

ICTR-05-88-T  
03-09-2008  
(704 - 702)

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UNITED NATIONS  
NATIONS UNIES

International Criminal Tribunal for Rwanda  
Tribunal pénal international pour le Rwanda

OR: ENG

**TRIAL CHAMBER III**

**Before Judges:** Dennis C. M. Byron, Presiding  
Gberdao Gustave Kam  
Vagn Joensen

**Registrar:** Adama Dieng

**Date:** 03 September 2008

**THE PROSECUTOR**

v.

**Callixte KALIMANZIRA**

*Case No. ICTR-05-88-T*

JUDICIAL RECORDS ARCHIVE  
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Adama Dieng 03/09/2008

**DECISION OF NO CASE TO ANSWER**

*Rule 54 of the Rules of Procedure and Evidence*

**Office of the Prosecutor**

Christine Graham  
Veronic Wright  
Ousman Jammeh  
Kartik Murukutla

**Defence Counsel**

Arthur Vercken  
Anta Guisse

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1. On 9 June 2008, the Defence for Kalimanzira moved the Chamber to exclude Witnesses BWM, BWN, BXB, BXC, BXD and BXL from the Prosecution Witness List on the basis that their anticipated testimonies were related to material facts not pleaded in the Indictment.<sup>1</sup> On 24 June 2008, the Chamber decided to hear the testimonies of Witnesses BXB and BWM,<sup>2</sup> who were expected to give evidence on the Accused's alleged presence and incitement at a roadblock in Sahera *secteur* and at a meeting in the Sahera *secteur* office, killings which took place thereafter, and the Accused's alleged involvement in the killings at Kabakobwa hill.

2. On 26 June 2008, the Chamber heard the testimony of Prosecution Witness BXB. On 30 June 2008, the Defence for Kalimanzira filed a motion for certification to appeal the Chamber's Decision of 24 June 2008.<sup>3</sup> On the same day, the Prosecution rested its case without calling Witness BWM or presenting any further evidence in respect of the allegations at paragraph 1 above.

3. On 25 August 2008, the Chamber issued an Interim Order inviting the Parties to make submissions on whether there is sufficient evidence upon which the Chamber could rely in support of the allegations at paragraph 1 above, and what legal consequences should follow from any conclusion that may be reached.<sup>4</sup> On 29 August 2008, the Prosecution submitted that it would not rely on the evidence of Witness BXB to seek a conviction on any of the counts in the Indictment against the Accused.<sup>5</sup> The Defence did not reply.

4. Considering that the Prosecution has forsaken reliance on the testimony of Witness BXB, and in the interests of guaranteeing a fair and expeditious trial by clarifying the case which the Defence has to answer, the Chamber finds that no convictions could be entered on any of the allegations brought by Witness BXB. As such, the Defence motion for certification to appeal the Chamber's Decision of 24 June 2008 is rendered moot.

<sup>1</sup> *Requête aux fins d'exclusion des témoins à charge BWM, BWN, BXB, BXC, BXD et BXL*, filed 9 June 2008.

<sup>2</sup> *The Prosecutor v. Callixte Kalimanzira*, Case No. ICTR-05-88-T ("Kalimanzira"), Decision on Defence Motion to Exclude Prosecution Witnesses BWM, BWN, BXB, BXC, BXD and BXL (TC), 24 June 2008.

<sup>3</sup> *Requête aux fins d'autorisation d'interjeter appel à l'encontre de la « Decision on Defence Motion to Exclude Prosecution Witnesses BWM, BWN, BXB, BXC, BXD and BDL » en date du 24 juin 2008*, filed 30 June 2008.

<sup>4</sup> *Kalimanzira*, Interim Order (TC), 25 August 2008.


<sup>5</sup> Prosecution's Submissions Following the Chamber's Interim Order Of 25 August 2008, filed 29 August 2008.


**ACCORDINGLY, THE CHAMBER**

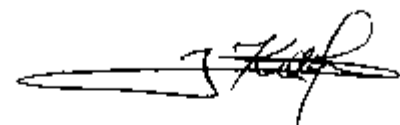
**FINDS** that the Defence for Kalimanzira has no case to answer in respect of the allegations at paragraph 1 above; and

**DECLARES** the Defence motion for certification to appeal, dated 30 June 2008, moot.

Arusha, 03 September 2008, done in English.

  
Dennis C. M. Byron  
Presiding Judge

  
Vagn Joensen  
Judge

  
Gberdao Gustave Kam  
Judge

[Seal of the Tribunal]

