

ICTR-99-50-T
04-03-2008
(25926-25924)

25926
le



International Criminal Tribunal for Rwanda
Tribunal pénal international pour le Rwanda

UNITED NATIONS
NATIONS UNIES

OR: ENG

TRIAL CHAMBER II

Before Judges: Khalida Rachid Khan, presiding
Lee Gacumba Muthoga
Emile Francis Short

Registrar: Mr. Adama Dieng

Date: 4 March 2008

JUDICIAL RECORDS/ARCHIVES
RECEIVED
2008 MAR - 14 PM 11:31

THE PROSECUTOR
v.
CASIMIR BIZIMUNGU
JUSTIN MUGENZI
JÉRÔME-CLÉMENT BICAMUMPAKA
PROSPER MUGIRANEZA

Case No. ICTR-99-50-T

**DECISION ON THE PROSECUTOR'S MOTION FOR AN EXTENSION OF
TIME WITHIN WHICH TO FILE A RESPONSE TO JUSTIN MUGENZI'S
MOTION FOR FURTHER CERTIFICATED DISCLOSURE AND FOR LEAVE
TO REOPEN HIS DEFENCE**

Office of the Prosecutor:
Mr. Paul Ng'arua
Mr. Ibukunolu Babajide
Mr. Justus Bwonwonga
Mr. Elvis Bazawule
Mr. Shyamal Rajapaksa
Mr. Olivier de Schutter

Defence Counsel:
Ms. Michelyne C. St. Laurent and Ms. Alexandra Marcil for Casimir Bizimungu
Mr. Ben Gumpert and Mr. Jonathan Kirk for Justin Mugenzi
Mr. Michel Croteau and Mr. Philippe Larochelle for Jérôme-Clément Bicamumpaka
Mr. Tom Moran and Ms. Cynthia Cline for Prosper Mugiraneza

INTRODUCTION

1. On 25 February 2008, the Defence for Justin Mugenzi ("Defence") filed a Motion asking for further certificated disclosure from the Prosecution pursuant to Rule 68 (A) of the Rules of Procedure and Evidence and that either (i) the Prosecution make certain admissions of fact based on four statements recently disclosed and on any related future disclosures, or (ii) Justin Mugenzi be granted leave to re-open his Defence.¹

2. On 28 February 2008, the Prosecution filed a request for an extension of time to respond to the Mugenzi Motion.² The Defence does not object to the Prosecution request.³

DISCUSSION

3. The Prosecution submits that an extension of time is warranted for three reasons: (i) the annexures to the Mugenzi Motion are lengthy (230 pages); (ii) Annex 1 is an indictment issued by a Spanish investigatory magistrate, written in Spanish, which is not a working language of the Tribunal; and (iii) the nature of the Mugenzi Motion will require the Prosecution team to consult with other teams from the Office of the Prosecutor, some of which are currently facing time pressures of their own.

4. The Chamber notes that (i) Spanish is not a working language of the Tribunal,⁴ (ii) the Defence has not applied for leave to use Spanish,⁵ and (iii) the Defence suggests that its purpose in annexing the Spanish indictment to the Mugenzi Motion was not to persuade the Chamber by its contents—the Defence acknowledges "that allegations against other persons cannot, of themselves, have any impact upon the guilt or innocence of the Accused in the instant trial"⁶—but rather to contrast the twenty-three witness statements summarized therein with the four witness statements on related subject matter disclosed by the Prosecution to the Defence. Therefore, the Prosecution is not expected to be able to respond to, or even to read, Annex 1 to the Mugenzi Motion. As such, the Chamber is not persuaded that the length and language of Annex 1 to the Mugenzi Motion justify extending the time for the Prosecution to respond.

5. The Chamber is persuaded, however, by the Prosecution's submission that a complete answer to the issues raised by the Mugenzi Motion requires the Prosecution team in this case to consult with other teams in the Office of the Prosecutor. Given the

¹ Justin Mugenzi's Motion for Further Certificated Disclosure and for Leave to Reopen his Defence, filed 25 February 2008 ("Mugenzi Motion").

² Prosecutor's Motion for an Extension of Time within which to File a Response to Justin Mugenzi's Motion for Further Certificated Disclosure and for Leave to Reopen his Defence, filed 28 February 2008 ("Prosecution Motion").

³ Justin Mugenzi's Response to the Prosecutor's Motion for an Extension of Time within which to File a Response to Justin Mugenzi's Motion for Further Certificated Disclosure and for Leave to Reopen his Defence, filed 29 February 2008 ("Mugenzi Response").

⁴ Rule 3 (A) of the Rules of Procedure and Evidence ("Rules")

⁵ Rule 3 (C) of the Rules.

⁶ Mugenzi Motion, para. 16.

nature of the Mugenzi Motion, the Chamber concludes that granting the Prosecution an extension of time to respond is in the interests of justice.

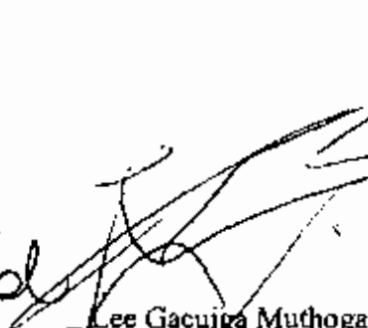
FOR THESE REASONS, THE CHAMBER

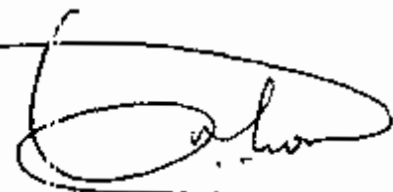
GRANTS the Motion;

ORDEFS the Prosecution to file its Response to the Mugenzi Motion no later than Wednesday, 12 March 2008.

Arusha, 4 March 2008


Khadija Rachid Khan
Presiding


Lee Gacuga Muthoga
Judge


Emile Francis Short
Judge

