



UNITED NATIONS
NATIONS UNIES

ICTR-98-44-T
19-02-2009
(45167-45165)

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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: 19 February 2009

THE PROSECUTOR

v.

Édouard KAREMERA
Mathieu NGIRUMPATSE
Joseph NZIRORERA

Case No. ICTR-98-44-T

JUDICIAL RECORDS/ARCHIVES
RECEIVED

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

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

Office of the Prosecutor:
Don Webster
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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 9 February 2009, Joseph Nzirorera moved, pursuant to Rule 66(B) of the Rules of Procedure and Evidence, for inspection of:

“(A)ll statements in the possession of the OTP, as well as all immigration documents or other judicial documents for the persons who are listed as potential witnesses for Joseph Nzirorera in his *Sixth Rule 73ter Filing*.”¹

2. The Prosecution does not oppose the motion, and asserts that it is currently compiling all of the remaining documents for disclosure, which are related to Nzirorera's Sixth Rule 73ter filing.² The Prosecution contends that it anticipates disclosing all of the documents by Monday, 16 February 2009.³ However, as of 18 February 2009, the Chamber has not been notified by Court Management Services that the disclosure has taken place.

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. According to the Appeals Chamber in *Bagosora et al.*, all statements, immigration documents, or other judicial documents for persons listed as witnesses, which are in the possession of the Prosecution, are subject to inspection under Rule 66(B) if they contribute to the decision to call those witnesses.⁴

4. Joseph Nzirorera has specifically identified the documents that he wishes to inspect under Rule 66(B) as immigration or other judicial documents.⁵ Moreover, Nzirorera states that the requested documents are material to the preparation of his Defence because they

¹ Joseph Nzirorera's Sixth Motion for Inspection of Defence Witness Information, filed on 9 February 2009, (“Nzirorera's Motion”).

² Prosecutor's Response to Joseph Nzirorera's Sixth Motion for Inspection of Defence Witness Information, filed on 13 February 2009.

³ *Ibid.*

⁴ *The Prosecutor v. Édouard Karemera, Mathieu Ngirumpatse, and Joseph Nzirorera*, Case No. ICTR-98-44-T, (“*Karemera et al.*”), Décision relative à la requête principale de Joseph Nzirorera en communication, par le Procureur, d'informations sur les témoins de la Défense à laquelle s'est joint Édouard Karemera, filed on 17 April 2008.

⁵ Nzirorera's Motion, para. 2.

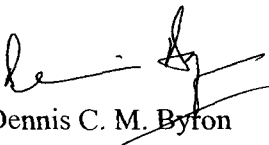
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would allow him to decide whether to place the potential witnesses on his final witness list, and call them in his case-in-chief. Accordingly, the Chamber finds that Nzirorera is entitled to inspect the requested documents under Rule 66(B).

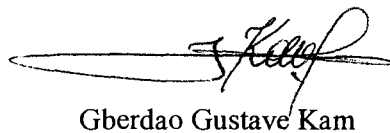
FOR THESE REASONS, THE CHAMBER

- I. **GRANTS** Joseph Nzirorera's motion in its entirety; and
- II. **ORDERS** the Prosecutor, within 24 hours of the issuance of this decision, to permit Joseph Nzirorera to inspect the documents described in paragraph 1 above, with notification to the Chamber, or explain to the Chamber why it has been unable to disclose the documents to Nzirorera as promised.

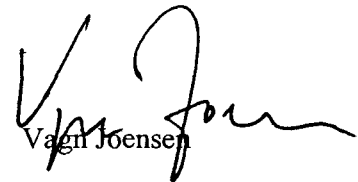
Arusha, 19 February 2009, done in English.


Dennis C. M. Byron

Presiding Judge


Gberdao Gustave Kam

Judge


Vagn Joensen

Judge

