



UNITED NATIONS
NATIONS UNIES



**Tribunal Pénal International pour le Rwanda
International Criminal Tribunal for Rwanda**

IN THE APPEALS CHAMBER

Before: Judge Claude JORDA, Presiding
Judge Lal Chand VOHRAH
Judge Mohamed SHAHABUDEEN
Judge WANG Tieya
Judge Rafael NIETO-NAVIA

Registrar: Mr Agwu U OKALI

Order of: 31 January 2000

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CONFIDENTIAL
REPRODUCED

Jean Bosco BARAYAGWIZA

v

THE PROSECUTOR

Case No: ICTR-97-19-AR72

DECISION

(REQUEST FOR WITHDRAWAL OF DEFENCE COUNSEL)

Counsel for Jean Bosco Barayagwiza
Mr Justry Nyaberi

The Prosecutor
Ms Carla Del Ponte

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

BEING SEISED OF a request for withdrawal of defence counsel¹, filed by Jean-Bosco Barayagwiza (“the Appellant”) on 21 January 2000 (“the Request”);

NOTING the “Prosecutor’s Motion for Review or Reconsideration of the Appeals Chamber Decision Rendered on 3 November 1999”, filed on 1 December 1999 (“the Prosecutor’s Motion”);

NOTING the Order of 20 January 2000 setting the date for hearing arguments on the Prosecutor’s Motion at 15 February 2000 (“the Hearing Schedule”);

NOTING the “Decision on Review in Terms of Article 19 (E) of the Directive on Assignment of Defence Counsel” issued by Judge Navanthen Pillay, President of the Tribunal, on 19 January 2000 (“the Decision”), in which she confirms the earlier decision of the Registrar not to grant Mr. Barayagwiza’s request for withdrawal of his defence counsel;

CONSIDERING that in respect of a decision to assign or not to assign counsel to represent an Appellant before the Appeals Chamber, a right of recourse to the Appeals Chamber is required for the effective exercise of the Appellant’s rights under Article 20(4) of the Statute of the Tribunal,

MINDFUL OF the concern expressed in the Decision that a change of counsel at this late stage would unduly delay the proceeding;

NOTING also the Appellant’s like concern, expressed in the Request, not to delay the work of the Appeals Chamber;

¹ “Requête en extrême urgence en vue du retrait du conseil J.P.L. Nyaberi de la défense de Jean-Bosco Barayagwiza (art. 20.4 d) du Statut; art. 45, 45bis, 73, 107 du Règlement)”

ORDERS as follows:

- 1) the Registrar shall immediately withdraw the assignment of Mr. J.P.L. Nyaberi as Defence Counsel for the Appellant, and assign a new Counsel to the Appellant along with a Co-Counsel;
- 2) the Appellant, assisted by his new Counsel, may file a response to the Prosecutor's Motion by 17 February 2000, which document will replace the response filed by the Appellant's former Counsel Mr. J.P.L. Nyaberi on 6 January 2000. If no such response is filed, the Appeals Chamber will take note of the earlier document and proceed on the basis thereof;
- 3) The Prosecutor may file a reply to any response filed pursuant to paragraph 2 of this order by 21 February 2000;
- 4) The Hearing Schedule is hereby varied so that the hearing in this matter will take place on 22 February 2000.

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

(signed)

Claude JORDA
Presiding Judge

Dated this thirty-first day of January 2000
At The Hague,
The Netherlands.

[Seal of the Tribunal]