



Tribunal Pénal International pour le Rwanda
International Criminal Tribunal for Rwanda

567/H

CF

ICTR-96-3-R
16th February 2009
{567/H – 564/H}

IN THE APPEALS CHAMBER

Before:

Judge Fausto Pocar, Presiding
Judge Mohamed Shahabuddeen
Judge Mehmet Güney
Judge Andréia Vaz
Judge Theodor Meron

ICTR Appeals Chamber
Date: 16 February 2009
Action: A. Jumbi
Copied To: Concerned Judges,

Registrar:

Mr. Adama Dieng

Decision of:

16 February 2009

Parties, Archives, legal officers,
LSS
[Signature]

Georges Anderson Nderubumwe RUTAGANDA

v.

THE PROSECUTOR

Case No. ICTR-96-3-R

2009 FEB 17 A 9:10
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JUDICIAL RECORDS/ARCHIVES
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**DECISION ON GEORGES A. N. RUTAGANDA'S MOTION FOR LEAVE TO
FILE AN APPEAL AGAINST THE TRIAL CHAMBER'S DECISION OF 3
APRIL 2008 AND AN EXTENSION OF TIME**

Office of the Prosecutor:

Mr. Hassan Bubacar Jallow
Mr. Alex Obote-Odora
Mr. Richard Karegyesa
Mr. George William Mugwanya

The Applicant:

Mr. Georges A. N. Rutaganda, *pro se*

International Criminal Tribunal for Rwanda
Tribunal pénal international pour le Rwanda
CERTIFIED TRUE COPY OF THE ORIGINAL SEEN BY ME
COPIE CERTIFIÉE CONFORME À L'ORIGINAL PAR NOUS
NAME / NOM: *KOFFI KUMELID A. AFANDE*
SIGNATURE: *[Signature]* DATE: *16 Feb. 2009*

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 SEIZED of the “Motion for Leave to File an Appeal Against the Trial Chamber Decision of 3 April 2008 on Rutaganda’s Request for Closed Session Testimony and Sealed Exhibits of Witness “AWE” and, for the Extension of the Time Limit”, filed by Georges A.N. Rutaganda (“Applicant”) on 11 December 2008 (“Motion”);

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

NOTING that the Applicant seeks leave to appeal the “Decision on Request for Closed Session Testimony and Sealed Exhibits” rendered by Trial Chamber I of the Tribunal (“Trial Chamber”) on 3 April 2008 in *The Prosecutor v. Tharcisse Renzaho*, Case No. ICTR-97-31 (“Decision of 3 April 2008”), in which the Trial Chamber dismissed the Applicant’s request for access to closed session testimony and sealed exhibits of Witness AWE in the case of Tharcisse Renzaho;

NOTING that on 13 November 2008, the Trial Chamber dismissed the Applicant’s request for reconsideration or, alternatively, certification to appeal the Decision of 3 April 2008;¹

RECALLING that on 22 January 2009, the Appeals Chamber found that the Applicant is entitled to appeal the Decision of 3 April 2008;²

NOTING that on 9 February 2009, the Applicant filed “Rutaganda’s Reaction to [the] Registry’s Submission under Rule 33 (B) of the Rules on ‘Order to the Registrar Concerning Georges Rutaganda’s Access to Documents of 22 January 2009’” (“Response of 9 February 2009”);

NOTING that in his Motion, the Applicant seeks an extension of time to appeal the Decision of 3 April 2008, arguing that the Decision of 13 November 2008 was only served on him on 2 December 2008, and that he no longer has access to his files because he followed the instructions received on

¹ *The Prosecutor v. Tharcisse Renzaho*, Case No. ICTR-97-31, Decision on Rutaganda’s Motion for Reconsideration or Alternatively, Certification to Appeal the Decision of 3 April 2008 on Request for Closed Session Testimony and Sealed Exhibits, 13 November 2008 (“Decision of 13 November 2008”).

² *Georges A.N. Rutaganda v. The Prosecutor*, Case No. ICTR-96-3-R, Order to the Registrar Concerning Georges Rutaganda’s Access to Documents, 22 January 2009 (“Order of 22 January 2009”).

24 November 2008 from the Commander of the United Nations Detention Facility in Arusha ("UNDF") to prepare his luggage because his transfer to a third State was imminent;³

NOTING that in his Motion, the Applicant requests that the Appeals Chamber defer the deadline for the filing of his appeal, "until he is properly settled" in the third State where he will serve his sentence;⁴

NOTING, however, that in his Response of 9 February 2009 the Applicant requests that the Appeals Chamber "give him a reasonable time" to formally file his appeal against the Decision of 3 April 2008;⁵

CONSIDERING that at the time the Applicant filed the Motion, the Rules did not specify a time limit for the filing of appeals against decisions taken under Rule 75(G) of the Rules;⁶

RECALLING that for the purposes of proceedings management, it is appropriate to establish time limits for the briefing in this case;⁷

RECALLING that on 22 January 2009, the Appeals Chamber ordered the Registrar, pursuant to Rule 33(B) of the Tribunal's Rules of Procedure and Evidence ("Rules"), to make a written submission to the Appeals Chamber explaining whether, at present and until his transfer to a third State, the Applicant continues to have access to the appropriate facilities and the files and documentation required to prepare his appeal against the Decision of 3 April 2008;⁸

CONSIDERING the correspondence from the Applicant to the Commander of the UNDF dated 23 January 2009, wherein the Applicant explains that, in anticipation of his imminent transfer, he packed his documents and therefore, whilst he still has possession of these materials, his access to them is more difficult;⁹

³ Motion, paras. 13-16.

⁴ Motion, paras. 15, 16. The Applicant also states that his request "also concerns any other judicial submissions that would occur in the same period". Motion, para. 15.

⁵ Response of 9 February 2009, para. 7.

⁶ See Order of 22 January 2009. It is noted that Rule 75 of the Rules was amended on 2 February 2009, during a plenary session of the Judges of the Tribunal. This provision now prescribes time limits for the submission of appeals and related filings that concern decisions made under Rules 69 and 75(A) and (G), of the Rules. See Rule 75 (J) of the Rules.

⁷ See Order of 22 January 2009.

⁸ See Order of 22 January 2009.

⁹ See Correspondence from Georges A. N. Rutaganda to the Commander of the UNDF dated 23 January 2009, attached to the Registry's Submission under Rule 33(B) of the Rules on "Order to the Registrar concerning Georges Rutaganda's Access to Documents of 22 January 2009", filed on 28 January 2009 ("Registrar's Submission"). See also Response of 9 February 2009, paras. 3, 6.

CONSIDERING that on 28 January 2009, the Registrar submitted that the Applicant continues to have access to the appropriate facilities, files, and documentation required to prepare his appeal against the Trial Chamber's Decision of 3 April 2008;¹⁰

CONSIDERING therefore that since the Applicant has had continued access to his files, he has failed to demonstrate that for the filing of his appeal he needs additional time until after his transfer to the State in which his sentence is to be served;

FOR THE FOREGOING REASONS,

GRANTS in part the Applicant's Motion;

ORDERS the Applicant to file any appeal within 15 days of the filing of this decision;

ORDERS the Prosecution to file any response within 10 days of the filing of the appeal;

ORDERS the Applicant to file any reply within four days of the filing of the response; and

DISMISSES the remainder of the Motion.

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

Done this 16th day of February 2009,
at The Hague,
The Netherlands.



[Seal of the Tribunal]

Judge Fausto Pocar
Presiding

¹⁰ Registrar's Submission, para. 3.