



UNITED NATIONS
NATIONS UNIES

International Criminal Tribunal for Rwanda
Tribunal pénal international pour le Rwanda

ICTR-99-50-T

24-10-2008

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(28729-28727)

OR: ENG

TRIAL CHAMBER II

Before Judges: Khalida Rachid Khan, presiding
Emille France Short
Lee Gacuiya Muthoga

Registrar: Mr. Adama Dieng

Date: 24 October 2008

THE PROSECUTOR

v.

CASIMIR BIZIMUNGU

JUSTIN MUGENZI

JÉRÔME-CLÉMENT BICAMUMPAKA

PROSPER MUGIRANEZA

Case No. ICTR-99-50-T

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JUDICIAL RECORDS SECTION
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**DECISION ON JUSTIN MUGENZI'S MOTION FOR RELIEF FROM THE
PAGE LIMITATION ON FINAL TRIAL BRIEFS**

Office of the Prosecutor:

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

Counsel for the Defence:

Ms. Michelyne C. St. Laurent and Ms. Andrea Valdivia 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

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INTRODUCTION

1. On 24 June 2008, the Chamber issued an Order limiting the number of pages for each party's Final Trial Brief to 300, including annexes.¹ The Page Limit Order, however, explicitly permitted any party unable to comply with the limitation to seek authorisation from the Chamber to vary the length of its brief.

2. The Defence for Justin Mugenzi (the "Defence") moved twice for reconsideration of the Page Limit Order;² both motions were denied.³ In the Second Motion for Reconsideration, as an alternative form of relief, the Defence, consistent with the Page Limit Order, sought leave to file a 700 page Final Trial Brief.⁴ The Chamber reserved judgment as to whether, and to what extent, it would permit such an extension until the Prosecution filed its Final Trial Brief and the Defence had completed an initial draft of its Final Trial Brief.⁵

3. The Defence now moves the Chamber for further relief under the Page Limit Order, this time requesting that it be permitted to file a Final Trial Brief up to 450 pages in length.⁶

4. The Prosecutor does not object, but in his response notes that the number of pages sought by the Defence is excessive, especially in light of the fact that the Prosecutor's Final Trial Brief dealt with all four of the Accused within the directives prescribed by the Page Limit Order, whereas the Defence's brief only involves one.⁷

DISCUSSION

5. The Page Limit Order explicitly permits parties to seek leave from the Chamber to vary the page limit for its Final Trial Brief, and provides that any such variation "will only be granted if the Chamber is satisfied that the circumstances

¹ *Prosecutor v. Casimir Bizimungu et al.*, Case No. ICTR-99-50-T, "Further Orders Regarding the Filing of Closing Briefs", 24 June 2008, para. 1 (the "Page Limit Order").

² "Justin Mugenzi's Motion for Reconsideration of the Chamber's Further Orders Regarding the Filing of Closing Briefs", filed by the Defence for Justin Mugenzi on 27 June 2008 (the "First Reconsideration Motion"); "Justin Mugenzi's Composite Motion for 1) Reconsideration of the Chamber's Decision on Justin Mugenzi's Motion for Reconsideration of the Chamber's Further Orders Regarding the Filing of Closing Briefs; 2) Certification for Interlocutory Appeal of the Decision on Justin Mugenzi's Motion for Reconsideration of the Chamber's Further Orders Regarding the Filing of Closing Briefs; 3) Relief Under Paragraph III of the Chamber's Orders Regarding the Filing of Closing Briefs of 24 June 2008", filed by the Defence for Justin Mugenzi on 31 July 2008 (the "Second Reconsideration Motion").

³ *Bizimungu et al.*, Decision on Justin Mugenzi's Motion for Reconsideration of the Chamber's Further Orders Regarding the Filing of Closing Briefs (TC), 23 July 2008 (the "First Reconsideration Decision"); *Bizimungu et al.*, Decision on Justin Mugenzi's Composite Motion Concerning Page Limits on Closing Briefs (TC), 2 September 2008 (the "Second Reconsideration Decision").

⁴ Second Reconsideration Motion, para. 54.

⁵ Second Reconsideration Decision, para. 16.

⁶ "Justin Mugenzi's Motion for Relief under Paragraph III of the Chamber's Orders Regarding the Filing of Closing Briefs of 24 June", filed by the Defence for Justin Mugenzi on 13 October 2008 (the "Extension Motion").

⁷ "Prosecutor's Response to Justin Mugenzi's Motion Under Paragraph III of the Chamber's Orders Regarding the Filing of Closing Briefs of 24 June 2008", filed by the Prosecutor on 17 October 2008, para. 3.



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necessitate an increase in the aforementioned limitations.”⁸ Likewise, the Second Reconsideration Decision authorised the Defence to renew its request for extension, if necessary, after taking additional steps to reduce the length of its Final Trial Brief.⁹

6. As noted above, the Defence asserts in its Extension Motion that it has now largely completed the first draft of its Final Trial Brief.¹⁰ The Defence notes that it has “scrupulously” followed the directives of the Second Reconsideration Motion, specifically the Chamber’s request that final briefs omit “lengthy summaries of witness testimony or exhibits...”¹¹ Notwithstanding these efforts, the Defence argues that it cannot do justice to Justin Mugenzi’s case without an increase in the page limit to 450 pages. This is exacerbated, the Defence asserts, by its need to respond to at least 107 separate factual allegations presented in the Prosecutor’s recently filed Final Trial Brief.¹²


7. The Chamber notes in this regard that the instant request is substantially lower than the Defence’s original request of 700 pages. The Chamber, recalling the standards set forth in the Page Limit Order and consistent with its powers under Rule 54 of the Rules of Procedure and Evidence,¹³ finds that the Defence has made a sufficient showing of necessity to warrant a variation in the page limits for the Final Trial Brief. Therefore, the Defence will be permitted to file a Final Trial Brief that is up to 450 pages in length. The Defence is reminded that the brief must otherwise conform to the guidelines set forth in the Page Limit Order.

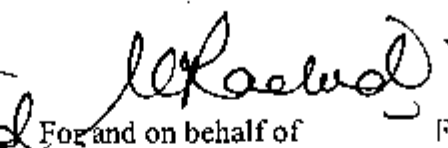
FOR THESE REASONS, the Chamber


GRANTS the Extension Motion; and

PERMITS the Defence for Justin Mugenzi to file a Final Trial Brief up to 450 pages in length.

Arusha, 24 October 2008

 For and on behalf of
Kalida Rachid Khan
Presiding Judge

 For and on behalf of
Lee Gacuga Muthoga
Judge

 For and on behalf of
Emile Francis Short
Judge



⁸ Page Limit Order, para. III.

⁹ Second Reconsideration Motion, para. 16.

¹⁰ Enlargement Motion, para. 2.

¹¹ *Id.* See also Second Reconsideration Motion, para. 17.

¹² Enlargement Motion, para. 3.

¹³ Rule 54 provides, “At the request of either party or *proprio motu*, a Judge or Trial Chamber may issue such orders ... as may be necessary for the purposes of an investigation, or for the preparation or conduct of the trial.”