

ICTR-98-44-T
26-08-2010
(51834-51832)

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UNITED NATIONS
NATIONS UNIES

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: 26 August 2010

JUDICIAL RECORDS/ARCHIVES
UNICTR
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THE PROSECUTOR

v.

**Édouard KAREMERA
Matthieu NGIRUMPATSE**

Case No. ICTR-98-44-T

**DECISION RELATING TO PENDING MOTIONS FILED BY JOSEPH
NZIRORERA BEFORE HIS DEATH**

Rule 54 of the Rules of Procedure and Evidence

Office of the Prosecution:
Don Webster
Sunkarie Ballah-Conteh
Takeh Sendze
Jean Baptist Nsanzimfura
Maria Wilson

Defence Counsel for Édouard Karemera
Dior Diagne Mbaye and Félix Sow

Defence Counsel for Matthieu Ngirumpatse
Chantal Hounkpatin and Frédéric Weyl

Handwritten signature or initials.

1. Joseph Nzirorera died 1 July 2010 at the Arusha Lutheran Medical Centre in Arusha, Tanzania.¹ On 12 August 2010, following the Registrar's notification of the death of Nzirorera, the Chamber issued a Decision terminating the proceedings against Nzirorera², and a Scheduling Order that Matthieu Ngirumpatse's defence case would commence on 23 August 2010 preceded by a status conference³. In the Order the Chamber noted that a number of motions filed by Nzirorera were pending at the time of his death.⁴ The Parties were invited to make written submissions on how the death of Joseph Nzirorera impacts the proceedings.⁵ At the Status Conference on 23 August 2010 the Parties made additional arguments.⁶

2. The Parties have not made submissions concerning the pending motions.

3. A number of the pending motions relate solely to the defence case of Nzirorera and do not relate to evidence that has already been adduced.⁷ As such, these motions are rendered moot by virtue of Nzirorera's death.

4. Other pending motions filed by Nzirorera relate to the body of evidence in the case or to issues which may impact the Accused. As the Chamber, by Oral Decision of 23 August 2010 followed by a decision with written reasons of 26 August, has ruled that the body of evidence will remain on the record, the Chamber will rule on these motions by separate decisions.

5. Furthermore, decisions have been rendered by the Chamber which required communications by the Registry to foreign governments which are in effect rendered moot by Joseph Nzirorera's death.⁸ Therefore, the Chamber determines that the ordered communication is no longer required. Both Édouard Karemera and Matthieu Ngirumpatse are able to re-file any motion if a determination of an issue would be beneficial to their defence

¹ Registrar's Submission Notifying the Demise of Joseph Nzirorera, filed 2 July 2010.

² *The Prosecutor v Édouard Karemera, Matthieu Ngirumpatse and Joseph Nzirorera*, Case No. ICTR-98-44 ("*Karemera et al.*"), Decision Relating to Registrar's Submission Notifying the Demise of Accused Joseph Nzirorera (TC), filed 12 August 2010.

³ *Karemera et al.*, Scheduling Order (TC), 12 August 2010.

⁴ *Id.*

⁵ *Id.*

⁶ *See generally*, T. 23 August 2010.

⁷ The motions pending before the Chamber are: Joseph Nzirorera's 29th Notice of Rule 66 Violation, 20th Notice of Rule 68 Violation and Motion for Remedial Measures, filed on 12 March 2010; Joseph Nzirorera's 21st Notice of Rule 68 Violation and Motion for Remedial Measures: Witness FH, filed on 29 March 2010; Joseph Nzirorera's Motion for Permission to Exceed 55 witnesses, filed on 10 May 2010; Joseph Nzirorera's Motion to Preclude Cross-Examination on Benin Statement, filed on 18 May 2010; a motion filed confidentially on 24 May 2010; and Joseph Nzirorera's Motion for Video-Link: Amadou Deme, filed 15 June 2010.

⁸ *Karemera et al.*, Decision on Joseph Nzirorera's Motions for Disclosure of Witness T Materials and Cooperation from Belgium (TC), 30 June 2010.

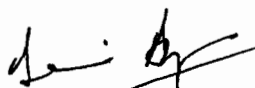
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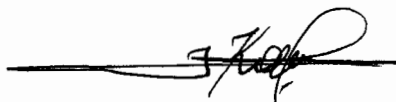
FOR THESE REASONS, THE CHAMBER

- I. **DECLARES moot** the following of Joseph Nzirorera's pending motions; 1) 29th Notice of Rule 66 Violation, 20th Notice of Rule 68 Violation and Motion for Remedial Measures, 2) 21st Notice of Rule 68 Violation and Motion for Remedial Measures: Witness FH, 3) Motion for Permission to exceed 55 witnesses, 4) Motion to Preclude Cross-Examination on Benin Statement, 5) a confidential motion filed on 24 May 2010, and 6) Motion for Video-Link: Amadou Deme
- II. **DETERMINES** that its Decision on Joseph Nzirorera's Motions for Disclosure of Witness T Materials and Cooperation from Belgium is in effect moot due to the death of Joseph Nzirorera and the action ordered no longer needs to be taken by the Registrar.

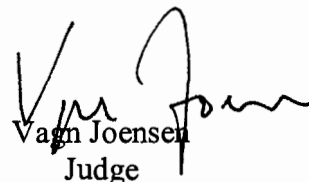
Arusha, 26 August 2010, done in English.



Dennis C. M. Byron
Presiding Judge



Gberdao Gustave Kam
Judge



Vagn Joensen
Judge

