

MICT-13-33
20-10-2015
(685 - 683)

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THE MECHANISM FOR INTERNATIONAL CRIMINAL TRIBUNALS

CASE No. MICT-13-33

THE SINGLE JUDGE

Before: Judge Vagn Joensen

Registrar: Mr. John Hocking

Date Filed: 20 October 2015

THE PROSECUTOR

v.

JEAN DE DIEU KAMUHANDA

Public

REQUEST FOR LEAVE TO REPLY:
MOTION TO COMPEL DISCLOSURE OF
WITNESS GEK EXCULPATORY MATERIAL

Office of the Prosecutor:

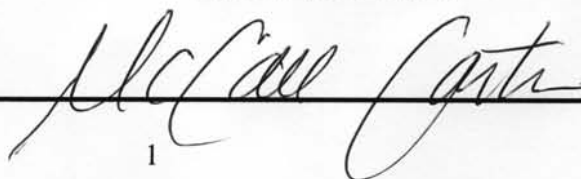
Mr. Hassan Jallow

Mr. Richard Karegyesa

Jean de dieu Kamuhanda:

Mr. Peter Robinson, Counsel

Received by the Registry
Mechanism for International Criminal Tribunals
20/10/2015 04:23



1. Jean de dieu Kamuhanda respectfully seeks leave to reply, pursuant to Rule 153, to the *Prosecution Response to Motion to Compel Disclosure of Witness GEK Exculpatory Material* (19 October 2015).

2. Mr. Kamuhanda believes that a reply can be of assistance to the Single Judge in deciding the issue before him. The brief would respond to the prosecution's contention that the material in question does not fall within Rule 73 because the ICTR Appeals Chamber has already determined that statements from the Tribunal employees denying their involvement in attempting to bribe Witness GEK "would not be helpful in assessing GEK's credibility".¹

3. This is the first time the prosecution has offered this explanation for its failure to disclose the requested material.

4. On 27 July 2015, Prosecution Senior Legal Officer Richard Karegyesa responded to Mr. Kamuhanda's request for the material that "a diligent search of our records has not yielded any disclosable material responsive to your request."²

5. It was only after Mr. Kamuhanda's counsel, believing that the material in question was not in the possession of the prosecution, requested the material from the law firm of Special Counsel Loretta Lynch, that the prosecution revealed, on 6 October 2015, that "the OTP has the documents but has determined that that they are not exculpatory and therefore not disclosable to your client."³

6. It was then only after the filing the instant motion on 7 October 2015 that the prosecution has provided the explanation contained in its response.

7. Mr. Kamuhanda believes that it is only fair that he be granted leave to reply and be allowed to demonstrate that the prosecution's latest explanation for its failure to disclose the material is unfounded.

8. Mr. Kamuhanda can file his reply within 48 hours of being notified that leave was granted. He also requests that, at the time leave to reply is granted, the Single Judge order the prosecution to provide the material to him *in camera* so that the Single Judge

¹ *Response* at paras. 4-5

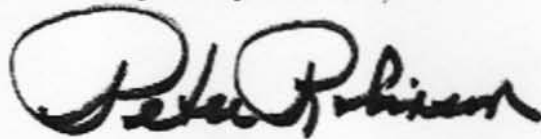
² Annex "B" to the *Motion for Appointment of Amicus Curiae Prosecutor to Investigate Witness GEK* (3 August 2015)

³ Annex "I" to the instant *Motion*

can make his decision on the motion promptly and will the benefit of all the relevant information.⁴

Word count: 476

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Peter Robinson". The signature is written in a cursive, flowing style with large, connected letters.

PETER ROBINSON
Counsel for Jean de dieu Kamuhanda

⁴ Mr. Kamuhanda appreciates the offer of the prosecution to make the material available to the single judge.
Response at para. 7