



Tribunal Pénal International pour le Rwanda
International Criminal Tribunal for Rwanda

653/A
AM

IN THE APPEALS CHAMBER

Before: Judge Theodor Meron, Presiding
Judge Patrick Robinson
Judge Liu Daqun
Judge Andréia Vaz
Judge Carmel Agius

Registrar: Mr. Adama Dieng

Filing of: 20 April 2012

ICTR-99-50-A
20-04-2012
653/A-651/A

**JUSTIN MUGENZI
PROSPER MUGIRANEZA**

v.

THE PROSECUTOR

Case No. ICTR-99-50-A

2012 APR 20 P 12:14
UNICTR
JUDICIAL RECORDS/ARCHIVES
RECEIVED

**JUSTIN MUGENZI'S RESPONSE TO THE PROSECUTION MOTION FOR
EXTENSION OF THE WORD LIMIT**

Counsel for the Defence

Kate Gibson and Christopher Gosnell for Justin Mugenzi
Tom Moran and Cynthia J. Cline for Prosper Mugiraneza

Office of the Prosecutor

Hassan Bubacar Jallow
James J. Arguin
George W. Mugwanya
Evelyn Kamau
Memory Maposa
Ndeye Marie Ka
Lansana Dumbuya

1. The Prosecution's 27-page request¹ does not show any "exceptional circumstances"² justifying an increase in the word-limit prescribed by the Practice Direction.³
2. Mr. Mugenzi and his co-appellant were convicted for exactly the same crimes, arising from the same two specific events, on the basis of the same modes of liability. The appeals focus on approximately forty pages of a 590-page judgement⁴ pertaining to two specific events. The grounds and arguments on appeal, though not identical, overlap to a significant degree,⁵ and are based on precisely the same narrow factual findings. The normal word-limit in multi-accused appeals prescribed by the Practice Direction is, in these circumstances, appropriate and proper, particularly in a case in which the Appeals Chamber has already identified "the narrow scope of the case on appeal".⁶ No "exceptional circumstances" have been adduced.
3. The Prosecution claim that it could not consolidate its argumentation is belied by its own invalidly filed Response Briefs,⁷ which contain frequent repetition of argument, with or without any variation of wording. The Response Briefs also contain lengthy recitations of both the Chamber's findings and the appellants' arguments. The Prosecution should address common issues in a unified manner, thus streamlining the appeals process and reducing the chance that the Prosecution may seek to adopt inconsistent legal positions in respect of common legal issues. As the Appeals Chamber has previously held, "the quality and effectiveness of an appellant's brief does not depend on the length but on the clarity and cogency of the presented arguments and [...], therefore, excessively long briefs do not necessarily serve the cause of efficient administration of justice".⁸ The additional 10,000 words

¹ Prosecutor's Motion for Extension of Word Limit, 18 April 2012 ("Prosecution Request").

² Practice Direction on the Length of Briefs and Motions on Appeal, 8 December 2006 ("Practice Direction"), para. C(5).

³ *Justin Mugenzi and Prosper Mugiraneza v. The Prosecutor*, Case No. ICTR-99-50-A, Decision on Motions for an Order Requiring the Prosecution to Re-file its Response Briefs, 16 April 2012, p. 4.

⁴ *The Prosecutor v. Casimir Bizimungu et al.*, Case No. ICTR-99-50-T, Judgement and Sentence, delivered in summary oral form on 30 September 2011, rendered in writing 19 October 2011.

⁵ For example, Mr. Mugenzi's Grounds of Appeal 1 and 2 overlap substantially with Mr. Mugiraneza's Issues 7 through 11; Grounds 3 through 6 overlap substantially with Issues 21, 22 and 36; Grounds 7 through 10 with Issues 15-17, 19, 20 and 23; Grounds 11 through 14 with Issues 27, 29, 30, 31 and 32; Ground 15 with Issues 1 and 2; Grounds 16 to 18 with Issues 52 to 54: Justin Mugenzi's Appeal Brief, 20 February 2012; Prosper Mugiraneza's Appellate Brief, 20 February 2012.

⁶ *Justin Mugenzi and Prosper Mugiraneza v. The Prosecutor*, Case No. ICTR-99-50-A, Decision on Prosper Mugiraneza's Motion for Extension of Time to File his Appellant's Brief, 26 January 2002, para. 9.

⁷ Prosecution Brief in Response to Justin Mugenzi's Appeal, 2 April 2012; Prosecution Brief in Response to Prosper Mugiraneza's Appeal, 2 April 2012 (collectively, "Response Briefs").

⁸ *Protais Zigiranyirazo v. The Prosecutor*, Case No. ICTR-01-73-A, Decision on Protais Zigiranyirazo's Motion

651/A

provided in the Practice Direction is more than adequate to address any divergences in the grounds of appeal as set out by the two appellants.

4. The Prosecution's allegation that the appellants' briefs present "unsubstantiated" or "confusing" arguments is not only false, but would not justify an expanded word limit. As the Appeals Chamber has previously held, "[i]t is not necessary to comment on the Prosecution's criticisms of the Appellants' briefs except to say that if they are as poorly reasoned and constructed as the Prosecution claims, the Prosecution should be able to respond to them more rather than less concisely. For instance, if an assertion is wholly unsupported, the Prosecution is free to so note and to provide an extensive response."⁹

5. Mr. Mugenzi accordingly requests that the Appeals Chamber dismiss the Prosecution Request in its entirety and order that the Prosecution re-file its Response Briefs in compliance with paragraph C(1) of the Practice Direction within a 5-day period from receipt of the decision.

Word Count: 886

Kate Gibson
Lead Counsel of Justice Mugenzi

Christopher Gosnell
Co-Counsel of Justice Mugenzi

Dated: 20 April 2010

⁹ *Prosecution v. Blaškić*, Decision on Prosecution's Motion to Extend Word Limit of Consolidated Reply Brief, 6 December 2005, para. 4.
¹⁰ *Prosecution v. Blaškić*, Decision on Prosecution's Motion to Extend Word Limit, 12 May 2009, p. 2.
¹¹ *Prosecution v. Blaškić*, Decision on Prosecution's Motion to Extend Word Limit, 14 May 2009, para. 5, citing *Siméon Nchamihigo v. The Prosecutor*, Case No. IT-02-60-A, Decision on Prosecution's Motion to Extend Word Limit, 6 December 2005, para. 4.

