

ICTR-00-56-T
09-06-2009
(29723 - 29721)

29723
Uwajja



UNITED NATIONS
NATIONS UNIES

International Criminal Tribunal for Rwanda
Tribunal pénal international pour le Rwanda

OR: ENG

TRIAL CHAMBER II

Before Judges: Judge Joseph Asoka de Silva, presiding
Judge Taghrid Hikmet
Judge Seon Ki Park

Registrar: Mr. Adama Dieng

Date: 9 June 2009

The PROSECUTOR

v.

Augustin NDINDILYIMANA et al

Case No. ICTR-00-56-T

DECISION ON NZIRORERA DEFENCE MOTION TO VARY PROTECTIVE
MEASURES FOR WITNESS DB15-11

Rule 75 of the Rules of Procedure and Evidence

Office of the Prosecutor:

Mr. Alphonse Van
Mr. Moussa Sefon
Mr. Lloyd Strickland
Mr. Abubacarr Tambadou
Ms. Faria Rekkas

Defence Counsel for Joseph Nzirorera:

Mr. Peter Robinson
Mr. Patrick Nimy Mayidika Ngimbi

Counsel for the Defence:

Mr. Gilles St. Laurent and Mr. Benoit Henry for Augustin Bizimungu
Mr. Christopher Black and Mr. Vincent Lurquin for Augustin Nindiliyimana
Mr. Charles Taku and Ms. Beth Lyons for Francois-Xavier Nzuwonemeye
Mr. Fabien Segatwa and Mr. Seydou Doumbia for Innocent Sagahutu

JUDICIAL
RECEIVED
2009 JUN - 9 P 10: 18

INTRODUCTION

1. On 8 June 2004, the Chamber ordered protective measures for all Defence witnesses in this case.¹ On 7 June 2007, Witness DB15-11 testified as a protected witness on behalf of General Augustin Bizimungu.
2. On 3 June 2009, Joseph Nzirorera, who is on trial before another Trial Chamber, filed the current motion requesting the Trial Chamber to vary the protective measures granted to Witness DB15-11 ("Defence Motion").² The Defence submits that Witness DB15-11 is scheduled to testify on or about 6 July 2009 as a defence witness for Joseph Nzirorera in *The Prosecutor v. Karemera et al.* and has indicated her intention to give evidence in Arusha without protective measures.
3. Neither the Prosecution in this case, nor the Defence for Bizimungu has filed a Response.

DELIBERATIONS

4. Rule 75 of the Rules of Procedure and Evidence ("Rules") requires that an application to vary protective measures be made to the Chamber which initially ordered the protective measures. Rule 75(I) explicitly authorizes the Chamber or a Judge of the Chamber to rescind, vary, or augment protective measures at the request of the parties.
5. The Chamber notes the Defence submission that for the purpose of her testimony in the case of *The Prosecutor v. Karemera et al.*, Witness DB15-11 does not require the protective measures granted to her in this trial and has expressed willingness to "come to Arusha without protection and to testify in Mr. Nzirorera's case without a pseudonym". In the absence of objection from any other interested Party, the Chamber hereby varies its Decision of 8 June 2004 on protective measures for Defence witnesses.

THEREFORE, the Chamber

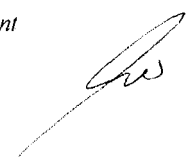
GRANTS the Defence Motion;

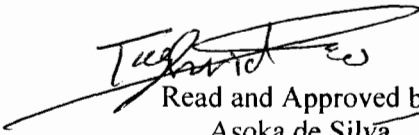
ORDERS that the protective measures granted to Witness DB15-11 in this case shall not apply to her testimony in the case of *The Prosecutor v. Karemera et al.*

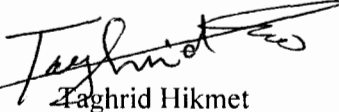
Arusha, 9 June 2009

¹ *Prosecutor v. Nindiliyimana et al.*, Decision on Defence Motion for Protective Measures for Defence Witnesses (TC), 8 June 2004.

² Joseph Nzirorera's Motion to Vary Protective Measures: Witness DB15-11, filed 3 June 2009.




Read and Approved by
Asoka de Silva
Presiding Judge
Absent at the time of Signature


Taghrid Hikmet
Judge


Seon Ki Park
Judge

[Seal of the ICTR]

