



ICTR-98-41-A
17-03-2009
(138/A-136/A)

International Criminal Tribunal for Rwanda
Tribunal Pénal International pour le Rwanda

138/A
S. MUSA

IN THE APPEALS CHAMBER

Before: Judge Mehmet Güney, Pre-Appeal Judge
Registrar: Mr. Adama Dieng
Filing Date: 17 March 2009

THE PROSECUTOR
v.
Théoneste BAGOSORA
Gratien KABILIGI
Aloys NTABAKUZE
Anatole NSENGIYUMVA

2009 MAR 17 10:13 AM
JUDICIAL SECTION
RECEIVED

Case No. ICTR-98-41-A

**ADDENDUM TO MOTION TO PRECLUDE THE PROSECUTION FROM
FILING A NOTICE OF APPEAL AGAINST GENERAL KABILIGI**

Office of the Prosecutor

Mr. Hassan Bubacar Jallow
Mr. Alex Obote-Odora
Mr. George Mugwanya

Defence Counsel

Mr. Paul Skolnik

Other Defence Counsel

Mr. Raphael Constant
Mr. Richard Perras
Mr. Peter Erlinder
Mr. André Tremblay
Mr. Kennedy Ogetto

I. BACKGROUND

1. On 17 March 2009 General Kabiligi filed a « Motion to Preclude the Prosecution Filing A Notice of Appeal Against General Kabiligi ».

2. In par.8 of the aforesaid Motion it was stated that « On 16 March 2009, Lead Counsel Skolnik telephoned the office of the Coordinator of Trial Chamber I and spoke with Marianne Ben Salimo, who advised Counsel Skolnik that as of 16 March 2009, there had been no filings by the prosecution regarding General Kabiligi. Ms Ben Salimo also told Counsel Skolnik that following his previous enquiry, Mr. Diallo had contacted the Office of the Prosecutor who advised that they would not be filing a notice of appeal against General Kabiligi's acquittal. »

3. The portion that is underlined in par 8. is incorrect.

4. On 17 March 2009 Counsel Skolnik Received an email from Mr. Nouhou Diallo the Coordinator of Trial Chamber 1 which advised that there had been a misunderstanding in the conversation between Counsel Skolnik and Ms Marianne Ben Salimo on 16 March 2009.

5. The email of Mr. Nouhou Diallo stated in part the following ".....my call to the Prosecutor's Office was only to check if they may have filed the Notice or not. It was for me to check and confirm that it was not sent to any of my team member.. It is not my responsibility to ask if they will file or not. So to conclude, nobody from the Prosecution side never told me or any of my team member, that they will not file a Notice of Appeal against Kabiligi. As I said, it is a wrong interpretation from my colleague Ms. Marianne Ben Salimo and we are sorry for that."-as more fully appears from the email of Mr. Nouhou Diallo herewith annexed.

6. Counsel for Kabiligi apologizes to the Parties and regrets any misunderstanding or inconvenience caused.

II-CONCLUSION

Accordingly the Respondent Kabiligi requests that this Addendum be considered as an integral part of the « Motion to Preclude the Prosecution Filing A Notice of Appeal Against General Kabiligi ».

The whole respectfully submitted.

Montreal Canada, 17 March 2009



PAUL SKOLNIK

Lead Counsel for General Gratien Kabiligi

Word Count: 450 .



136/A

Re: Kabiligi Motion to Preclude the Prosecution Filing A Notice of Appeal

Tuesday, March 17, 2009 3:02 AM

From: "Nouhou Diallo" <diallon@un.org>

To: paulskolnik@yahoo.ca

Cc: "Koffi Afande" <afande@un.org>, "Rosette Muzigo-Morrison" <muzigo-morrison@un.org>, "Ramadhani Talib Juma" <juma3@un.org>, kenogetto@yahoo.co.uk, "Alex Obote-Odora" <obote-odora@un.org>, "George Mugwanya" <mugwanya@un.org>, paulskolnik@yahoo.ca, raphaelconstant@hotmail.com, peter.erlinder@wmitchell.ed, agtremblay@videotron.ca, kategibson1@gmail.com, cmbuisman@hotmail.com, "Hassan Bubacar Jallow" <jallowh@un.org>, "Marianne Ben Salimo" <salimo@un.org>

