

ICTR-98-44-T
31-05-2010
(51100 - 51096)

51100

A

THE INTERNATIONAL CRIMINAL TRIBUNAL
FOR RWANDA

CASE No. ICTR-98-44-T

IN TRIAL CHAMBER No. 3

Before: Judge Dennis C.M. Byron, Presiding
Judge G. Gustave Kam
Judge Vagn Joensen

Registrar: Mr. Adama Dieng

Date Filed: 31 May 2010

THE PROSECUTOR

v.

JOSEPH NZIRORERA

JUDICIAL RECORDS/ARCHIVES
RECEIVED

2010 MAY 31 11 A 9:35

[Handwritten signature]

JOSEPH NZIRORERA'S MOTION FOR
CONTINUANCE: ARREST OF PETER ERLINDER

The Office of the Prosecutor:

Mr. Don Webster
Mr. Takeh Sendze

Defence Counsel:

Mr. Peter Robinson
Mr. Patrick Nimy Mayidika Ngimbi

Counsel for Co-Accused:

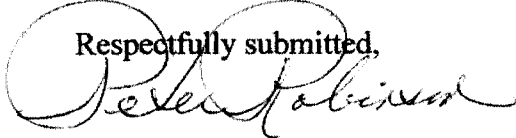
Ms. Dior Diagne Mbaye and Mr. Felix Sow for Edouard Karemera
Ms. Chantal Hounkpatin and Mr. Frederick Weyl for Mathieu Ngirumpatse

1. Joseph Nzirorera is scheduled to resume the presentation of his defence case on Monday 7 June 2010 for three days, and then resume again on 21 June 2010. He respectfully moves the Trial Chamber to cancel the three day sitting during the week of 7 June 2010.

2. On 28 May 2010, Peter Erlinder, Lead Counsel for Aloys Ntabakuze at the ICTR, was arrested in Rwanda on charges of negationism of genocide. According to reports published in the New York Times, a spokesman for the Rwandan government said that Mr. Erlinder was accused of “denying the genocide” and “negationism” **from statements he had made at the tribunal in Arusha**, as well as “in his books, in publications.” (emphasis added)¹

3. Mr. Nzirorera’s defence team deems that it is no longer safe to advocate for an accused person at this Tribunal. Its members do not wish to subject themselves to prosecution in Rwanda, which could lead to Interpol arrest warrants as well as Bar disciplinary proceedings, simply for doing their jobs. Therefore, the defence team of Mr. Nzirorera is not in a position to proceed with his trial until matters relating to Mr. Erlinder’s arrest are clarified and resolved.

4. Mr. Nzirorera and his defence team urge the President and Registrar of the Tribunal to use their good offices in the meantime to find a solution to this crisis.

Respectfully submitted,

PETER ROBINSON
Lead Counsel for Joseph Nzirorera

¹ The entire article is reproduced as Annex “A” to this motion.

51098

ANNEX "A"

American Lawyer for Opposition Figure Is Arrested in Rwanda

By JOSH KRON and JEFFREY GETTLEMAN

New York Times

Published: May 28, 2010

KAMPALA, Uganda — Rwandan authorities on Friday arrested an American lawyer who is representing a leading Rwandan opposition figure, the latest sign of an increasingly repressive atmosphere there.

Peter Erlinder, a law professor at William Mitchell College of Law in Minnesota, is being charged with denying the Rwandan genocide and was being interrogated Friday night at police headquarters in the capital, Kigali, Rwandan officials said.

The Rwandan government seems to be getting increasingly sensitive in the months before national elections in August and recently lashed out at the American government, one of its biggest donors, for complaining about restrictions on the media and human rights groups.

The Rwandan government has barred a Human Rights Watch researcher from working in the country and closed down several independent newspapers. Some opposition supporters have been attacked inside government offices; others have been jailed.

Mr. Erlinder previously defended genocide suspects at the International Criminal Tribunal for Rwanda in Arusha, Tanzania, and recently helped file a lawsuit in Oklahoma against Rwanda's president, Paul Kagame, which may have provoked the government's ire.

"He is an advocate for unpopular causes," which is "one of the great traditions of lawyers," said Eric S. Janus, president and dean of William Mitchell.

Mr. Erlinder arrived in Kigali on Sunday to take on the case of Victoire Ingabire, a leading opposition politician who has been trying to run for president but was recently charged with helping a rebel group and espousing genocide ideology. Human rights observers say the Rwandan government has vaguely defined the crime of genocide ideology and is using it to punish political opponents and people who challenge the government's version of the genocide in 1994, when hundreds of thousands of minority Tutsis and a smaller number of moderate Hutus were killed.

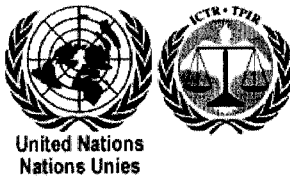
A police spokesman, Eric Kayingare, said that Mr. Erlinder was accused of “denying the genocide” and “negationism” from statements he had made at the tribunal in Arusha, as well as “in his books, in publications.”

