



UNITED NATIONS
NATIONS UNIES

**International Criminal Tribunal for Rwanda
Tribunal pénal international pour le Rwanda**

OR:
ENG

TRIAL CHAMBER II

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

Registrar: Mr. Adama Dieng

Date: 24 April 2008

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

Case No. ICTR-99-50-T

**ORAL RULING ON THE QUALIFICATION OF DR. MARK LAWRENCE
MCPHAIL TO TESTIFY AS AN EXPERT WITNESS**

Office of the Prosecutor:

Mr. Paul Ng'arua
Mr. Ibukunolu Babajide
Mr. Justus Bwonwonga
Mr. Elvis Bazawule
Mr. Shyamlal Rajapaksa
Mr. Olivier De Schutter
Mr. William Mubiru

Counsel for the Defence:

Ms. Michelyne C. St. Laurent and Ms. Alexandra Marcil for **Casimir Bizimungu**
Mr. Ben Gumpert and Mr. Jonathan Kirk for **Justin Mugenzi**
Mr. Pierre Gaudreau and Mr. Michel Croteau for **Jérôme-Clément Bicamumpaka**
Mr. Tom Moran and Ms. Marie-Pierre Poulain for **Prosper Mugiraneza**

English Transcript, 24 April 2008, pages 1-2, from page 1, line 23 onwards:

MADAM PRESIDENT:

Okay. Here's the oral ruling on the qualification of Dr. McPhail to testify as an expert witness:

The Defence for Prosper Mugiraneza offers Dr. Mark Lawrence McPhail as an expert witness, pursuant to Rule 94 *bis* of the Rules of Procedure and Evidence. Dr. McPhail's proffered area of expertise are rhetoric, communications, argumentation and research methodology.

The role of an expert is to assist the Chamber in understanding the context of events relevant to the case. The expert must possess relevant specialised knowledge acquired through education, research, experience or training in his or her proposed field of expertise. The standard for admission of an expert testimony is whether the specialised knowledge possessed by the expert, applied to the evidence which is the foundation of the opinion, may assist the Chamber in understanding the evidence.

Having considered Dr. McPhail's curriculum vitae, as well as his testimony and submissions of the parties during the voir dire, the Chamber is satisfied that Dr. McPhail has demonstrated expertise in rhetoric, communications, argumentation, and research methodology. Especially, the Chamber notes Dr. McPhail -- Dr. McPhail's PhD in rhetoric, including his education and experience -- excuse me -- in the application and assessment of qualitative, quantitative and critical research methodologies, and his 20 years of editorial service in respected academic journals reviewing the work of his peers.

The Chamber is satisfied that Dr. McPhail's specialised knowledge in research methodologies and methods of argument may assist -- may assist it in assessing the reliability of expert reports of Dr. Des Forges and Professor Mbonyinkebe.

Dr. McPhail is -- Dr. McPhail is admittedly -- excuse me -- is not an expert in Rwandan history and, therefore, the Chamber does not consider Dr. McPhail -- Dr. McPhail's opinion

on specifics of Rwandan history will assist in understanding the evidence.

Finally, the Chamber does not consider that hearing Dr. McPhail's testimony will interfere with its role in assessing the credibility of the witnesses in this case.