



INTERNATIONAL
KUBANISUNDA

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

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of
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OR: ENG

TRIAL CHAMBER III

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

Registrar: Adama Dieng

Date: 31 December 2008

ICTR-00-55A-PT
31.12.2008
(201 - 198)

THE PROSECUTION

v.

Tharcisse MUVUNYI
Case No. ICTR-2000-55A-PT

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**DECISION ON THARCISSE MUVUNYI'S MOTION FOR AN ORDER TO
REINSTATE CO-COUNSEL ABBE JOLLES AND TO RESCHEDULE TRIAL TO
COMMENCE ON 11 MARCH 2009**

Office of the Prosecution:
Charles Adeogun-Phillips
Ibukunolu Alao Babajide

Defence Counsel for Tharcisse Muvunyi
Mr. William E. Taylor III

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INTRODUCTION

1. On 29 October 2008, Co-Counsel for Tharcisse Muvunyi was instructed to stop working on this very case by the Defense Counsel & Detention Management Section ("DCDMS").¹
2. On 18 December 2008, Tharcisse Muvunyi filed a motion seeking to reinstate Co-Counsel Abbe Jolles and to reschedule the commencement of the trial to 11 March 2009.² On 24 December 2008, the Chamber requested the Registrar to file submissions on whether it was necessary for Lead Counsel to be assisted by a co-counsel.³ The Registrar filed submissions on the matter that same day indicating that the assistance of a co-counsel was not necessary in the present case.⁴ The Accused filed a response to the Registrar's submissions, disagreeing with them.⁵ The Prosecution did not file any submissions on the matter.

DELIBERATIONS

3. As a preliminary matter, the Chamber recalls that the retrial of Tharcisse Muvunyi is scheduled to start on 12 January 2009.
4. Pursuant to Article 15 of Directive on the Assignment of Defence Counsel, the assignment of a co-counsel to assist a lead counsel is not an obligation. As stated by the Registrar in his submissions, "while the assignment of a co-counsel is by no mean mandatory, it is at the discretion of the Registrar to decide thereupon, depending on the complexity of the

¹ Accused Tharcisse Muvunyi's Motion for an Order to reinstate Co-Counsel Abbe Jolles and to Reschedule Trial to Commence March 11, 2009, dated 18 December 2008 and filed on 19 December 2008, para. 1.

² Accused Tharcisse Muvunyi's Motion for an Order to reinstate Co-Counsel Abbe Jolles and to Reschedule Trial to Commence March 11, 2009, dated 18 December 2008 and filed on 19 December 2008.

³ *Interim Order*, 24 December 2008.

⁴ Réponse du Greffier en vertu de l'article 33 (B) du Règlement de Procédure et de Preuve à l'Ordonnance rendue le 24 décembre 2008, filed on 24 December 2008.

⁵ Accused Tharcisse Muvunyi's Response to Submissions by the Registrar on the Interim Order of 24 December 2008 Requesting an Order Reinstating Co-Counsel and Payment of Co-Counsel Attorney's Fees Due and Owing Within 15 Days of the Date of This Submission, dated 25 December 2008 and filed on 29 December 2008.

case and the foreseeable duration of the proceedings as well as the preliminary investigations".⁶

5. The Chamber agrees with the Registrar that the scope of the retrial of Tharcisse Muvunyi is limited to a single event, that Lead Counsel, who assisted the Accused during the trial in First instance and at the Appeal stage, is fully aware of this case and that the duration of the retrial is set at two weeks. Nevertheless, the Chamber finds that the cost induced by the reinstatement of Co-Counsel to this case is justified. Indeed the retrial of Tharcisse Muvunyi is scheduled to start in less than two weeks and the Defence needs to be ready for it. The Prosecution listed in its Pre-Trial Brief five factual witnesses and one expert witness.⁷ Some of these witnesses are new witnesses.⁸ It is also noteworthy that Lead Counsel does not speak French while Ms. Abbe Jolles does. The Chamber also considers that refusing the reinstatement of Co-Counsel could lead to delay the retrial of the Accused and ultimately could lead to greater costs for the Tribunal.

6. As a matter of consequence, the Chamber considers that with the reinstatement of Co-Counsel there is no reason to delay the commencement of the retrial of Tharcisse Muvunyi.

7. In his response to the Registrar's submissions, the Accused submits that some of the work performed by Co-Counsel and the reimbursement of some fees while she was officially appointed to this position have not been paid. The Chamber considers that this issue is a matter to be resolved by Co-Counsel with the Registry.

FOR THE FOREGOING REASONS, THE CHAMBER

GRANTS THE MOTION IN PART;

ORDERS the Registrar to reinstate Co-Counsel Abbe Jolles as soon as possible and in any case no later than Friday 2 January 2009;

DIRECTS Co-Counsel to liaise with the Registry concerning any outstanding monetary claim;

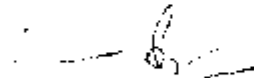
⁶ Réponse du Greffier en vertu de l'article 33 (B) du Règlement de Procédure et de Preuve à l'Ordonnance rendue le 24 décembre 2008, filed on 24 December 2008, para. 7.

⁷ The Prosecutor's Pre-Trial Brief, filed on 4 December 2008.

⁸ According to the Prosecutor's Pre-Trial Brief, disclosure regarding those witnesses was done before the commencement of Tharcisse Muvunyi's first trial but some of them were not listed on the final witness list.

DENIES the Defence request to reschedule the commencement of the retrial of Tharcisse Muvunyi and **RECALLS** that the said retrial is scheduled to start on 12 January 2009

Arusha, 31 December 2008, done in English.


Dennis C. M. Byron
Presiding Judge


Gberdao Gustave Kam
Judge


Vagn Joensen
Judge

[Seal of the Tribunal]