



UNITED NATIONS
NATIONS UNIES

Tribunal Pénal International pour le Rwanda
International Criminal Tribunal for Rwanda

3219/H
ICTR-00-56-A
4th July 2012
{3219/H - 3217/H}

IN THE APPEALS CHAMBER

Before: Judge Theodor Meron, Presiding
Judge Patrick Robinson
Judge Liu Daqun
Judge Andrézia Vaz
Judge Khalida Rachid Khan

Registrar: Mr. Adama Dieng

Decision of: 4 July 2012

ICTR Appeals Chamber
Date: 4th July 2012
Action: R. Juma
Copied To: All concerned

Augustin NDINDILYIMANA
Augustin BIZIMUNGU
François-Xavier NZUWONEMEYE
Innocent SAGAHUTU

v.

THE PROSECUTOR

Case No. ICTR-00-56-A

**DECISION ON INNOCENT SAGAHUTU'S REQUEST FOR RIGHT OF AUDIENCE FOR
A LEGAL CONSULTANT**

Defence Counsel:

Christopher Black and Vincent Lurquin for Augustin Nindiliyimana
Gilles St-Laurent for Augustin Bizimungu
Charles A. Taku and Beth S. Lyons for François-Xavier Nzuwonemeye
Fabien Segatwa and Scott Martin for Innocent Sagahutu

Office of the Prosecutor:

Hassan Bubacar Jallow
James J. Arguin
Abdoulaye Seye
Abubacar Tambadou
Thembile M. Segoete
Florida Kabasinga
Takeh Sendze
Christiana Fomenky
Sunkarie Ballah-Conteh
Betty Mbabazi
Deo Mbuto

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: CONSTANT K. HOMETOWU
SIGNATURE: [Signature] DATE: 04-07-2012

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);

BEING SEISED OF a motion filed by Mr. Innocent Sagahutu on 29 May 2012,¹ in which he requests authorization for Mr. Wayne Jordash to address the Appeals Chamber on behalf of Mr. Sagahutu at the appeal hearing in this case as a *pro bono* legal consultant;²

NOTING that the Prosecution did not file a response to the Motion;

NOTING that Mr. Sagahutu has been assigned a lead counsel and a co-counsel under the Tribunal’s legal aid scheme to represent him on appeal;³

CONSIDERING the representation in the Motion that Mr. Sagahutu gave his informed consent to Mr. Jordash’s appearance on his behalf;⁴

CONSIDERING that an accused may be assisted by a counsel on a *pro bono* basis provided that the counsel files a power of attorney with the Registrar and satisfies the requirements to appear as a defence counsel before the Tribunal set forth in Rule 44(A) of the Rules of Procedure and Evidence of the Tribunal;⁵

CONSIDERING that the lead counsel has the primary responsibility for the management of the defence team,⁶ and that, according to the Motion, Mr. Jordash’s function will be limited to that of a legal consultant who will provide assistance to Mr. Sagahutu’s defence team on a *pro bono* basis, without any financial implications for the Tribunal, and only for the purpose of advancing oral submissions during the appeal hearing;⁷

¹ Sagahutu Defence Request to Allow for a Legal Consultant to Appear Before the Appeals Chambers [*sic*] During Appeals Hearing, 29 May 2012 (confidential) (“Motion”). A review of the relevant submissions demonstrates that the Motion does not contain any information which warrants giving the present decision confidential status. Accordingly, the Appeals Chamber renders this decision publicly.

² Motion, paras. 1, 4, 10. The Appeals Chamber notes that Mr. Sagahutu was advised by the Defence Counsel Management Section of the Tribunal to formally address his request with respect to Mr. Jordash’s assistance to the Appeals Chamber. See Motion, para. 3, Annex 2.

³ Letter of Appointment to Fabien Segatwa, Ref. ICTR/JUD-11-5-2, dated 15 February 2001; Letter of Appointment to Scott Martin, Ref. ICTR/JUD-11-5-2-12-239-LW, dated 7 March 2012.

⁴ Motion, para. 4.

⁵ See *Jean-Bosco Barayagwiza v. The Prosecutor*, Case No. ICTR-99-52A-R, Decision on Jean-Bosco Barayagwiza’s Motion of 6 March 2008, 11 April 2008, p. 4.

⁶ See Directive on the Assignment of Defence Counsel, 15 June 2007, Article 15(E). See also *Prosecutor v. Théoneste Bagosora et al.*, Case No. ICTR-98-41-T, Decision on Request for Private Representation of Gratien Kabiligi, 4 March 2005, paras. 8, 10.

⁷ See Motion, paras. 1, 4, 8-10.

NOTING Mr. Sagahutu's submissions that Mr. Jordash's participation at the appeal hearing would be beneficial for Mr. Sagahutu and would assist the Appeals Chamber in understanding the full scope and merits of Mr. Sagahutu's arguments on appeal;⁸


FINDING, therefore, that in these circumstances, it is appropriate to authorize Mr. Jordash to address the Appeals Chamber on behalf of Mr. Sagahutu at the appeal hearing;

FOR THE FOREGOING REASONS,

GRANTS the Motion, subject to verification by the Registrar that Mr. Jordash satisfies the requirements to appear before the Tribunal, and **DIRECTS** Mr. Jordash to file a power of attorney with the Registrar at the earliest opportunity.

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

Done this 4th day of July 2012,
At The Hague,
The Netherlands.



Judge Theodor Meron
Presiding

[Seal of the Tribunal]



⁸ Motion, paras. 4, 8. *See also* Motion, paras. 2, 5, 6.