



Tribunal Pénal International pour le Rwanda
International Criminal Tribunal for Rwanda

593/H

EF

IN THE APPEALS CHAMBER

ICTR-97-31-A
16th March 2010
{593H - 591H}

Before: Judge Carmel Agius, Pre-Appeal Judge

Registrar: Mr. Adama Dieng

Decision of: 16 March 2010

ICTR Appeals Chamber
Date: 16th March 2010
Action: R. Juma
Copied To: Concerned Judges,
Parties, Judicial Archives,
LOs, LSS *[Signature]*

THE PROSECUTOR

v.

Tharcisse RENZAHO

Case No. ICTR-97-31-A

DECISION ON THARCISSE RENZAHO'S APPELLANT'S BRIEF

International Criminal Tribunal for Rwanda
Tribunal pénal international pour le Rwanda
CERTIFIED TRUE COPY OF THE ORIGINAL SEEN BY ME
COPIE CERTIFIÉE CONFORMÉ À L'ORIGINAL PAR SOUS
NAME / NOM: KREKA... KUMELWA... A... AFANDU...
SIGNATURE: *[Signature]* DATE: 16 March 2010

Counsel for Mr. Tharcisse Renzaho:

François Cantier, Lead Counsel

Office of the Prosecutor:

Hassan Bubacar Jallow
Alex Obote-Odora
Alphonse Van
Abdoulaye Seye
Clair Duffy
Florida Kabasinga

1. I, CARMEL AGIUS, Judge of 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), and Pre-Appeal Judge in this case, am seized of the Prosecutor's Motion Requesting a Public Filing of Tharcisse Renzaho's Appellant's Brief.¹

2. In the Motion, the Prosecution notes that Mr. Renzaho's Appellant's Brief was filed as a strictly confidential document.² The Prosecution states that Mr. Renzaho did not provide any explanation for filing his Appellant's Brief confidentially, and argues that there is no genuine reason for maintaining the confidentiality of the Appellant's Brief.³

3. I consider that ruling on the Motion without waiting for the expiration of the 10-day time-limit prescribed for Mr. Renzaho to respond thereto⁴ will not occasion him any prejudice in the instant case.

4. All submissions filed before this Tribunal shall be public unless there are exceptional reasons for keeping them confidential and parties shall file public redacted version of all confidential briefs filed on appeal.⁵ Consequently, Mr. Renzaho should file a public redacted version of his Appellant's Brief, or if there is no basis for maintaining the confidentiality thereof, indicate so.

5. I further note that, in his Appellant's Brief, Mr. Renzaho sets forth 13 grounds of appeal and requests, by way of relief, the Appeals Chamber to reverse the Trial Judgement⁶ and order his acquittal.⁷ In the alternative, he requests a reduction of his sentence,⁸ and, as a further alternative, a

¹ Prosecutor's Motion Requesting a Public Filing of Tharcisse Renzaho's Appellant's Brief, 15 March 2010 ("Motion").

² Motion, para. 1, referring to *Mémoire d'Appel*, strictly confidential, 2 March 2010 ("Appellant's Brief"). See also *Livre d'appel de l'appellant*, strictly confidential, 2 March 2010; *Acte d'appel*, 2 October 2009 ("Notice of Appeal").

³ Motion, paras. 1, 4-5.

⁴ Practice Direction on Procedure for the Filing of Written Submissions in Appeal Proceedings Before the Tribunal, 8 December 2006, para. 13.

⁵ Cf. Rule 78 of the Rules of Procedure and Evidence of the Tribunal ("Rules"). See also *Ferdinand Nahimana et al. v. The Prosecutor*, Case No. ICTR-99-52-A, Order to Appellant Hassan Ngeze to File Public Versions of his Notice of Appeal and Appellant's Brief, 30 August 2007, p. 2.

⁶ *The Prosecutor v. Tharcisse Renzaho*, Case No. ICTR-97-31-T, Judgement and Sentence, dated 14 July 2009 and filed on 14 August 2009 ("Trial Judgement").

⁷ Appellant's Brief, p. 98.

⁸ Appellant's Brief, paras. 679-684. See also Notice of Appeal, Ground 13 and *Réponse à la demande de la Chambre d'Appel du 14 octobre 2009*, 23 October 2009.

stay of proceedings until the completion of an investigation into the alleged intimidation of his witnesses.⁹

6. I find that Mr. Renzaho's requests for an investigation and stay of appellate proceedings are not properly raised in his Appellant's Brief. They should rather be brought forth through a separate motion. This would allow the Prosecution to respond independently and the Appeals Chamber to determine the matter in a timely fashion, in accordance with Rule 108*bis*(E) of the Rules.

For these reasons, I

GRANT the Motion in part;

ORDER Mr. Renzaho to file a public redacted version of his Appellant's Brief, or to indicate that there is no basis for maintaining the confidentiality thereof, no later than Tuesday, 6 April 2010;

ORDER that any changes to the confidential version of the Appellant's Brief shall be limited to necessary redactions of confidential information, including the identities of protected witnesses, and not consist of any additions, deletions or other amendments;

INSTRUCT Mr. Renzaho to clearly mark the redactions in the text of the public version of his Appellant's Brief or to file a confidential annex thereto identifying all redactions paragraph by paragraph;


FURTHER ORDER, *proprio motu*, that Mr. Renzaho's requests for an investigation and a stay of appellate proceedings at paragraph 115 and page 98 of his Appellant's Brief are **INVALID**, without prejudice to the possibility for Mr. Renzaho to file a motion on similar grounds.

Done in English and French, the English version being authoritative.

Done this sixteenth day of March 2010,
at The Hague,
The Netherlands.



[Seal of the Tribunal]



Judge Carmel Agius
Pre-Appeal Judge

⁹ Appellant's Brief, para. 115, p. 98. Although Mr. Renzaho raised the intimidation of his witnesses having affected his fair trial rights in his Notice of Appeal (*see* Ground 3, paras. 33-35; *see also* Appellant's Brief, paras. 73-96, 113, 114), it did not contain the relief he now seeks.