



Tribunal Pénal International pour le Rwanda
International Criminal Tribunal for Rwanda

188/H

ICTR-99-52-R
16th June 2008

IN THE APPEALS CHAMBER

{188/H - 185/H}

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

Registrar: Mr. Adama Dieng

Decision of: 16 June 2008

Hassan NGEZE

v.

THE PROSECUTOR

Case No. ICTR-99-52-R

ICTR Appeals Chamber

Date: 16 June 2008

Action: P-T

Copied To: concerned Judges,
Parties, SCS, LOS, ALOS, & SCS
Archives

2008 JUN 16 11:28
JUDICIAL RECORDS ARCHIVE
RECEIVED

DECISION ON HASSAN NGEZE'S MOTIONS OF 21 MAY 2008

Counsel for Hassan Ngeze

The Office of the Prosecutor

Mr. Dev Nath Kapoor, Counsel *pro bono*

Mr. Hassan Bubacar Jallow

International Criminal Tribunal for Rwanda
Tribunal pénal international pour le Rwanda
CERTIFIED TRUE COPY OF THE ORIGINAL SLEN BY ME
COPIE CERTIFIÉE CONFORME À L'ORIGINAL PAR MOI
NAME / NOM: KOEHL... KUMELIRO... A... AFANDE...
SIGNATURE: [Signature] DATE: 16 June 2008

511

187/H

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 filed by Hassan Ngeze in person ("Motions" and "Applicant", respectively):

- "35 Years Sentenced Prisoner Hassan Ngeze's Motion Seeking Clarification Before the Appeals Chamber Regarding What Would Be the Fate of His Case, in Case It Is Admitted and Re-Considered Based on Review Process (New Facts Which Should Have Revised the Verdict, and that Could Not in Any Way Have Been Available During the Trial Phase and Appeals' stage) at the Time the Trial Chamber Will Have Closed as It Stated in the Present Set Up of Completion Strategy, Noting that if the Review Is Granted, the Case Will Be Resent To a Trial Chamber Fort [sic] a Re-Trial", filed on 21 May 2008 ("First Motion");¹
- "Prisoner Hassan Ngeze's Motion of Extreme Urgent [sic] Seeking the Urgent Appointment by the Registrar Counsel John Floyd III of United States of America Washington DC, as Pro Bono Counsel, to Defend My Case Before the ICTR Tribunal, and Request the Appeals Chamber to Deal the Present Motion Alongside the Similar Previous's Motions Filed on 7th April, and 28th April 2008 that Were Requesting the Appointment of a New Defense Team Under Pro-Bono System [sic]", filed on 21 May 2008 ("Second Motion");²
- "Prisoner Hassan Ngeze's Motion of Extreme Urgent [sic] Asking the Appeals Chamber With the Registrar to Remove the Word Used on Previous Motions Regarding the Assignment of John Floyd as a Pro-Bono Counsel and Use the Word Lawyer of Hassan Ngeze Who Will Speak on His Behalf and Act as His Attorney in Any Part of the World", filed on 21 May 2008 ("Third Motion");

NOTING that the Prosecution did not file a response to the Motions;

NOTING that the Applicant is serving his sentence in the UNDF;

¹ While the Motion was received by the United Nations Detention Facility in Arusha, Tanzania ("UNDF") on 15 May 2008 it was filed with the Registry of the Tribunal on 21 May 2008.

² While the Motion was received by the UNDF on 16 May 2008 it was filed with the Registry of the Tribunal on 21 May 2008.

186/II

NOTING that Mr. Dev Nath Kapoor has been *pro bono* Counsel for the Applicant since 25 April 2008;³

CONSIDERING that in the First Motion the Applicant, who submits that he is "currently under process" of filing a motion for review 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"), requests that the Appeals Chamber clarify which Trial Chamber would hear his case on "re-trial" if the review motion were granted, "[being] aware that, with the completion strategy, the Trial chamber [*sic*] should or might close its work by December of 2008, and the Appeals Chamber by 2010";

CONSIDERING that the Applicant has not yet filed any request for review;

FINDING therefore that the Applicant's First Motion is premature;

NOTING that in the Second Motion the Applicant requests the "appointment" or the "assignment" of Mr. John Floyd III as counsel;⁴

CONSIDERING that a comprehensive reading of the Second Motion and its annex shows that, rather than seeking the assignment of Mr. John Floyd III as counsel under the legal assistance scheme pursuant to Rule 45 of the Rules of Procedure and Evidence of the Tribunal ("Rules"), the Applicant instead requests the Registrar to acknowledge the appointment of Mr. John Floyd III as Lead Counsel;

CONSIDERING that, pursuant to Rules 44(A) and 45bis of the Rules, it is the responsibility of the Registrar to acknowledge receipt of the power of attorney filed by a counsel and to verify his or her qualification;

FINDING therefore that the Second Motion should have been addressed to the Registrar;

CONSIDERING that while the Third Motion relates to the First and Second Motions in that it seeks the removal of the words "*pro bono* counsel" from these submissions, it does not explain this request;

³ See Power of Attorney of Mr. Dev Nath Kapoor signed by Mr. Hassan Ngeze, 17 April 2008 and Statement of Availability signed by Mr. Dev Nath Kapoor, 25 April 2008.

⁴ The Applicant annexes to his Second Motion a power of attorney designating Mr. John Floyd III as Lead Counsel ("Power of Attorney Given to Lead Counsel John Floyd III of United State [*sic*] of America As Lead Counsel for Prisoner Hassan Ngeze", signed by Mr. Hassan Ngeze on 15 May 2008 and filed on 21 May 2008). The Appeals Chamber has not been informed whether Mr. John Floyd III accepted his designation.

185/H

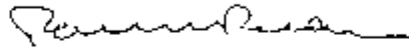
FINDING that the Third Motion does not necessitate any action on the part of the Appeals Chamber;⁵

FOR THE FOREGOING REASONS,

DISMISSES the Motions.

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

Done this 16th day of June 2008,
At The Hague, The Netherlands.



Fausto Pocar
Presiding Judge

[Seal of the Tribunal]



⁵ The Appeals Chamber notes that in the Power of Attorney filed on 15 May 2008, the Applicant has made a reservation to the effect that by appointing Mr. John Floyd III as Lead Counsel, he is "not waiving [his] right to Assigned Counsel *à* charge pursuant to Article 3 *et seq.* of the Directive on the Assignment of the Defense Counsel [*sic*]".