

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

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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

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

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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:

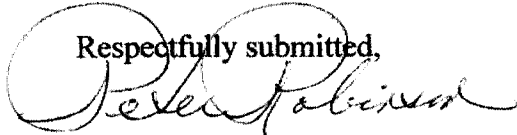
Ms. Dior Diagne Mbaye and Mr. Felix Sow for Edouard Karemera  
Ms. Chantal Hounkpatin and Mr. Frederick Weyl for Mathieu Ngirumpatse

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)<sup>1</sup>

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

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<sup>1</sup> 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.

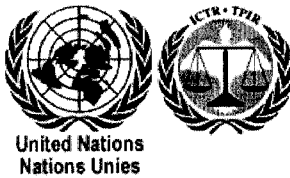
A police spokesman, Eric Kayingare, said that Mr. Erlinder was accused of “denying the genocide” and “negationism” from statements he had made at the tribunal in Arusha, as well as “in his books, in publications.”

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)

<b>To:</b>	<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	
<b>From:</b>	<input type="checkbox"/> Chamber (names)		<input checked="" type="checkbox"/> Defence <b>Peter Robinson</b> (names)		<input type="checkbox"/> Prosecutor's Office (names) <input type="checkbox"/> Other: (names)	
<b>Case Name:</b>	The Prosecutor vs. Karemera et al				<b>Case Number:</b> ICTR-98-44-T	
<b>Dates:</b>	Transmitted: 30 May 2010			Document's date: 31 May 2010		
<b>No. of Pages:</b>	4		<b>Original Language:</b> <input checked="" type="checkbox"/> English <input type="checkbox"/> French <input type="checkbox"/> Kinyarwanda			
<b>Title of Document:</b>	JOSEPH NZIRORERA'S MOTION FOR CONTINUANCE: ARREST OF PETER ERULINDER					
<b>Classification Level:</b>			<b>TRIM Document Type:</b>			
<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			

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<input type="checkbox"/> Urgent		<input type="checkbox"/> Hearing date:
<input type="checkbox"/> Normal		<input type="checkbox"/> Other deadlines: