APPEALS CHAMBER</p> <p>✘ Judge / Juge Fausto Pocar (Presiding)</p> <p>✘ Judge / Juge Mohamed Shahabuddeen</p> <p>✘ Judge / Juge Mehmet Güney</p> <p>✘ Judge / Juge Andressa Vaz</p> <p>✘ Judge / Juge Theodor Meron</p> <p>✘ Ms Catherine Marchi-Uhel</p> <p>✘ Mr Roman Boed</p> <p>✘ Concerned Associate Legal Officers</p> <p>✘ Ms. Fatou Fall</p> <p>DEFENSE</p> <p>✘ Accused / <i>accusé</i>: Hassan NGEZE (complete CN54 Form)</p> <p>✘ Lead Counsel / <i>Conseil Principal</i>: <input type="checkbox"/> In Arusha (complete CN52) ✘ Fax Number:</p> <p><input type="checkbox"/> Co-Counsel / <i>Conseil Adjoint</i>: (name / <i>nom</i>)</p> <p><input type="checkbox"/> In Arusha (complete CN52) <input type="checkbox"/> Fax Number:</p>	<p>JUDICIAL RECORDS/ARCHIVES UNICTR 2008 FEB - 11 A 9 22</p>
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Documents name / <i>Titre du document</i>	Date Filed / <i>Date d'enregistrement</i>	Pages
DECISION ON HASSAN NGEZE'S MOTIONS AND REQUESTS RELATED TO RECONSIDERATION	31.01.2008	78/H - 76/H