



ICTR-98-41-T  
29-10-2008  
(29928-29926)

TRIBUNAL PENAL INTERNATIONAL POUR LE RWANDA  
INTERNATIONAL CRIMINAL TRIBUNAL FOR RWANDA  
IN TRIAL CHAMBER I

39928  
S. Mulla

Before: The Honourable Mr. Justice Erik Mose, Presiding  
The Honourable Mr. Justice Jai Ram Reddy  
The Honourable Mr. Justice Sergey Aleckseievich Egorov

Registrar: Mr. Adama Dieng

Date of Filing: 28 October 2008

THE PROSECUTOR

VS.

THÉONESTE BAGOSORA

GRATIEN KABILIGI

ANATOLE NSENGIYUMVA

ALOYS NTABAKUZE

CASE # ICTR-98-41-T

JUDICIAL RECORDS ARCHIVE  
RECEIVED  
2008 OCT 29 11 A 9:33

---

KABILIGI Reply to Hassan Ngeze Extremely Urgent Motion Seeking the Stay of Judgment of Anatole Nsengiyumva filed 18 October 2008

---

Prosecution Counsel

Hassan Bubacar Jallow

Counsel For Kabiligi

Mr. PAUL SKOLNIK

Counsel for Ngenze

John C. Floyd III

Other Defence Counsel:

Mr. Raphael CONSTANT for Bagosora

Mr. Kennedy ODETTE for Nsengiyumva

Mr. Peter ERLINDER for Ntabakuze

**1-BACKGROUND**

1. The Petitioner Hassan Gaze filed a Motion Seeking the Stay of the Judgment in the Case of Anatole Nsengiyumva until he is heard in the issue connected to the killings of innocent people ordered by Anatole Nsengiyumva in Person.
2. The Motion states the filing date as 16 October 2008, but the stamp of Registry is 18 October 2008:1430 hrs.
3. The Kabiligi defence received the said motion from Registry on 28 October 2008.

**II JURISDICTION**

4. It is the position of the Kabiligi Defence that the Motion of Petitioner Ngeze ought to be dismissed for lack of jurisdiction on the following grounds.
  - a) The Petitioner Ngeze is not a party to the trial of Anatole Nsengiyumva or any of the other accused in Military 1 trial and according has no standing to ask for the relief requested.
  - b) Moreover it appears from the materials submitted by Petitioner Ngeze that he has filed a motion relating to Anatole Nsengiyumva before the Appeals Chamber of the ICTR on 18 August 2008 wherein he seeks to interview witness Omega.
  - c) The Petitioner Hassan Ngeze having been convicted and sentenced can only address himself for relief to the Appeal Chamber of the ICTR pursuant to Article 25 of the Statute of the ICTR and Rule 120 of the Rules of Procedure and Evidence.
  - d) The Motion of Petitioner Ngeze is addressed to Judge Mose and not to the Trial Chamber 1. It is respectfully submitted that notwithstanding the fact that Judge Mose is the Presiding Judge in Military 1, he has no jurisdiction qua "Presiding Judge" to grant the relief sought by Petitioner Ngeze.

**III- Other Arguments**

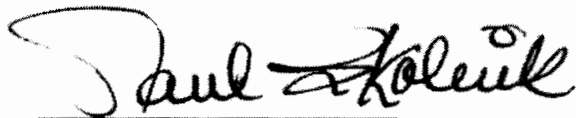
5. The Military Trial has been under advisement for judgment since 7 June 2007 almost 17 months. General Kabiligi would be prejudiced because his judgment would be delayed if the relief sought by Petitioner Ngeze would be granted.
6. The balance of convenience is not in favor of the Petitioner as it would unduly prolong the proceedings and judgment of General Kabiligi and violate his rights to be tried without undue delay pursuant to Article 20 par. 4C of the Statute of the ICTR.

**IV-CONCLUSION**

39726

The Kabiligi Defence prays that this Honourable Trial Chamber dismiss the Petition of Hassan Ngeze for the reasons stated above.

Montreal Canada this 28<sup>th</sup> day of October 2008

A handwritten signature in black ink, reading "Paul Skolnik". The signature is written in a cursive style with a horizontal line underneath the name.

