



Tribunal Pénal International pour le Rwanda
International Criminal Tribunal for Rwanda

14/H

ICTR-95-1G-AR
24 August 2006
(14/H - 12/H)

IN THE APPEALS CHAMBER

Before:

Judge Fausto Pocar, Presiding
Judge Mohamed Shahabuddeen
Judge Liu Daqun
Judge Theodor Meron
Judge Wolfgang Schomburg

JUDICIAL RECORDS/ARCHIVES

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Registrar:

Mr. Adama Dieng

Decision of:

24 August 2006

ICTR Appeals Chamber

Date: 24 August 2006
 Action: P.T.
 Copied to: Colic... Judge...
 ... 8/25/06, LOS, LOS, LA

Archives

THE PROSECUTOR

v.

Vincent RUTAGANIRA

Case No. ICTR-95-1G-AR

Decision on Appeal of a Decision of the President on Early Release

Office of the Prosecutor:

Mr. Hassan Bubacar Jallow
Mr. James Stewart
Ms. Dior Sow Fall
Mr. Abdoulaye Seye

Counsel for the Defence:

Mr. François Roux
Mr. Maroufa Diabira
Ms. Soraya Briki-Laucci

International Criminal Tribunal for Rwanda
Tribunal pénal international pour le Rwanda

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NAME / NOM: Tchidimba Patrice
SIGNATURE: DATE: 26/08/06

13/H

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 Serious Violations Committed in the Territory of Neighbouring States, between 1 January and 31 December 1994 ("Appeals Chamber" and "Tribunal", respectively), is seized of an appeal filed by Vincent Rutaganira¹ against a decision of the President of the Tribunal on his request for early release.²

2. On 14 March 2005, Trial Chamber III convicted and sentenced Mr. Rutaganira to six years' imprisonment, based on his guilty plea, for extermination as a crime against humanity.³ Mr. Rutaganira did not appeal the Judgement of the Trial Chamber, and is currently serving his sentence at the Tribunal's Detention Facility in Arusha, pending his transfer to a State to serve the remainder of his term of imprisonment.⁴ On 5 March 2006, Mr. Rutaganira filed a request for early release, which the President of the Tribunal denied on 2 June 2006.⁵ This appeal ensued.

3. The Appeals Chamber cannot identify any legal basis for its consideration of this appeal. Article 27 of the Statute of the Tribunal places the ultimate decision on pardon and commutation of sentences in the exclusive discretion of the President of the Tribunal upon consultation with the Judges of the Tribunal. The Tribunal's Statute and Rules of Procedure and Evidence do not provide for appellate review of such a decision. Finally, Article 10 of the Tribunal's Practice Direction concerning the appropriate procedure for determination of applications for pardon, commutation, or early release of persons convicted by the Tribunal makes clear that the President's decision is final and not subject to appeal.⁶

4. Accordingly, the Appeals Chamber **DISMISSES** Mr. Rutaganira's appeal.

¹ *Acte d'Appel*, 4 July 2006. The Prosecution responded in *Requête du procureur aux fins de rejet de l'acte d'appel déposé par Vincent Rutaganira le 4 juillet 2006, contre la décision du Président du Tribunal du 2 juin 2006, rejetant sa requête aux fins de libération anticipée*, 13 July 2006. Mr. Rutaganira did not file a reply.

² *The Prosecutor v. Vincent Rutaganira*, Case No. ICTR-95-IC-T, Decision on Request for Early Release, 2 June 2006 ("Impugned Decision").

³ Impugned Decision, p. 1. See also *The Prosecutor v. Vincent Rutaganira*, Case No. ICTR-95-IC-T, *Jugement Portant Condamnation*, 14 March 2005, p. 40 (French version) ("Trial Judgement"). Mr. Rutaganira was given credit for time served since his transfer to the Tribunal on 4 March 2002.

⁴ Impugned Decision, p. 2; Trial Judgement, p. 40.

⁵ Impugned Decision, p. 3.

⁶ See Practice Direction on the Procedure for the Determination of Applications for Pardon, Commutation of Sentence and Early Release of Persons Convicted by the International Criminal Tribunal for Rwanda, 10 May 2000, para. 10 ("The decision of the President shall be final, and is thus not subject to appeal").

RM

12/H

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

Done this 24th day of August 2006,
At The Hague,
The Netherlands.



[Seal of the Tribunal]

Judge Fausto Pocar
Presiding