Dear Skolnik,

I would like to draw your attention to a misunderstanding between you and my colleague Marianne Ben Salimo. In your today's filing at paragraph 8, you wrote as follows: "Ms. Ben Salimo told Counsel that following his previous enquiry, Mr. Diallo has conatcted the Office of the Prosecutor who advised that they would not be filing a Notice of Appeal against Kabiligi.." T.his statement is not correct, my call to the Prosecutor's Office was only to check if they may have filed the Notice or not. It was for me, to check and confirm that it was not sent to any of my team member. It is not my responsibility to ask if they will file or not. So to conclude, nobody from the Prosecution side never told me or to any of my team member, that they will not file a Notice of Appeal against Kabiligi. As I said, it is a wrong interpretation from my colleague Ms. Marianne Ben Salimo and we are really sorry for that.

Best regards

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	<input checked="" 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
From:	<input type="checkbox"/> Chamber (names)	<input checked="" type="checkbox"/> Defence Kabiligi- Counsel Skolnik (names)	<input type="checkbox"/> Prosecutor's Office (names)	<input type="checkbox"/> Other. (names)
Case Name:	The Prosecutor vs. Kabiligi		Case Number: ICTR-98-41A	
Dates:	Transmitted: 17 March 2009		Document's date: 17 March 2009	
No. of Pages:	4[including this page]	Original Language:	<input checked="" type="checkbox"/> English	<input type="checkbox"/> French <input type="checkbox"/> Kinyarwanda
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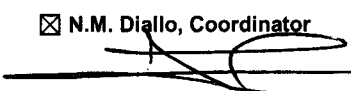


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Date: 17 March, 2009	Case Name / affaire: Case No / no. de l'affaire:	The Prosecutor vs. KABILIGI BAGOSORA vs. The Prosecutor NTABAKUZE ... NSENGIYUMVA ... ICTR-98-41- A
To: A:	Rosette Muzigo-Morrison, Legal Officer, Appeals Unit, The Hague.	<input checked="" type="checkbox"/> Judge / Patrick L. Robinso, Presiding <input checked="" type="checkbox"/> Judge / Mohamed Shahabuddeen <input checked="" type="checkbox"/> Judge / Mehmet Guney <input checked="" type="checkbox"/> Judge / Fausto Pocar <input checked="" type="checkbox"/> Judge / Liu Daqun
ACCUSED / DEFENSE <input checked="" type="checkbox"/> Accused / Accusé T. Bagosora, Kabiligi, Ntabakuze & Nsengiyumva <small>see / voir "CMS4</small> <input checked="" type="checkbox"/> Lead Counsel / Conseil Principal: Me. R. Constant, Skolnik, Erlinder & Ogetto <input type="checkbox"/> In Arusha / à Arusha: <small>(see / voir CMS3) <input type="checkbox"/> Fax:</small> <input type="checkbox"/> Co-Counsel / Conseil Adjoint: Me. <input type="checkbox"/> Arusha <small>(see / voir CMS3)</small> <input type="checkbox"/> Fax: OTP / BUREAU DU PROCUREUR <input type="checkbox"/> , Prosecutor <input checked="" type="checkbox"/> Hassan Jallow, Chief OTP <input type="checkbox"/> B. Majola, Deputy Chief <input type="checkbox"/> OTP, Trial Attorney in charge of case <small>(name)</small> <input type="checkbox"/> The Hague / La Haye <input type="checkbox"/> Arusha <small>(see / voir CMS3)</small> <input type="checkbox"/> Kigali		
From: De:	<input type="checkbox"/> JP. Fomété <input type="checkbox"/> Other	<input checked="" type="checkbox"/> N.M. Diallo, Coordinator  <input type="checkbox"/> Matar Diop (DP Chief, CMS)
CC:	<input checked="" type="checkbox"/> Registrar <input type="checkbox"/> WVSS-P	<input type="checkbox"/> OLA, NY <input type="checkbox"/> WVSS-D <input checked="" type="checkbox"/> D. Reg. <input checked="" type="checkbox"/> DCMS <input type="checkbox"/> P&PA <input checked="" type="checkbox"/> CSS <input checked="" type="checkbox"/> Spokesman <input type="checkbox"/> Other
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