

ICTR-99-52B-R
27-09-2011
(88/A-86/A)

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UNITED NATIONS
NATIONS UNIES

**Tribunal pénal international pour le Rwanda
International Criminal Tribunal for Rwanda**

IN THE APPEALS CHAMBER

Before: Judge Fausto Pocar, Presiding
Judge Mehmet Güney
Judge Andréia Vaz
Judge Theodor Meron
Judge Carmel Agius

Registrar: Mr. Adama Dieng

Decision of: 27 September 2011

Ferdinand NAHIMANA

v.

THE PROSECUTOR

Case No. ICTR-99-52B-R

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**DECISION ON NAHIMANA'S MOTION TO ANNUL THE DECISIONS OF
22 APRIL 2008 AND 30 JUNE 2010 AND FOR RECONSIDERATION**

The Applicant

Mr. Ferdinand Nahimana, *pro se*

The Office of the Prosecutor

Mr. Hassan Bubacar Jallow

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 Such Violations Committed in the Territory of Neighbouring States, between 1 January 1994 and 31 December 1994 (“Appeals Chamber” and “Tribunal”, respectively),

RECALLING that, on 28 November 2007, the Appeals Chamber affirmed Ferdinand Nahimana’s convictions for direct and public incitement to commit genocide and persecution as a crime against humanity pursuant to Article 6(3) of the Statute of the Tribunal but only in respect of *Radio Télévision Libre des Mille Collines* broadcasts after 6 April 1994, and reduced his sentence to 30 years of imprisonment;¹

NOTING that, on 22 April 2008 and 30 June 2010, the Appeals Chamber dismissed two successive applications filed by Mr. Nahimana to reconsider the Appeal Judgement;²

BEING SEISED of a request filed by Mr. Nahimana on 13 September 2011 to annul the Decisions of 22 April 2008 and 30 June 2010 and to reconsider the Appeal Judgement;³

NOTING Mr. Nahimana’s submission that the Decisions of 22 April 2008 and 30 June 2010 should be annulled because they are signed exclusively by Judge Pocar and thus do not evince that the remainder of the Bench participated in the deliberations;⁴

CONSIDERING that, in accordance with the consistent practice of the Appeals Chamber, the Presiding Judge signs decisions on behalf of the Bench after the conclusion of deliberations on a motion;

FINDING, therefore, that Mr. Nahimana’s argument that the Decisions of 22 April 2008 and 30 June 2010 be annulled on the basis that they were signed exclusively by the Presiding Judge lacks merit;

¹ *Ferdinand Nahimana et al. v. The Prosecutor*, Case No. ICTR-99-52-A, Judgement, 28 November 2007 (“Appeal Judgement”), p. 345 (The English translation of the French original was filed on 16 May 2008).

² Decision on Ferdinand Nahimana’s Motion for Reconsideration of the Appeal Judgement, 30 June 2010 (“Decision of 30 June 2010”), para. 7; Decision on Ferdinand Nahimana’s “Notice of Application for Reconsideration of Appeal Decision Due to Factual Errors Apparent on the Record”, 22 April 2008 (“Decision of 22 April 2008”), p. 3.

³ *Demande d’annulation des décisions portant la seule signature du juge Fausto Pocar prises dans mon affaire après l’arrêt du 28 [n]ovembre 2007 ; Demande de réexamen de ma* “Notice of application for reconsideration of Appeal Decision due to factual errors apparent on the record” *du 27 [m]ars 2008 et dans le cas échéant, de ma requête du 27 [a]vril 2010*, 13 September 2011 (“Motion”). The Prosecution has not yet responded. However, it is not prejudiced in view of the outcome of this decision.

⁴ Motion, paras. 7-10.

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NOTING that the remainder of Mr. Nahimana's submissions seeks reconsideration of the Appeal Judgement essentially on the same basis as his two previous applications, which were rejected in the Decisions of 22 April 2008 and 30 June 2010;⁵

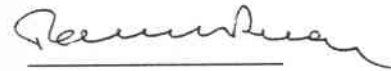
CONSIDERING that, as previously explained in the Decisions of 22 April 2008 and 30 June 2010, the Appeals Chamber lacks jurisdiction to reconsider its final judgements;⁶

FOR THE FOREGOING REASONS

DISMISSES the Motion.

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

Done this 27th day of September 2011,
at Arusha,
Tanzania.


Judge Fausto Pocar
Presiding

[Seal of the Tribunal]



⁵ Motion, paras. 1-6, 10-13.

⁶ Decision of 30 June 2010, para. 6; Decision of 22 April 2008, p. 2.



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