PAUL SKOLNIK

LEAD COUNSEL FOR GENERAL KABILIGI



## TRANSMISSION SHEET FOR FILING OF DOCUMENTS WITH CMS

**COURT MANAGEMENT SECTION**  
(Art. 27 of the Directive for the Registry)

### I - GENERAL INFORMATION (To be completed by the Chambers / Filing Party)

<b>To:</b>	<input checked="" type="checkbox"/> Trial Chamber I N. M. Diallo	<input type="checkbox"/> Trial Chamber II R. N. Kouambo	<input type="checkbox"/> Trial Chamber III C. K. Hometowu	<input type="checkbox"/> Appeals Chamber / Arusha F. A. Talon
	<input type="checkbox"/> Chief, CMS J.-P. Fomété	<input type="checkbox"/> Deputy Chief, CMS M. Diop	<input type="checkbox"/> Chief, JPU, CMS M. Diop	<input type="checkbox"/> Appeals Chamber / The Hague R. Muzigo-Morrison K. K. A. Afande
<b>From:</b>	<input type="checkbox"/> Chamber (names)	<input checked="" type="checkbox"/> Defence -Kabiligi Paul Skolnik (names)	<input type="checkbox"/> Prosecutor's Office (names)	<input type="checkbox"/> Other: (names)
<b>Case Name:</b>	The Prosecutor vs. Kabiligi et al			<b>Case Number:</b> ICTR-98-41-T
<b>Dates:</b>	Transmitted: 28 October 2008		Document's date: 28 October 2008	
<b>No. of Pages:</b>	4 including this page	<b>Original Language:</b>	<input checked="" type="checkbox"/> English	<input type="checkbox"/> French <input type="checkbox"/> Kinyarwanda
<b>Title of Document:</b>	KABILIGI REPLY to HASSAN NGEZE EXTREMELY URGENT NOTION Seeking the STAY OF JUDGEMENT			
<b>Classification Level:</b>		<b>TRIM Document Type:</b>		
<input type="checkbox"/> Ex-Parte <input type="checkbox"/> Strictly Confidential / Under Seal <input type="checkbox"/> Confidential <input checked="" type="checkbox"/> Public		<input type="checkbox"/> Indictment <input type="checkbox"/> Warrant <input type="checkbox"/> Correspondence <input type="checkbox"/> Submission from non-parties <input type="checkbox"/> Decision <input type="checkbox"/> Affidavit <input type="checkbox"/> Notice of Appeal <input checked="" type="checkbox"/> Submission from parties <input type="checkbox"/> Disclosure <input type="checkbox"/> Order <input type="checkbox"/> Appeal Book <input type="checkbox"/> Accused particulars <input type="checkbox"/> Judgement <input type="checkbox"/> Motion <input type="checkbox"/> Book of Authorities		

### II - TRANSLATION STATUS ON THE FILING DATE (To be completed by the Chambers / Filing Party)

**CMS SHALL take necessary action regarding translation.**

Filing Party hereby submits only the original, and will **not submit** any translated version.

Reference material is provided in annex to facilitate translation.

**Target Language(s):**

English  French  Kinyarwanda

**CMS SHALL NOT take any action regarding translation.**

Filing Party hereby submits **BOTH the original and the translated version** for filing, as follows:

Original	in	<input type="checkbox"/> English	<input type="checkbox"/> French	<input type="checkbox"/> Kinyarwanda
Translation	in	<input type="checkbox"/> English	<input type="checkbox"/> French	<input type="checkbox"/> Kinyarwanda

**CMS SHALL NOT take any action regarding translation.**

Filing Party will be submitting the translated version(s) in due course in the following language(s):

English  French  Kinyarwanda

**KINDLY FILL IN THE BOXES BELOW**

<input type="checkbox"/> The OTP is overseeing translation. The document is submitted for translation to: <input type="checkbox"/> The Language Services Section of the ICTR / Arusha. <input type="checkbox"/> The Language Services Section of the ICTR / The Hague. <input type="checkbox"/> An accredited service for translation; see details below: Name of contact person: Name of service: Address: E-mail / Tel. / Fax:	<input type="checkbox"/> DEFENCE is overseeing translation. The document is submitted to an accredited service for translation (fees will be submitted to DCDMS). Name of contact person: Name of service: Address: E-mail / Tel. / Fax:
--	---

### III - TRANSLATION PRIORITISATION (For Official use ONLY)

<input type="checkbox"/> Top priority	<b>COMMENTS</b>	<input type="checkbox"/> Required date:
<input type="checkbox"/> Urgent		<input type="checkbox"/> Hearing date:
<input type="checkbox"/> Normal		<input type="checkbox"/> Other deadlines:

JUDICIAL RECORDS ARCHIVE  
 RECEIVED  
 2008 OCT 29 11:09:33