

ICTR-98-44-T
21-11-2008
(38405-38403)

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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: 21 November 2008

THE PROSECUTION

v.

Édouard KAREMERA
Mathieu NGIRUMPATSE
Joseph NZIRORERA
Case No. ICTR-98-44-T

ORIGINAL
SUBMITTED

2008 NOV 21 P 12:31

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**DECISION ON JOSEPH NZIRORERA'S MOTION TO VACATE
ORAL HEARING ON SEVERANCE**

Rule 73 of the Rules of Procedure and Evidence

Office of the Prosecution:
Don Webster
Alayne Frankson-Wallace
Iain Morley
Saidou N'Dow
Gerda Visser
Sunkarie Ballah-Conteh
Takeh Sendze
Deo Mbutu

Defence Counsel for Édouard Karemera
Dior Diagne Mbaye and Félix Sow

Defence Counsel for Mathieu Ngirumpatse
Chantal Hounkpatin and Frédéric Weyl

Defence Counsel for Joseph Nzirorera
Peter Robinson and Patrick Nimy Mayidika Ngimbi

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INTRODUCTION

1. On 4 November 2008, Joseph Nzirorera filed a motion seeking to vacate the oral hearing on severance scheduled for 6 November 2008.¹ The Prosecution did not file any response.

DELIBERATIONS

2. The Chamber notes that the said hearing indeed took place on 6 November 2008. Therefore the Motion is moot.

3. The Chamber also recalls that during the proceedings of 3 November 2008, Joseph Nzirorera made an oral application to postpone the hearing on severance after a decision on the Motion on Disqualification of Judge Byron was rendered.² The Chamber denied the oral application for postponement considering that the motion for disqualification did not constitute a stay of proceedings.³ A few minutes later, the Chamber denied Nzirorera's application for reconsideration of this decision.⁴ Consequently, Nzirorera's arguments requesting to vacate the hearing on severance until after a decision on the Motion for Disqualification of Judge Byron is rendered are redundant.

4. In his Motion, the Joseph Nzirorera also suggests that the hearing on severance may be unnecessary since all parties have filed their submissions and all oppose severance.⁵ This argument does not amount to a new fact as the filing of those submissions is the consequence of the Chamber's Order of 28 October 2008.⁶

¹ Joseph Nzirorera's Motion to Vacate Oral Hearing on Severance ("Motion"), filed on 4 November 2008.

² T. 3 November 2008, p. 12 (French version). See *Joseph Nzirorera's Motion for Disqualification of President/Judge Byron*, filed on 31 October 2008 and *Withdrawal of Joseph Nzirorera's Motion for Disqualification of President/Judge Byron*, 6 November 2008.

³ T. 3 November 2008, p. 14 (English version).

⁴ T. 3 November 2008, pp. 14-15 (English version).

⁵ Motion, para. 2.

⁶ See *Ordonnance relative au dépôt de conclusions sur une éventuelle disjonction d'instances* (TC), 28 October 2008.

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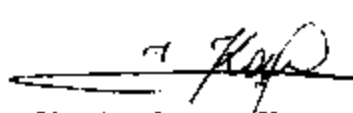
5. Consequently, in the Chamber's view, Nzirorera's Motion is a duplication of the oral applications made on 3 November 2008. The Chamber so considers that it must be deemed frivolous, and all fees related to it should be denied.

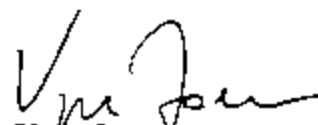
FOR THE ABOVE REASONS, THE CHAMBER

- I. DENIES** the Motion in its entirety and **DECLARES** it **MOOT**.
- II. DIRECTS** the Registrar to deny Counsel for Nzirorera all fees relating to this motion.

Arusha, 21 November 2008, done in English.


Dennis C.M. Byron
Presiding Judge


Gberdao Gustave Kam
Judge


Vagn Joensen
Judge

