



**Tribunal Pénal International pour le Rwanda  
International Criminal Tribunal for Rwanda**

**ICTR-00-56-A  
30 November 2011  
528/H – 526/H**

**IN THE APPEALS CHAMBER**

**Before:** Judge Theodor Meron, Pre-Appeal Judge

**Registrar:** Mr. Adama Dieng

**Decision of:** 30 November 2011

**ICTR Appeals Chamber**

**Date:** 30 November 2011

**Action:** K.K.A.A.

**Copied To:** Concerned Judges,  
S.L.S., L.S., A.L.S.

**Augustin NDINDILYIMANA  
Augustin BIZIMUNGU  
François-Xavier NZUWONEMEYE  
Innocent SAGAHUTU**

*Parties, OMS, LSS.*

*3/11/2011*

v.

**THE PROSECUTOR**

*Case No. ICTR-00-56-A*

**DECISION ON NZUWONEMEYE'S MOTION TO DISMISS THE PROSECUTION'S  
SENTENCING APPEAL**

**Defence Counsel:**

Mr. Christopher Black for Augustin Ndindiliyimana  
Mr. Gilles St-Laurent for Augustin Bizimungu  
Mr. Charles A. Taku for François-Xavier Nzuwonemeye  
Mr. Fabien Segatwa for Innocent Sagahutu

**The Office of the Prosecutor:**

Mr. Hassan Bubacar Jallow  
Mr. James J. Arguin  
Mr. William Egbe  
Mr. Abubacarr Tambadou

**International Criminal Tribunal for Rwanda  
Tribunal pénal international pour le Rwanda**

**CERTIFIED TRUE COPY OF THE ORIGINAL SEEN BY ME  
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**NAME / NOM:** K. E. E. KUMELI, A. AFANDE

**SIGNATURE:** *[Signature]* **DATE:** 30 Nov. 2011

**I, THEODOR MERON**, Presiding 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 ("Tribunal"), and Pre-Appeal Judge in this case;<sup>1</sup>

**RECALLING** that Trial Chamber II of the Tribunal entered convictions against the four accused in *The Prosecutor v. Augustin Ndindiliyimana et al.* on 17 May 2011, and that the written Trial Judgement was filed in English on 17 June 2011;<sup>2</sup>

**NOTING** the Notice of Appeal and Consolidated Appellant's Brief, filed by the Office of the Prosecutor ("Prosecution") on 20 July 2011<sup>3</sup> and 3 October 2011,<sup>4</sup> respectively, which challenge the convictions and sentences of Augustin Ndindiliyimana and Augustin Bizimungu, and the sentences of François-Xavier Nzuwonemeye ("Nzuwonemeye") and Innocent Sagahutu;

**BEING SEISED** of Nzuwonemeye's request to dismiss the appeal against him,<sup>5</sup> in which he argues, *inter alia*, that: (i) the Prosecution filed its Brief outside of the 30-day time period prescribed in the Rules of Procedure and Evidence of the Tribunal ("Rules") for appeals limited to sentencing; and (ii) he has suffered prejudice as a result of this delay;<sup>6</sup>

**NOTING** the Prosecution's response, which contends that the Brief was filed within the time-limit provided for in the relevant Practice Direction and that it therefore causes no prejudice to Nzuwonemeye;<sup>7</sup>

**CONSIDERING** that Rule 111(A) of the Rules provides that an appellant's brief shall be filed within 75 days of the filing of the notice of appeal, or 30 days of the filing of the notice of appeal where an appeal is limited to sentencing;

<sup>1</sup> Order Assigning a Pre-Appeal Judge, 30 November 2011.

<sup>2</sup> T. 17 May 2011 pp. 23-25. See also *The Prosecutor v. Augustin Ndindiliyimana et al.*, Case No. ICTR-00-56-T, Judgement and Sentence, dated 17 May 2011 and filed on 17 June 2011 ("Trial Judgement"), paras. 71, 73, 75, 77, 2085, 2106-2108, 2119, 2128, 2152-2157, 2162, 2163.

<sup>3</sup> Prosecutor's Notice of Appeal, 20 July 2011 ("Notice of Appeal").

<sup>4</sup> Prosecution's Consolidated Appellant's Brief, 3 October 2011 ("Brief").

<sup>5</sup> Nzuwonemeye's Motion Pursuant to Rule 54, 82 and 111 of the Rules of Procedure and Evidence to Dismiss or Strike Out the Sentencing Brief Filed Against François-Xavier Nzuwonemeye on 3 October 2011, 5 October 2011 ("Motion").

<sup>6</sup> See Motion, paras. 11-12, 16-21.

<sup>7</sup> The Prosecution's Response to Nzuwonemeye's Motion Pursuant to Rule 54, 82 and 111 of the Rules of Procedure and Evidence to Dismiss or Strike Out the Sentencing Brief Filed Against François-Xavier Nzuwonemeye on 3 October 2011, 10 October 2011, paras. 4-10. See also Practice Direction on the Length of Briefs and Motions on Appeal, 8 December 2006 ("Practice Direction").

**CONSIDERING**, however, that the Practice Direction allows for the filing of a consolidated appellant's brief by the Prosecution in multi-accused cases and that doing so may alter the Prosecution's filing deadlines in relation to some of the convicted persons;<sup>8</sup>

**CONSIDERING** that, since the Prosecution's appeal in the case of two convicted persons is not limited to sentencing, its Brief was timely filed within 75 days of the filing of its Notice of Appeal in accordance with the Rules and Practice Direction;

**FOR THE FOREGOING REASONS,**


**DISMISS** Nzuwonemeye's Motion.

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

Done this 30th day of November 2011,  
At The Hague,  
The Netherlands.



[Seal of the Tribunal]

  
Judge Theodor Meron  
Pre-Appeal Judge

<sup>8</sup> Practice Direction, para. (C)(1)(a). See also *Théoneste Bagosora et al. v. The Prosecutor*, Case No. ICTR-98-41-A, Decision on Aloys Ntabakuze's Motion for Severance, Retention of the Briefing Schedule and Judicial Bar to the Untimely Filing of the Prosecution's Response Brief, 24 July 2009, para. 42.