

ICTR-98-44-T
17-2-2009
(45136-45135)

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HAM



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: 17 February 2009

THE PROSECUTOR

v.

Édouard KAREMERA
Mathieu NGIRUMPATSE
Joseph NZIRORERA

Case No. ICTR-98-44-T

JUDICIAL RECORDS/ARCHIVES
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2009 FEB 17 11 P 5: 26

**DECISION ON JOSEPH NZIRORERA'S FIFTH MOTION FOR INSPECTION OF
DEFENCE WITNESS INFORMATION**

Rule 66(B) of the Rules of Procedure and Evidence

Office of the Prosecutor:

Don Webster
Iain Morley
Saidou N'Dow
Gerda Visser
Sunkarie Ballah-Conteh
Takeh Sendze

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

INTRODUCTION

1. Joseph Nzirorera has moved the Chamber, pursuant to Rule 66(B) of the Rules of Procedure and Evidence, for inspection of:

“All items which the Prosecution intends to use as exhibits in its cross-examination of any of the witnesses contained on *Joseph Nzirorera's Confidential Witness List* (8 December 2008)”¹

2. The Prosecution opposes the motion in its entirety.²

DELIBERATIONS

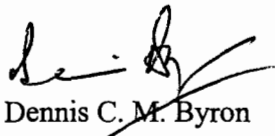
3. Under Rule 66(B), the Prosecutor shall, at the request of the Defence, permit the Defence to inspect any books, documents, photographs, and tangible objects in his custody or control, which are material to the preparation of the defence. However, the Appeals Chamber in *Bagosora et.al.* has clearly stated that Rule 66(B) of the Rules does not create a broad affirmative obligation on the Prosecution to disclose any and all documents which may be relevant to its cross-examination of defence witnesses, and that the Rule is only triggered by a sufficiently specific request by the defence.³

4. The Chamber finds that Joseph Nzirorera's motion is tantamount to a request for inspection of any and all documents that may be relevant to the Prosecution's cross-examination of his witnesses. Noting that the Appeals Chamber has unequivocally rejected such broad applications, the Chamber denies Nzirorera's motion.

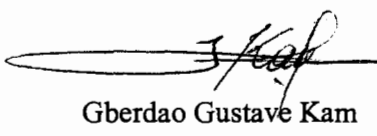
FOR THESE REASONS, THE CHAMBER

DENIES Joseph Nzirorera's Motion.

Arusha, 17 February 2009, done in English.


Dennis C. M. Byron

Presiding Judge


Gberdao Gustave Kam

Judge


Vagn Joensen

Judge

[Seal of the Tribunal]



¹ Joseph Nzirorera's Fifth Motion for Inspection of Defence Witness Information, filed on 19 January 2008; Reply Brief: Joseph Nzirorera's Fifth Motion for Inspection of Defence Witness Information, filed on 28 January 2009.

² Prosecutor's Response to Nzirorera's Fifth Motion for Inspection of Defence Witness Information, filed on 26 January 2009.

³ *Prosecutor v. Bagosora et al.*, Case No. ICTR-98-41-AR73, Decision on Interlocutory Appeal Relating to Disclosure under Rule 66(B) of the Tribunal's Rules of Procedure and Evidence (AC), 25 September 2006, para. 10.