

ICIR-98-44-AR15 bis.2
27 August 2004
(840/H-837/H)

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Tribunal Pénal International pour le Rwanda
International Criminal Tribunal for Rwanda

BEFORE THE PRE-APPEAL JUDGE

Before: Judge Inés Mónica Weinberg de Roca, Pre-Appeal Judge
Registrar: Mr. Adama Dieng
Decision of: 27 August 2004

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Edouard KAREMERA
Mathieu NGIRUMPATSE
Joseph NZIRORERA
André RWAMAKUBA

v.

THE PROSECUTOR

ICTR Appeals Chamber
Date: 27 August 2004
Action: PG
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Case No. ICTR-98-44-AR15bis.2

**DECISION ON THE PROSECUTOR'S URGENT MOTION TO REJECT
NGIRUMPATSE'S STATEMENT OF FACT AND LAW**

Counsel for the Prosecution

Mr. Hassan Bubacar Jallow
Ms. Melanie Werrett
Mr. James Stewart
Mr. Don Webster
Ms. Holo Makwaia
Ms. Dior Fall
Mr. Gregory Lombardi
Mr. Bongani Dyani

Counsel for the Defence

Mr. Charles Roach
Mr. Frédéric Weyl

Case No. ICTR-98-44-AR15bis.2

International Criminal Tribunal for Rwanda
Tribunal pénal international pour le Rwanda
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NAME / NOM: ROSETTE MOZIER-MORRISON
SIGNATURE: *[Signature]* DATE: 27 August 2004

I, INÉS MÓNICA WEINBERG DE ROCA, Pre-Appeal Judge in this case,¹

BEING SEISED OF the “Prosecutor’s Urgent Motion to Reject Ngirumpatse’s Statement of Law & Fact in Support to [sic] Appellant’s Notice of Appeal for Non-Compliance with the Rules of Procedure and Evidence and with the Practice Direction on the Length of Briefs and Motions on Appeal”, filed 4 August 2004 (“Motion”);

CONSIDERING that the Prosecution seeks an order rejecting Ngirumpatse’s “Statement of Fact & Law”, filed on 2 August 2004 (“Statement of Fact and Law”), on grounds that the rules governing interlocutory appeals do not permit the filing of both a notice of appeal and a separate brief, that the Statement of Fact and Law exceeds the fifteen page limit applicable to interlocutory appeal submissions, and that it was filed out of time;

NOTING the Response to the Motion, filed by counsel for Ngirumpatse on 6 August 2004 (“Response”);

CONSIDERING that Ngirumpatse filed both a “Notice of Appeal from Chamber III’s ‘Decision Relative a la Continuation du Proces’ of July 16, 2004”, on 22 July 2004 (“Notice of Appeal”), and the Statement of Fact and Law in connection with his appeal brought under Rule 15*bis*(D) of the Rules of Procedure and Evidence;

CONSIDERING that the Practice Direction on Procedure for the Filing of Written Submissions in Appeal Proceedings Before the Tribunal (“Practice Direction on Procedure for the Filing of Written Submissions”) prescribes the proper procedure for the filing of written submissions in cases where an appeal lies as of right, as in the present case, and that this procedure calls for the filing of “*an appeal containing*”² the following:

- (a) the precise title and date of filing of the appealed decision;
- (b) a summary of the proceedings before the Trial Chamber relating to the appealed decision including an identification of all relevant documents in the proceedings before the Trial Chamber, clearly stating the title and date of filing of each document or the page number of a transcript;
- (c) the specific provision of the Rules pursuant to which the appeal is filed;
- (d) a concise statement as to why it is contended that the provision relied upon is applicable to the appeal;
- (e) the grounds on which the appeal is made;
- (f) the relief sought.

CONSIDERING that the Practice Direction on Procedure for the Filing of Written Submissions thus makes plain that where an appeal lies as of right, the appellant is to make his written submissions in a single filing;

¹ See Order of the Presiding Judge Assigning Judges and Designating the Pre-Appeal Judge, 29 July 2004.

² Practice Direction on Procedure for the Filing of Written Submissions, 16 September 2002, para. 1 (emphasis added).

FINDING, therefore, that Nigirumpatse's filing of both the Notice of Appeal and the Statement of Fact and Law does not conform to the Practice Direction on Procedure for the Filing of Written Submissions;

CONSIDERING that the Practice Direction on the Length of Briefs and Motions on Appeal prescribes that the appeal of a party wishing to appeal where an appeal lies as of right "will not exceed 15 pages or 4,500 words, whichever is greater", that the typeface used "will be 12 points with 1.5 line spacing", and that an average page "should contain fewer than 300 words";³

CONSIDERING that the Statement of Fact and Law is twenty-nine pages long and that, according to the Response, it contains approximately 28,000 words;⁴

FINDING, therefore, that the Statement of Fact and Law does not conform to the Practice Direction on the Length of Briefs and Motions on Appeal;

CONSIDERING that in light of the findings made above it is not necessary to reach the question of the timeliness of the filing of the Statement of Fact and Law;

CONSIDERING that a Pre-Appeal Judge may order re-filing of written submissions which fail to conform to the Practice Direction on Procedure for the Filing of Written Submissions;⁵

³ Practice Direction on the Length of Briefs and Motions on Appeal, 16 September 2002, pp. 2, 3.

⁴ Response, para. 8.

⁵ Practice Direction on Procedure for the Filing of Written Submissions, para. 19.

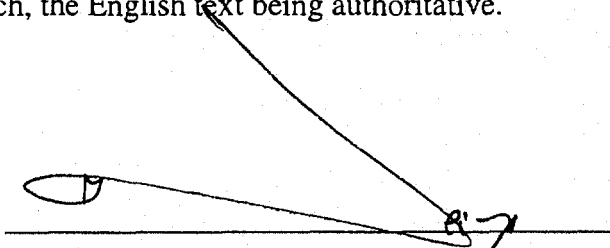
FOR THE FOREGOING REASONS,

HEREBY GRANT the Motion and **ORDER** that Mathieu Ngirumpatse re-file his appeal in compliance with the relevant Practice Directions within four days of this Decision;

GRANT the Prosecution ten days from the re-filing of the appeal to supplement, in no more than ten pages, the "Prosecutor's Consolidated Response to Appeals from Décision Relative à la Continuation du Procès of 16 July 2004" in respect of Ngirumpatse's re-filed appeal; and

GRANT Mathieu Ngirumpatse the right to file a written reply, in no more than five pages, to the above-mentioned supplement to the Prosecutor's Consolidated Response within four days of its filing.

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


Inés Mónica Weinberg de Roca
Pre-Appeal Judge

Done this 27th day of August 2004,
At The Hague,
The Netherlands.

