

ICTR-96-13-R
30-01-2009
(8/A-7/A)

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International Criminal Tribunal for Rwanda



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Tribunal Pénal International pour le Rwanda

APPEALS CHAMBER

Before: Judge Patrick Robinson, Presiding

Registrar: Mr. Adama Dieng

Date filed: 30 January 2009

ALFRED MUSEMA

v.

THE PROSECUTOR

Case No. ICTR-96-13-R

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**PROSECUTOR'S RESPONSE TO
MUSEMA'S MOTION FOR ASSIGNMENT OF COUNSEL**

Office of the Prosecutor

Alex Obote-Odora
Dior Fall

The Applicant

Alfred Musema

7/A

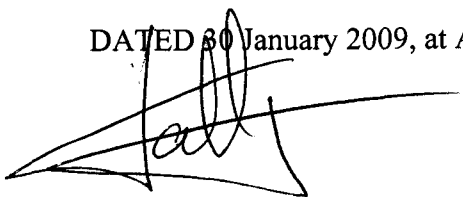
RESPONSE

1. On 28 January 2009, the Applicant, Alfred Musema, filed his *Requête aux fins de demande d'une assistance juridique pour la procédure de révision de l'Arrêt rendu par la Chambre d'appel 16 novembre 2001*. In this Motion, the Applicant seeks the assignment of counsel to assist him with a potential request for review of the appeal judgement rendered in his case.¹

2. In response, the Prosecutor submits that the Applicant's Motion is without merit. The Appeals Chamber has consistently held that, after a case reaches finality upon issuance of the appeal judgement, the procedure of review is an exceptional remedy. Therefore, an applicant is only entitled to assigned counsel, at the Tribunal's expense, if the Appeals Chamber authorizes the review or if it considers it necessary to ensure the fairness of proceedings at the preliminary examination stage.²

3. However, the Applicant has not shown that the assignment of counsel under the Tribunal's legal aid scheme is necessary to ensure the fairness of the proceedings at this stage. The Applicant does not provide any information as to the potential grounds for review, but merely states that he has obtained some new information which might constitute 'new facts'.³ In the absence of information on the basis for a potential request for review, his Motion should be dismissed.⁴

DATED 30 January 2009, at Arusha, Tanzania.



Dior Fall,
Senior Appeals Counsel

¹ See Motion, paras. 12-13. See also *Alfred Musema v. The Prosecutor*, Case No. ICTR-96-13-A, Judgement, 16 November 2001.

² See, e.g., *Emmanuel Ndingabahizi v. The Prosecutor*, Case No. ICTR-01-71-R, Decision on Emmanuel Ndingabahizi's Motion for Assignment of Counsel and the Prosecutor's Request to Place the Motion under Seal, 24 September 2008, p. 2, with reference to other Appeals Chamber's jurisprudence in footnote 4 (*Ndingabahizi Decision*).

³ Motion, para. 12.

⁴ See also *Ndingabahizi Decision*, p. 2-3.



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From:	<input type="checkbox"/> Chamber (names)	<input type="checkbox"/> Defence (names)	<input checked="" type="checkbox"/> Prosecutor's Office <i>Jabir Fall</i> (names)	
Case Name: The Prosecutor vs. Alfred Musema		Case Number: ICTR-96-13-R		
Dates:	Transmitted: 30 January 2009		Document's date: 30 January 2009	
No. of Pages:	2	Original Language: <input checked="" type="checkbox"/> English <input type="checkbox"/> French <input type="checkbox"/> Kinyarwanda		
Title of Document:	PROSECUTOR'S RESPONSE TO MUSEMA'S MOTION FOR ASSIGNMENT OF COUNSEL			
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