



Tribunal Pénal International pour le Rwanda
International Criminal Tribunal for Rwanda

2623/H

CH

ICTR-96-14-R

1st February 2012

{2623/H – 2621/H}

IN THE APPEALS CHAMBER

Before: Judge Theodor Meron, Presiding
Judge Patrick Robinson
Judge Fausto Pocar
Judge Liu Daqun
Judge Carmel Agius

Registrar: Mr. Adama Dieng

Decision of: 1 February 2012

ICTR Appeals Chamber

Date: *1 February 2012*

Action: *R. Jambor*

Copied To: *All concerned*

CH

Eliézer NIYITEGEKA

v.

THE PROSECUTOR

Case No. ICTR-96-14-R

DECISION ON REQUEST FOR INVESTIGATION

The Applicant

Mr. Eliézer Niyitegeka, *pro se*

Office of the Prosecutor

Mr. Hassan Bubacar Jallow
Mr. James J. Arguin

1. 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), is seised of the “Request for Investigation Order or, in the Alternative, Rescission of Protective Measures for Prosecution Witnesses” filed by Eliézer Niyitegeka (“Niyitegeka”) on 27 October 2011 (“Motion”).¹ The Prosecution responded on 8 November 2011.² Niyitegeka’s reply was filed on 22 December 2011.³

2. In its Judgement of 9 July 2004, the Appeals Chamber dismissed Niyitegeka’s appeal against his convictions for genocide, conspiracy to commit genocide, direct and public incitement to commit genocide, and murder, extermination, and other inhumane acts as crimes against humanity, and affirmed his life sentence.⁴ The Appeals Chamber has since considered and dismissed five requests for review filed by Niyitegeka.⁵

3. Niyitegeka requests the Appeals Chamber to find that there is *prima facie* evidence that Witness GGV provided false testimony in his case, and to order the Registrar to appoint an *amicus curiae* to investigate the testimony of Witness GGV and all other Prosecution witnesses in his case, with a view to initiating proceedings for false testimony.⁶ Alternatively, Niyitegeka requests the Appeals Chamber to order the rescission of the protective measures for all Prosecution witnesses in his case “to allow for the disclosure of their identities and the instigation of proceedings against them for false testimony before other courts”.⁷

¹ The Motion was signed on 16 August 2011 and originally filed in French. The English translation was filed on 5 December 2011.

² Prosecutor’s Response to Request for Investigation and Variation of Protective Measures, 8 November 2011. The French translation of the original English version was filed on 30 November 2011. Niyitegeka received the French translation of the Response on 2 December 2011. See Proof of Service to Detainees, dated 30 November 2011 and signed by Niyitegeka on 2 December 2011.

³ *Mémoire en réplique à la « Prosecutor’s response to Request for investigation and variation of protective measures »*, signed on 4 December 2011, filed on 22 December 2011 (“Reply”).

⁴ *Eliézer Niyitegeka v. The Prosecutor*, Case No. ICTR-96-14-A, Judgement, 9 July 2004, para. 270; *The Prosecutor v. Eliézer Niyitegeka*, Case No ICTR-96-14-T, Judgement and Sentence, 16 May 2003, paras. 420, 429, 437, 447, 454, 467, 480, 502.

⁵ See Decision on Request for Review, 30 June 2006; Decision on Request for Review, 6 March 2007; Decision on Third Request for Review, 23 January 2008; Decision on Fourth Request for Review, 21 April 2009 (public redacted version); Decision on Fifth Request for Review, 27 January 2010 (public redacted version). The Appeals Chamber rejected Niyitegeka’s request to reconsider the Decision on Fifth Request for Review. See Decision on Motion for Reconsideration of Fifth Review Decision, 25 March 2010.

⁶ Motion, para. 33. See also Motion, paras. 28-30; Reply, paras. 9, 10.


⁷ Motion, para. 33. See also Motion, paras. 31, 32; Reply, para. 11.

4. The Appeals Chamber recalls that the charges against Niyitegeka have already been determined and that his conviction has been confirmed on appeal. Outside the framework of the review mechanism under Article 25 of the Statute of the Tribunal and appellate proceedings regarding decisions subject to appeal, the Appeals Chamber considers that it has no jurisdiction to entertain motions from Niyitegeka.⁸ It therefore lacks jurisdiction to consider Niyitegeka's request relating to the investigation of false testimony allegations, as well as his alternative request for rescission of protective measures. Niyitegeka should file the Motion with the President of the Tribunal so that this matter can be assigned to an appropriate Chamber.


5. For the foregoing reasons, the Appeals Chamber **DISMISSES** the Motion.

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

Done this 1st day of February 2012,
at The Hague,
The Netherlands.



Judge Theodor Meron
Presiding

[Seal of the Tribunal]


⁸ Cf. Decision on Motion for Disclosure, 10 May 2011, para. 4; Decision on Request for Disclosure, 11 July 2007, para. 5; *The Prosecutor v. Jean de Dieu Kamuhanda*, Case No. ICTR-99-54A-A, Decision on Jean de Dieu Kamuhanda's Request Related to Prosecution Disclosure and Special Investigation, 7 April 2006, para. 5.