Mr. Erlinder’s arrest comes days after Johnnie Carson, the assistant secretary of state for African affairs, told Congress that the Rwandan government was restricting human rights ahead of presidential elections. A spokesperson for Rwanda dismissed that criticism, saying that American concerns “need to be contextualized.”

Ms. Ingabire was arrested in April after she claimed that crimes committed in 1994 against Hutus by the ruling party had gone unpunished. In a telephone interview on Friday, she said she was surprised the authorities were now going after her lawyer.

“He has the same problem as me,” Ms. Ingabire said. “There was a genocide against the Tutsi, but there were also crimes against humanity, and Kagame doesn’t like to talk about that.”

Josh Kron reported from Kampala, and Jeffrey Gettleman from Nairobi, Kenya



TRANSMISSION SHEET FOR FILING OF DOCUMENTS WITH CMS

COURT MANAGEMENT SECTION
(Art. 27 of the Directive for the Registry)

I - GENERAL INFORMATION (To be completed by the Chambers / Filing Party)

To:	<input type="checkbox"/> Trial Chamber I N. M. Diallo		<input type="checkbox"/> Trial Chamber II R. N. Kouambo		<input checked="" type="checkbox"/> Trial Chamber III C. K. Hometownu	
	<input type="checkbox"/> OIC, JLSD P. Besnier		<input type="checkbox"/> OIC, JPU C. K. Hometownu		<input type="checkbox"/> Appeals Chamber / The Hague K. K. A. Afande R. Muzigo-Morrison	
From:	<input type="checkbox"/> Chamber (names)		<input checked="" type="checkbox"/> Defence Peter Robinson (names)		<input type="checkbox"/> Prosecutor's Office (names)	
Case Name:	The Prosecutor vs. Karemera et al				Case Number: ICTR-98-44-T	
Dates:	Transmitted: 30 May 2010			Document's date: 31 May 2010		
No. of Pages:	4		Original Language:		<input checked="" type="checkbox"/> English <input type="checkbox"/> French <input checked="" type="checkbox"/> Kinyarwanda	
Title of Document:	JOSEPH NZIRORERA'S MOTION FOR CONTINUANCE: ARREST OF PETER ERULINDER					
Classification Level:			TRIM Document Type:			
<input type="checkbox"/> Ex Parte <input type="checkbox"/> Strictly Confidential / Under Seal <input type="checkbox"/> Confidential <input checked="" type="checkbox"/> Public			<input type="checkbox"/> Indictment <input type="checkbox"/> Warrant <input type="checkbox"/> Correspondence <input type="checkbox"/> Submission from non-parties <input type="checkbox"/> Decision <input type="checkbox"/> Affidavit <input type="checkbox"/> Notice of Appeal <input type="checkbox"/> Submission from parties <input type="checkbox"/> Disclosure <input type="checkbox"/> Order <input type="checkbox"/> Appeal Book <input type="checkbox"/> Accused particulars <input type="checkbox"/> Judgement <input checked="" type="checkbox"/> Motion <input type="checkbox"/> Book of Authorities			

II - TRANSLATION STATUS ON THE FILING DATE (To be completed by the Chambers / Filing Party)

CMS SHALL take necessary action regarding translation.

Filing Party hereby submits only the original, and **will not submit** any translated version.

Reference material is provided in annex to facilitate translation.

Target Language(s):

English French Kinyarwanda

CMS SHALL NOT take any action regarding translation.

Filing Party hereby submits **BOTH the original and the translated version** for filing, as follows:

Original	in	<input checked="" type="checkbox"/> English	<input type="checkbox"/> French	<input type="checkbox"/> Kinyarwanda
Translation	in	<input type="checkbox"/> English	<input type="checkbox"/> French	<input type="checkbox"/> Kinyarwanda

CMS SHALL NOT take any action regarding translation.

Filing Party **will be submitting the translated version(s)** in due course in the following language(s):

English French Kinyarwanda

KINDLY FILL IN THE BOXES BELOW

<input type="checkbox"/> The OTP is overseeing translation. The document is submitted for translation to: <input type="checkbox"/> The Language Services Section of the ICTR / Arusha. <input type="checkbox"/> The Language Services Section of the ICTR / The Hague. <input type="checkbox"/> An accredited service for translation; see details below: Name of contact person: Name of service: Address: E-mail / Tel. / Fax:	<input type="checkbox"/> DEFENCE is overseeing translation. The document is submitted to an accredited service for translation (fees will be submitted to DCDMS): Name of contact person: Name of service: Address: E-mail / Tel. / Fax:
---	--

III - TRANSLATION PRIORITISATION (For Official use ONLY)

<input type="checkbox"/> Top priority	COMMENTS	<input type="checkbox"/> Required date:
<input type="checkbox"/> Urgent		<input type="checkbox"/> Hearing date:
<input type="checkbox"/> Normal		<input type="checkbox"/> Other deadlines: