



International Criminal Tribunal for Rwanda
Tribunal pénal international pour le Rwanda

ICTR-00-55C-PT

12-01-2011

(5595-5593)

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OR: ENG

TRIAL CHAMBER III

Before Judges: Lee Gacuiga Muthoga, *Presiding*
Seon Ki Park
Robert Fremr

Registrar: Adama Dieng

Date: 12 January 2011

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THE PROSECUTOR

v.

Ildephonse NIZEYIMANA

CASE NO. ICTR-2000-55C-PT

DECISION ON PROSECUTOR'S EXTREMELY URGENT MOTION FOR
TESTIMONY VIA VIDEO-LINK

Office of the Prosecution:

Drew White
Kirsten Gray
Yasmine Chubin
Zahida Virani
Astou Mbow

Defence Counsel for Ildephonse Nizeyimana:

John Philpot
Cainnech Lussiaà-Berdou
Myriam Bouazdi

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INTRODUCTION

1. The trial in this case is scheduled to commence on 17 January 2011.¹
2. On 10 January 2011, the Office of the Prosecutor ("Prosecution") filed an extremely urgent motion requesting that the Chamber permit Witness TQ to give evidence via video-link from The Hague.² The Prosecution submits that it is necessary for Witness TQ to give evidence via video-link because of "high-risk pregnancy complications" affecting the witness's wife.³ This information only came to the attention of the Prosecution on 10 January 2011.⁴ The Defence team of the Accused, Ildéphonse Nizeyimana ("the Accused"), did not file a response.

DELIBERATIONS

3. Rule 90(A) of the Rules of Procedure and Evidence ("Rules") provides that "[w]itnesses shall, in principle, be heard directly by the Chambers". A Trial Chamber may, however, authorise testimony by video-link in lieu of physical appearance, when it is "necessary to safeguard the witness's security"⁵ or in the interests of justice.⁶
4. In determining whether video-link testimony is in the interests of justice, the Trial Chamber shall consider the importance of the testimony, the witness's inability or unwillingness to attend and whether a good reason has been adduced for that inability or unwillingness.⁷ The burden of proof rests with the Party making the request.
5. In this case, the Prosecution submits that Witness TQ is its primary witness to the events which occurred at *Groupe Scolaire* in the period between 21 and 29 April 1994 and that he is an eyewitness to the Accused's activities during this time.⁸ Having considered the

¹ Scheduling Order (TC), 3 November 2010, Order II.

² Prosecutor's Extremely Urgent Motion for Testimony via Video-Link, filed 10 January 2011 ("Motion").

³ Motion, para. 6.

⁴ Motion, paras. 6-7.

⁵ *Prosecutor v. Bagosora et al.*, Case No. ICTR-98-41-T, Decision on Prosecution Request for Testimony of Witness BT via Video-Link (TC), 8 October 2004 ("BT Decision"), para. 8.

⁶ *Prosecutor v. Augustin Bizimungu et al.*, Case No. ICTR-00-56-T, Decision on the Prosecution Request for Witness Romeo Dallaire to Give Testimony by Video-Link (TC), 15 September 2006 ("Dallaire Decision"), para. 13; *Prosecutor v. Bagosora et al.*, Case No. ICTR-98-41-T, Decision on Nsengiyumva Motion for Witness Higaniro to Testify by Video-Conference (TC), 29 August 2006 ("Higaniro Decision"), para. 3; *Bagosora et al.*, Decision on Prosecution Request for Testimony of Witness BT via Video-Link (TC), paras. 5-7.

⁷ *Prosecutor v. Karera*, Case No. ICTR-01-74-T, Decision on Testimony by Video-Link (TC), 29 June 2006, para. 2; BT Decision, para. 6.

⁸ Motion, paras. 9, 12.

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summary of Witness TQ's anticipated testimony,⁹ the Chamber is satisfied that this witness's testimony could be important for the prosecution of the case against the Accused.

6. The Chamber notes that the request for video-link testimony is based on health issues only recently brought to the Prosecution's attention.¹⁰ Considering the gravity of these circumstances, the Chamber finds that the Prosecution has demonstrated a good reason for the witness's inability to personally give evidence in Arusha. The Chamber finds, therefore, that the Prosecution has met its burden of showing that video-link transmission of Witness TQ's testimony is in the interests of justice.

FOR THESE REASONS, THE CHAMBER

GRANTS the Prosecution Motion;

AUTHORISES the taking of Witness TQ's testimony by video-link;

ORDERS that Witness TQ's testimony be taken by video-link from The Hague, and that the Prosecution notify the Chamber of the date for this testimony by midday, Friday, 14 January 2011; and

INSTRUCTS the Registrar, in consultation with the parties, to make all necessary arrangements with respect to the video-link transmission of Witness TQ's testimony, and to maintain a video record of the testimony for possible future use by the Chamber.

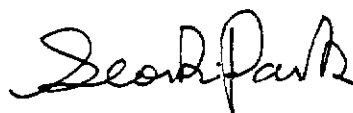
Arusha, 12 January 2011, done in English.

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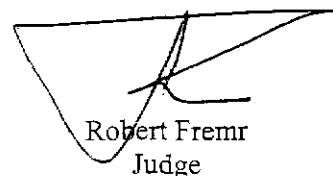


Lee Gacuiga Muthoga
Presiding Judge

[absent at the time
of signature]



Seon Ki Park



Robert Fremr
Judge

⁹ Prosecutor's Pre-Trial Brief, Witness Summaries, pp. 21-23.

¹⁰ Motion, paras. 6-7.