



Tribunal Pénal International pour le Rwanda
International Criminal Tribunal for Rwanda

557/H

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ICTR-96-03-R
22 January 2009
{557/H - 554/H}

IN THE APPEALS CHAMBER

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

Registrar: Mr. Adama Dieng

Order of: 22 January 2009

ICTR Appeals Chamber
Date: 22 January 09
Action: R. J. J. J.
Copied To: Concerned Judges,
Parties, Archiver, LDs, LSS
Handwritten signature

Georges Anderson Nderubumwe RUTAGANDA,

v.

THE PROSECUTOR

Case No. ICTR-96-3-R

2009 JAN 23 P 1:29
JUDICIAL RECORDS ARCHIVES
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**ORDER TO THE REGISTRAR CONCERNING GEORGES RUTAGANDA'S
ACCESS TO DOCUMENTS**

Office of the Prosecutor:

Mr. Hassan Bubacar Jallow
Mr. Alex Obote-Odora
Mr. Richard Karegyesa
Mr. George William Mugwanya

The Applicant:

Mr. Georges A. N. Rutaganda, *pro se*

International Criminal Tribunal for Rwanda
Tribunal pénal international pour le Rwanda
CERTIFIED TRUE COPY OF THE ORIGINAL SEEN BY ME
COPIE CERTIFIÉE CONFORME À L'ORIGINAL PAR NOUS
NAME / NOM: ROSETTE MUZIGU-MORRISON
SIGNATURE: *Handwritten signature* DATE: 23/01/09

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NOTING that the Applicant also seeks an extension of time to appeal the Decision of 3 April 2008, arguing that the Decision of 13 November 2008 was only served on him on 2 December 2008; and that at that moment he no longer had access to his files because he followed the instructions received on 24 November 2008 from the Commander of the United Nations Detention Facility to prepare his luggage because his transfer to a third State was imminent;⁶

CONSIDERING that Rule 75(G) of the Rules of Procedure and Evidence of the Tribunal ("Rules") which allows for the possibility of seeking to rescind, vary, or augment protective measures ordered at trial does not provide for an appeal as of right, nor do the Rules address the issue of whether a decision rendered by a Trial Chamber after the close of trial and appeal proceedings is subject to appeal;

CONSIDERING that the Appeals Chamber has previously held that an applicant is entitled to lodge an appeal against a decision rendered by a Trial Chamber, pursuant to Rule 75(G) of the Rules, after the close of trial and appeal proceedings;⁷

FINDING therefore that the Applicant is entitled to appeal the Decision of 3 April 2008;

CONSIDERING that the Rules do not specify a particular time limit in which the Applicant must lodge his appeal against a Trial Chamber's decision on a motion filed pursuant to Rule 75(G) of the Rules;

CONSIDERING that for purposes of proceedings management, a time limit for filing such an appeal should be established in this case and that, in order to determine a time limit in which the Applicant must lodge his appeal against the Decision of 3 April 2008, the Appeals Chamber needs to be informed whether the Applicant is able to access his files and documentation to prepare his appeal;

FOR THE FOREGOING REASONS,

ORDERS the Registrar, pursuant to Rule 33(B) of the Rules, to make a written submission to the Appeals Chamber, within seven days of the filing of this Order, explaining whether at present and until his transfer to a third State, the Applicant continues to have access to the appropriate facilities and the files and documentation required to prepare his appeal against the Decision of 3 April 2008;

⁶ Motion, paras. 13-16.

⁷ *Eliézer Niyitegeka v. The Prosecutor*, Case No. ICTR-96-14-R75, Decision on Motion for Clarification, 20 June 2008, para. 14. The Appeals Chamber held that issues related to access to confidential material by a convicted person concern the important question of balancing between the right of a convicted person to access potentially exculpatory material and the need to guarantee the protection of victims and witnesses.

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 “Motion for Leave to File an Appeal Against the Trial Chamber Decision of 03 April 2008 on Rutaganda’s Request for Closed Session Testimony and Sealed Exhibits of Witness “AWE” and, for the Extension of Time Limit”, filed by Georges A.N. Rutaganda (“Applicant”) on 11 December 2008 (“Motion”);

NOTING that the Prosecution has not filed a response to the Motion;

NOTING that the Applicant seeks leave to appeal the “Decision on Request for Closed Session Testimony and Sealed Exhibits” rendered by Trial Chamber I of the Tribunal (“Trial Chamber”) on 3 April 2008 in *The Prosecutor v. Tharcisse Renzaho*, Case No. ICTR-97-31 (“Decision of 3 April 2008”), in which the Trial Chamber dismissed the Applicant’s request for access to closed session testimony and sealed exhibits of Witness AWE in the case of *Tharcisse Renzaho*;

NOTING that on 11 November 2008, the Appeals Chamber dismissed an appeal filed by the Applicant against the Decision of 3 April 2008 on the ground that the matter was not properly before it because the Applicant’s request for reconsideration of the Decision of 3 April 2008 was pending before the Trial Chamber;¹

NOTING that on 13 November 2008 the Trial Chamber dismissed the Applicant’s request for reconsideration or, alternatively, certification to appeal the Decision of 3 April 2008,² finding that the material requested by the Applicant “has no apparent nexus with his own case” and “is unlikely to materially assist him”;³

NOTING that the Applicant claims that he is entitled to challenge on appeal the Decision of 3 April 2008⁴ and requests the Appeals Chamber to grant him leave to “formally file an appeal” against it;⁵

¹ *Georges A.N. Rutaganda v. The Prosecutor*, Case No. ICTR-96-3-R, Decision on Georges Rutaganda’s Appeal Concerning Access to Closed Session Testimony and Sealed Exhibits, 11 November 2008.

² *The Prosecutor v. Tharcisse Renzaho*, Case No. ICTR-97-31, Decision on Rutaganda’s Motion for Reconsideration or Alternatively, Certification to Appeal the Decision of 3 April 2008 on Request for Closed Session Testimony and Sealed Exhibits, 13 November 2008 (“Decision of 13 November 2008”).

³ Decision of 13 November 2008, para. 6.

⁴ Motion, para. 11.

⁵ Motion, para. 16 (1).

REMAINS seized of the matter.

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

Done this 22nd day of January 2009,
at The Hague,
The Netherlands.



Judge Fausto Pocar
Presiding



[Seal of the Tribunal]