



Tribunal Pénal International pour le Rwanda
International Criminal Tribunal for Rwanda

11/H

ICTR-96-9-AR11bis

05th July 2012

{11/H – 09/H}

IN THE APPEALS CHAMBER

Before:

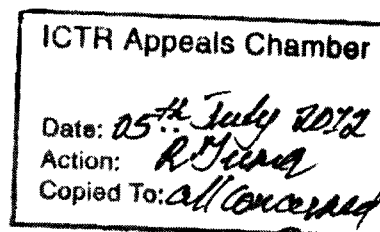
Judge Theodor Meron, Presiding
Judge Mehmet Güney
Judge Arlette Ramaroson
Judge Andrésia Vaz
Judge Khalida Rachid Khan

Registrar:

Mr. Adama Dieng

Decision of:

5 July 2012



LADISLAS NTAGANZWA

v.

THE PROSECUTOR

Case No. ICTR-96-9-AR11bis

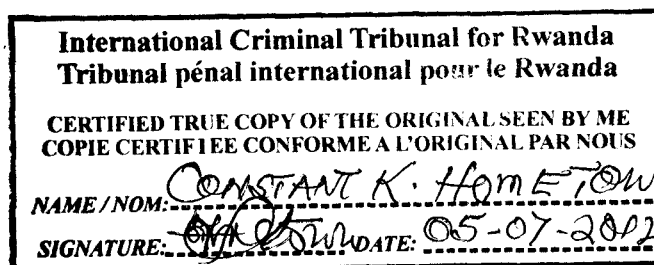
**DECISION ON ADMISSIBILITY OF NOTICE OF APPEAL AGAINST REFERRAL
DECISION**

Duty Counsel:

Francis K. Stolla

The Office of the Prosecutor:

Hassan Bubacar Jallow
James J. Arguin
George William Mugwanya
Inneke Onsea
Abdoulaye Seye
François Nsanzuwera
Erica Bussey



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 and 31 December 1994 (“Appeals Chamber” and “Tribunal”, respectively);

RECALLING that, on 8 May 2012, a Chamber of the Tribunal designated pursuant to Rule 11 *bis* of the Rules of Procedure and Evidence of the Tribunal (“Rules”) ordered that the case of *The Prosecutor v. Ladislav Ntaganzwa* be referred to the authorities of the Republic of Rwanda for trial;¹

NOTING that, on 8 June 2012, Mr. Francis K. Stolla, Duty Counsel for Mr. Ladislav Ntaganzwa (“Duty Counsel”), filed a notice of appeal against the Referral Decision;²

BEING SEISED of a motion filed by the Prosecution on 8 June 2012, in which the Prosecution requests the Appeals Chamber to strike the Notice of Appeal, arguing that it was filed after the applicable filing deadline had expired without a showing of good cause and that Duty Counsel failed to seek variation of the applicable time-limits pursuant to Rule 116 of the Rules;³

RECALLING that Rule 11 *bis* (H) of the Rules provides that a party wishing to appeal from a decision issued pursuant to Rule 11 *bis* of the Rules shall file a notice of appeal “within fifteen days of the decision unless the accused was not present or represented when the decision was pronounced, in which case the time-limit shall run from the date on which the accused is notified of the decision”;⁴

CONSIDERING that Mr. Ntaganzwa was represented by Duty Counsel when the Referral Decision was pronounced and that, therefore, the time-limit for the filing of a notice of appeal ran from 8 May 2012 and expired on 23 May 2012;

FINDING therefore that the Notice of Appeal was filed out of time;

¹ *The Prosecutor v. Ladislav Ntaganzwa*, Case No. ICTR-96-9-R11*bis*, Decision on the Prosecutor’s Request for Referral of the Case to the Republic of Rwanda, 8 May 2012 (“Referral Decision”), p. 25.

² Notice of Appeal, 8 June 2012 (confidential) (“Notice of Appeal”).

³ Prosecutor’s Motion to Strike Notice of Appeal, 8 June 2012 (“Motion to Strike”), paras. 2-5, 7. The Prosecution further underscores that the relevant material and evidence supporting the Prosecution’s case against Mr. Ntaganzwa has been handed over to the authorities of the Republic of Rwanda on 24 May 2012, after the expiration of the 15-day time-limit for the filing of an appeal. See Motion to Strike, para. 6.

⁴ See also Practice Direction on Procedure for the Filing of Written Submissions in Appeal Proceedings before the Tribunal, dated 8 December 2006 (“Practice Direction”), para. 4.

NOTING that the Duty Counsel did not file a response to the Motion to Strike nor has he filed a request for extension of time or sought to have the Notice of Appeal recognized as validly filed after the expiration of the prescribed time-limit;⁵

RECALLING that procedural time-limits are to be respected and that “[v]iolations of these time-limits, unaccompanied by any showing of good cause, will not be tolerated”;⁶

FINDING therefore that, under these circumstances, the Notice of Appeal filed on behalf of Mr. Ntaganzwa is not validly filed;

FOR THE FOREGOING REASONS,

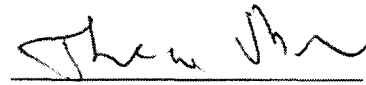
GRANTS the Prosecution’s Motion to Strike;

REJECTS the Notice of Appeal as inadmissible; and

DECLARES the case closed.

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

Done this 5th day of July 2012,
At The Hague,
The Netherlands.


Judge Theodor Meron
Presiding



⁵ Rule 116(A) of the Rules allows for the extension of time of any deadline on a showing of good cause. In addition, according to paragraph 19 of the Practice Direction, the Appeals Chamber may “recognize as validly done any act done after the expiration of a time-limit so prescribed”. See also *Jean Uwinkindi v. The Prosecutor*, Case No. ICTR-01-75-AR11bis, Decision on Uwinkindi’s Appeal Against the Referral of his Case to Rwanda and Related Motions, 16 December 2011, para. 15.

⁶ *The Prosecutor v. Clément Kayishema and Obed Ruzindana*, Case No. ICTR-95-1-A, Judgement (Reasons), 1 June 2001, para. 46. See also *The Prosecutor v. Édouard Karemera et al.*, Case No. ICTR-98-44-R75, Decision on Édouard Karemera’s Motion for Extension of Time to Respond to Eliézer Niyitegeka’s Appeal of 2 July 2008, 6 October 2008, para. 7; *Prosecutor v. Baton Haxhiu*, Case No. IT-04-84-R77.5-A, Decision on Admissibility of Notice of Appeal Against Trial Judgement, 4 September 2008, para. 16.