



UNITED NATIONS  
NATIONS UNIES

ICTR-98-44-T  
21-10-2009  
(48530-48528)

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A

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:** 21 October 2009

JUDICIAL RECORDS ARCHIVE  
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**THE PROSECUTOR**

v.

**Édouard KAREMERA  
Matthieu NGIRUMPATSE  
Joseph NZIRORERA**

*Case No. ICTR-98-44-T*

**DECISION ON JOSEPH NZIRORERA'S MOTION FOR DISCLOSURE OF  
BENEFITS TO PROSECUTION WITNESS ZF**

*Rule 54 of the Rules of Procedure and Evidence*

**Office of the Prosecution:**

Don Webster  
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**Defence Counsel for Matthieu Ngirumpatse**  
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**Defence Counsel for Joseph Nzirorera**  
Peter Robinson and Patrick Nimy Mayidika Ngimbi

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## INTRODUCTION

1. Joseph Nzirorera has moved for reconsideration of the Chamber's Oral Decision of 8 June 2006<sup>1</sup> where it denied Nzirorera's motion for disclosure of materials from the Witnesses and Victims Support Section ("WVSS") related to Witness ZF.<sup>2</sup> The Prosecution opposes Nzirorera's Motion in its entirety.<sup>3</sup>

## DELIBERATIONS

2. The Chamber has the inherent power to reconsider its decisions when: (1) a new fact has been discovered that was not known to the Chamber at the time it made its original Decision; (2) there has been a material change in circumstances since it made its original Decision; or (3) there is reason to believe that its original Decision was erroneous or constituted an abuse of power, which resulted in an injustice that warrants the exceptional remedy of reconsideration.<sup>4</sup>

3. Joseph Nzirorera contends that the Chamber should reconsider its Oral Decision in light of its "Decision on Joseph Nzirorera's Motion for Reconsideration of Oral Decision on Motion to Compel Full Disclosure of ICTR Payments for the Benefit of Witnesses G and T".<sup>5</sup> Nzirorera claims that the G and T Decision ordered the exact same disclosure for Witnesses G and T that he now seeks for ZF.<sup>6</sup> Although Nzirorera did not relate this argument to the factors set forth in the test for reconsidering a decision, the Chamber considers that he is claiming that the G and T Decision constitutes a material change in circumstances.

4. The Chamber recalls that the G and T Decision concerned special payments and benefits conferred upon G and T by the Prosecution.<sup>7</sup> However, the Oral Decision concerned payments and benefits conferred upon ZF exclusively by WVSS.<sup>8</sup> The Chamber recalls that its Oral Decision denied Joseph Nzirorera's motion for disclosure of WVSS materials related

<sup>1</sup> Oral Decision, T. 8 June 2006, pp. 4, 5, ("Oral Decision").

<sup>2</sup> Joseph Nzirorera's Motion for Disclosure of Benefits to Prosecution Witness ZF, filed on 7 September 2009, ("Nzirorera's Motion"); Reply Brief: Joseph Nzirorera's Motion for Disclosure of Benefits to Prosecution Witness ZF, filed on 14 September 2009, ("Nzirorera's Reply").

<sup>3</sup> Prosecutor's Response to Nzirorera's Motion for Disclosure of Benefits to Witness ZF, filed confidentially on 9 September 2009.

<sup>4</sup> *The Prosecutor v. Édouard Karemera, Matthieu Ndirumpatse and Joseph Nzirorera*, Case No. ICTR-98-44-T, ("*Karemera et al.*"), Decision on the Defence Motions for Reconsideration of Protective Measures for Prosecution Witnesses (TC), 29 August 2005, para. 8.

<sup>5</sup> *Karemera et al.*, Decision on Joseph Nzirorera's Motion for Reconsideration of Oral Decision on Motion to Compel Full Disclosure of ICTR Payments for the Benefit of Witnesses G and T (TC), 29 May 2008, para. 13, ("G and T Decision").

<sup>6</sup> Nzirorera's Reply, para. 4.

<sup>7</sup> G and T Decision, para. 8; Oral Decision of 23 May 2006, T. 23 May 2006, pp. 1-2.

<sup>8</sup> T. 8 June 2006, p.4

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to ZF based precisely on a distinction between witnesses that are entirely in the care of WVSS and witnesses who receive special arrangements from the Prosecution.<sup>9</sup> Thus, contrary to Nzirorera's assertion, the G and T Decision did not order the exact same disclosure for G and T that he now seeks for ZF. Accordingly, it does not constitute a material change in circumstances that merits reconsideration of the Oral Decision.

5. In his reply, Joseph Nzirorera claims that "[t]he benefits for Witnesses G and T were paid out by the Registry as well..."<sup>10</sup> The Chamber wishes to clarify that this is inaccurate. WVSS only pays standard benefits to witnesses that are related to transport, accommodation, loss of income, and support for minor dependents because of the prolonged absence of a single parent.<sup>11</sup> Additionally, WVSS pays for the basic relocation expenses associated with witnesses who are entitled to protective measures.<sup>12</sup> These benefits are provided to all witnesses regardless of whether they testify for the Defence or the Prosecution.<sup>13</sup> WVSS did not pay any of the special benefits to G and T, which went above and beyond basic relocation expenses.<sup>14</sup>

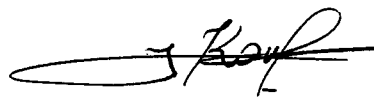
**FOR THE ABOVE MENTIONED REASONS, THE CHAMBER**

I. **DENIES** Nzirorera's Motion.

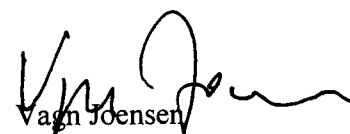
Arusha, 21 October 2009, done in English.



Dennis C. M. Byron  
Presiding Judge



Gberdao Gustave Kam  
Judge



Vagn Joensen  
Judge



<sup>9</sup> Oral Decision, T. 8 June 2006, pp. 4, 5.

<sup>10</sup> Nzirorera's Reply, para. 6.

<sup>11</sup> ICTR WVSS Manual of Operations and Guidance.

<sup>12</sup> *Ibid.*

<sup>13</sup> *Ibid.*

<sup>14</sup> *Ibid.*