

ICTR-99-54A-R
13-08-2009
(31/A - 29/A)

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International Criminal Tribunal for Rwanda



Tribunal Pénal International pour le Rwanda

UNITED NATIONS
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APPEALS CHAMBER

Before: Judge Patrick Robinson, Presiding
Judge Liu Daqun
Judge Andresia Vaz
Judge Theodore Meron
Judge Carmel Agius

Registrar: Mr. Adama Dieng

Date filed: 13 August 2009

JUDICIAL
13/08/2009
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KAMUHANDA JEAN DE DIEU

v.

THE PROSECUTOR

Case No. ICTR-99-54A-R

PROSECUTOR'S CLARIFICATION ON KAMUHANDA'S REQUEST FOR
SPECIAL COUNSEL'S REPORT

Office of the Prosecutor

Alex Obote-Odora
Dior Fall Sow
Florida Kabasinga

The Applicant

Jean de Dieu Kamuhanda

Introduction

1. On 15 May 2009, the Applicant, Jean de Dieu Kamuhanda, filed his *Requête aux fins de demande d'une assistance juridique pour la procédure préliminaire de révision de L'arrêt rendu par la chambre d'appel le 19 Septembre 2005*, hereinafter, "the Motion". In the Motion, the Applicant alleged that the Special Counsel appointed by the Prosecutor to investigate the possibility that Prosecution Witnesses in *Kamuhanda* gave false testimony before the Appeals Chamber produced a report containing her conclusions.¹ He argued therein that the Prosecutor is bound by Rule 68 to disclose said report and the written statements of witnesses that fall into the ambit of Rule 68.²

2. On 21 July 2009, the Appeals Chamber gave a decision on the Applicant's Motion in which it ordered the Prosecutor to clarify, within one week, whether a report containing the conclusions of the Special Counsel's investigations exists.³

3. The Registry only served the Prosecutor with said Decision on 7 August 2009.⁴ The Prosecutor therefore files his clarification today, 13 August 2009, bearing in mind the Appeals Chamber's one week deadline following receipt of said Decision.

Submissions

4. The Prosecutor submits that there is no report containing the conclusions of the Special Counsel as alleged by the Applicant. The Prosecutor reiterates this position stated before Trial Chamber III in the *Nshogoza* case that no such report exists.⁵ The investigations by Special Counsel Loretta Lynch have never been concluded and have to date resulted in the arrest and prosecution of Prosecution Witness GAA and Defence Investigator Leonidas Nshogoza.

¹ Motion, para. 11.

² Motion, para. 15.

³ Decision on Motion for Legal Assistance, para. 22.

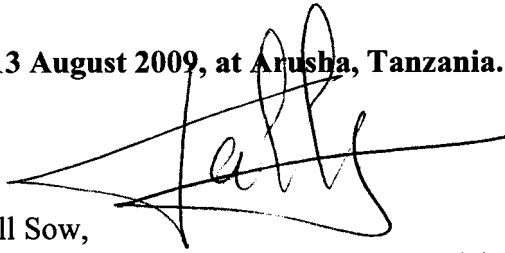
⁴ See Memo to Koffi Afande from Felicite A. Talon dated 7 August 2009

⁵ *The Prosecutor v. Leonidas Nshogoza*, Case No. ICTR-07-91-PT, T. 30 October 2008 pp.10 & 11.

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WORD COUNT: 426

Dated 13 August 2009, at Arusha, Tanzania.

A handwritten signature in black ink, appearing to read 'Fall', written over a horizontal line.

Dior Fall Sow,
Ag/Chief, Appeals and Legal Advisory Division

