

MICT-13-33
24-12-2016
(1446 - 1444)

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THE MECHANISM FOR INTERNATIONAL CRIMINAL TRIBUNALS

CASE No. MICT-13-33

THE SINGLE JUDGE

Before: Judge Aminatta Lois Runeni N’Gum

Registrar: Mr. John Hocking

Date Filed: 24 December 2016

THE PROSECUTOR

v.

JEAN DE DIEU KAMUHANDA

Public Redacted Version

INTERIM SUBMISSIONS IN SUPPORT OF
MOTION TO RESCIND PROTECTIVE
MEASURES FOR DEFENCE WITNESS ALM

Office of the Prosecutor:

Richard Karegyesa
Abubacarr Tambadou
Sunkarie Ballah-Conteh

Jean de dieu Kamuhanda:

Peter Robinson

Received by the Registry
Mechanism for International Criminal Tribunals
24/12/2016 16:45



1. Following the Appeals Chamber's reversal of the *Decision on Motion to Rescind Protective Measures for Defence Witness ALM* (29 March 2016),¹ the Single Judge has ordered Mr. Kamuhanda to "file submissions and supporting information, if any, ...identifying factors that weigh for or against the rescission of Witness ALM's protective measures."²

2. The Appeals Chamber held that the consent of the witness is not required for rescission of protective measures under Rule 82(A) and that "following the death of a witness who had benefited from protective measures, security concerns may remain for the witness's family. Therefore, the security concerns of members of a deceased witness's family may constitute a relevant consideration in determining whether the protective measures granted to the witness should remain in place or be rescinded..."³

3. Mr. Kamuhanda is disappointed that the Registrar, having been invited by the Single Judge to "inform me... of any information and in view on the implications that rescinding the protective measures applicable to Witness ALM might have on the deceased witness's immediate family," failed to take even a basic step of verifying that Witness ALM was deceased.⁴

4. A simple check of the Tribunal's own TRIM database would have located the death certificate of the witness.⁵ Counsel for Mr. Kamuhanda located this reference in about 30 seconds by doing a Google search under the witness' name.

5. In addition, a simple review of Mr. Kamuhanda's *Motion to Rescind Protective Measures for Defence Witness ALM* (5 March 2016) would have revealed that members of Witness ALM's family were already aware of his status as a protected witness.⁶ It was explicitly stated in the motion that "Mr. Kamuhanda's counsel can provide the WISP with the name and contact information for the son of Witness ALM."⁷ Therefore, the Registrar was able to contact the family of Witness ALM without seeking a variation of

¹ *Decision on Appeal of Decision Declining to Rescind Protective Measures for a Deceased Witness* (16 November 2016)

² *Order on Remand of a Decision Declining to Rescind Protective Measures for a Deceased Witness* (23 November 2016)

³ *Decision on Appeal of Decision Declining to Rescind Protective Measures for a Deceased Witness* (16 November 2016) at para. 12

⁴ *Registrar's Submission Pursuant to Order of 23 November 2016* (7 December 2016)

⁵ [REDACTED]

⁶ See *Motion*, at para. 3

⁷ *Motion* at fn. 1

the protective measures order.

6. Finally, the Registrar filed his submission on an *ex parte* and confidential basis because “the present submission contains information pertaining to a protected witness.” But, in fact, there is not a single piece of information in the submission concerning the identity of the protected witness nor any reference to any confidential filings or decisions. And, the parties were already aware of the witness’ identity. The Registrar’s practice of automatically filing all of its submissions *ex parte* and confidential has been disapproved of by other Single Judges,⁸ and results in a waste of resources.⁹

7. For all of these reasons, Mr. Kamuhanda requests that the Single Judge once again order the WISP to “inform me... of any information and in view on the implications that rescinding the protective measures applicable to Witness ALM might have on the deceased witness's immediate family,” after having contacted members of that family. That information should be provided by way of an *inter partes* submission.

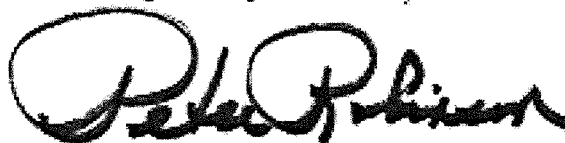
8. [REDACTED]

9. The Single Judge is also requested to order that the *Registrar’s Submission Pursuant to Order of 23 November 2016 (7 December 2016)* be further reclassified from confidential to public.

10. Mr. Kamuhanda requests the opportunity to make further submissions within seven days of being informed of the results of the WISP’s contact with the family members of Witness ALM.

Word count: 731

Respectfully submitted,



PETER ROBINSON
Counsel for Jean de dieu Kamuhanda

⁸ *Decision on a Motion to Reclassify Annex to Registrar’s Submissions (7 October 2016); Decision on Motion to Reclassify Registrar’s Submissions (5 August 2016)*

⁹ *Prosecutor v Karera*, No. MICT-12-24-R, *Decision on Request for Access (10 August 2016)*, p. 2



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		No. of Pages/ Nombre de pages :	3
Original Language / Langue de l'original :	<input checked="" type="checkbox"/> English/ Anglais	<input type="checkbox"/> French/ Français	<input type="checkbox"/> Kinyarwanda <input type="checkbox"/> B/C/S <input type="checkbox"/> Other/Autre (specify/préciser) :
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Rev: April 2014/Rév. : Avril 2014