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Tribunal Pénal International pour le Rwanda  
International Criminal Tribunal for Rwanda

ICTR-96-13-R  
27<sup>th</sup> February 2009  
{15/H – 17/H}

**IN THE APPEALS CHAMBER**

**Before:** Judge Andréia Vaz, Presiding  
Judge Mohamed Shahabuddeen  
Judge Mehmet Güney  
Judge Fausto Pocar  
Judge Liu Daqun

**Registrar:** Mr. Adama Dieng

**Decision of:** 27 February 2009

ICTR Appeals Chamber  
Date: 27<sup>th</sup> February 09  
Action: R. Tuma  
Copied To:

Concerned Judges,  
Parties, Judicial Archives,  
LOs, LSS  
*[Signature]*

Alfred MUSEMA

v.

**THE PROSECUTOR**

Case No. ICTR-96-13-R

1 2009 FEB 27 11 P 3: 31  
*[Signature]*  
JUDICIAL RECORDS/ARCHIVES  
RECEIVED

**DECISION ON REQUEST FOR ASSIGNMENT OF COUNSEL**

**The Applicant**

Alfred Musema-Uwimana, *pro se*

**Office of the Prosecutor**

Hassan Bubacar Jallow  
Alex Obote-Odora  
Dior Fall

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: KREEL... KUMELI... A... A. FANDE...  
SIGNATURE: *[Signature]* DATE: 27 Feb. 2009

*[Signature]*

**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),

**NOTING** the Trial Judgement and the Appeal Judgement rendered in this case on 27 January 2000 and 16 November 2001, respectively;<sup>1</sup>

**BEING SEIZED OF** the “*Requête aux fins de demande d’une assistance juridique pour la procédure de révision de l’Arrêt rendu par la Chambre d’appel [le] 16 novembre 2001*” filed on 28 January 2009 (“Motion”) by Alfred Musema-Uwimana (“Applicant”), in which the Applicant seeks the assignment of counsel to assist him with a potential request for review of the Appeal Judgement;

**NOTING** that the Applicant submits that he has obtained new information which could amount to “new facts” within the meaning of Article 25 of the Statute of the Tribunal and Rule 120 of the Rules of Procedure and Evidence of the Tribunal and that, since he is not a specialist in law, he needs the assistance of counsel assigned by the Tribunal to institute review proceedings;<sup>2</sup>

**NOTING** that the Prosecution filed its response on 30 January 2009, in which it argues that the Motion should be dismissed on the grounds that the Applicant has not shown that the assignment of counsel is necessary to ensure the fairness of the proceedings at this stage and that he does not provide any information as to the potential grounds for review;<sup>3</sup>

**NOTING** that the Applicant did not file a reply;

**RECALLING** that review of a final judgement is an exceptional remedy and that an indigent applicant is only entitled to assigned counsel, at the Tribunal’s expense, if the Appeals Chamber authorizes the review or if it deems it necessary in order to ensure the fairness of the proceedings at the preliminary examination stage;<sup>4</sup>

<sup>1</sup> *The Prosecutor v. Alfred Musema*, Case No. ICTR-96-13-T, Judgement and Sentence, 27 January 2000 (“Trial Judgement”); *Alfred Musema v. The Prosecutor*, Case No. ICTR-96-13-A, Judgement, 16 November 2001 (“Appeal Judgement”).

<sup>2</sup> Motion, paras. 12, 13.

<sup>3</sup> Prosecutor’s Response to Musema’s Motion for Assignment of Counsel, 30 January 2009, paras. 2, 3.

<sup>4</sup> *Emmanuel Ndindabahizi v. The Prosecutor*, Case No. ICTR-01-71-R, Decision on Emmanuel Ndindabahizi’s Motion for Assignment of Counsel and the Prosecution’s Request to Place the Motion Under Seal, 24 September 2008, p. 2; *Jean-Bosco Barayagwiza v. The Prosecutor*, Case No. ICTR-99-52A-R, Decision on Jean-Bosco Barayagwiza’s Motion of 6 March 2008, 11 April 2008, p. 3; *Hassan Ngeze v. The Prosecutor*, Case No. ICTR-99-52-R, Decision on

**CONSIDERING** that the Applicant fails to provide any information on the basis for a potential request for review and merely contends that he is in possession of new information which could amount to "new facts" and satisfy the Appeals Chamber that they are potential grounds for review of the Appeal Judgement;<sup>5</sup>

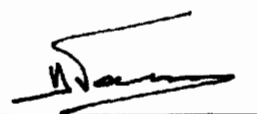
**CONSIDERING** that in the absence of information as to the potential grounds for review, the Appeals Chamber cannot conclude that it would be necessary in order to ensure the fairness of the proceedings to authorise assignment of counsel to the Applicant under the Tribunal's legal aid scheme;

**FINDING** therefore that the Applicant has not shown that he should receive the assistance of counsel at the expense of the Tribunal;

**FOR THE FOREGOING REASONS,**

**DISMISSES** the Motion.

Done this 27<sup>th</sup> day of February 2009,  
at The Hague,  
The Netherlands.

  
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Andrézia Vaz  
Presiding Judge

[Seal of the Tribunal]



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Hassan Ngeze's Motion To Obtain Assistance From Counsel, 28 February 2008, p. 2; *Eliézer Niyitegeka v. The Prosecutor*, Decision on Third Request for Review, 23 January 2008, para. 12.

<sup>5</sup> Motion, para. 12.