

SUMMARY OF THE APPEAL JUDGEMENT

Mikaeli Muhimana v. The Prosecutor
Case No. ICTR-95-1B-A

21 May 2007, 10.00 a.m.
Courtroom I (Laïty Kama)
Arusha, Tanzania

I. BACKGROUND

1. The Appellant, Mikaeli Muhimana - who is also known as Mika Muhimana - was the *conseiller* of Gishyita Sector in Gishyita Commune, Kibuye Prefecture from 1990 through the relevant period covered by his Indictment in 1994. The Trial Chamber convicted him pursuant to Article 6(1) of the Statute for instigating, committing, and abetting crimes between April and June 1994 at various locations in Kibuye Prefecture. The Trial Chamber convicted the Appellant of genocide (Count 1), rape as a crime against humanity (Count 3), and murder as a crime against humanity (Count 4). The Trial Chamber sentenced the Appellant to imprisonment for the remainder of his life on each count. The Appellant appeals his convictions and sentences.

II. THE GROUNDS OF APPEAL

2. I will now address the grounds of appeal in turn, which will be followed by a reading of the Disposition of the Judgement. The Appellant has divided his grounds of appeal into three categories: errors of law and fact relating to general issues, erroneous factual findings related to specific events, and sentencing errors. Within these categories, the Appeals Chamber has identified sixteen grounds of appeal.

Ground 1: Alleged Errors Relating To The Definition Of *Interahamwe*, Its Structure, And The Appellant's Role Therein

3. In Ground 1, the Appellant submits that the Trial Chamber erred in finding that he had authority over the *Interahamwe* and that he was in a position to “order” them to commit genocide and crimes against humanity. However, the Trial Chamber did not find that the Appellant had authority over the *Interahamwe* or that he ordered them to commit crimes. Rather, the Trial Chamber held the Appellant responsible for personally committing genocide, committing and abetting rape, and committing and instigating murder. None of these holdings is founded upon any finding that the Appellant had authority over the *Interahamwe* or that he ordered the *Interahamwe* to commit these crimes. Accordingly, this ground of appeal is dismissed.

Ground 2: Alleged Error relating to the Burden of Proof

4. Under Ground 2, the Appellant submits that the Trial Chamber erred in law by reversing the burden of proof and essentially requiring him to prove the impossibility of his presence at the scene of crimes or that the crimes could not have occurred. The Appeals Chamber considers that some of the language used in the Trial Judgement, as highlighted by the Appellant, could be perceived as a shift in the burden of proof to the Appellant, when viewed in isolation. However, it is apparent from the Trial Chamber’s approach as a whole that it did not reverse the burden of proof. For the reasons provided in the Judgement, the Appeals Chamber finds the Appellant’s second ground unfounded and dismisses it.

Ground 3: Alleged Errors relating to the Powers of *Conseiller de secteur*

5. In Ground 3, the Appellant submits that the Trial Chamber erred in law and in fact by not defining the scope of his legal authority as a *conseiller*. He argues that, as a result of this alleged error, his conviction for “ordering” has no legal basis. As previously noted, the Trial Chamber did not find the Appellant responsible for ordering any of the crimes of which it convicted him. Accordingly, the Appeals Chamber dismisses his third ground of appeal.

Ground 4: Alleged Error Relating to the Alibi

6. Under his fourth ground, the Appellant submits that the Trial Chamber erred in unfairly considering his alibi based on the circumstances surrounding the death of his child on 8 April 1994 and the ensuing mourning period. As explained in the Judgement, the Appeals Chamber finds that the Trial Chamber followed established jurisprudence when it considered the Appellant's alibi. Accordingly, this ground of appeal is dismissed.

Ground 5: Alleged Errors relating to the Intent to Commit Genocide

7. The Appellant's fifth ground of appeal relates to his conviction for genocide. The Appellant submits that the Trial Chamber erred in law and in fact by finding that he had the intent to commit genocide when it was established at trial that he had a Tutsi wife whom he protected to the end of the war; that he had saved Tutsi people in Gishyita; that he had saved Witness AQ, a Tutsi woman; and that he had married a Tutsi woman during his flight to Zaire. This evidence was before the Trial Chamber. The Trial Chamber was free to consider that it did not suffice to impeach the evidence of the Appellant's individual acts of violence against the Tutsis which formed the basis of its finding that he had the requisite intent to commit genocide. In general, evidence of limited and selective assistance towards a few individuals does not preclude a trier of fact from reasonably finding the requisite intent to commit genocide. Accordingly, this ground of appeal is dismissed.

Ground 6: Alleged Errors relating to the Plot by Pascal Nkusi and certain Witnesses

8. Under Ground 6, the Appellant submits that the Trial Chamber erred in failing to consider his arguments advanced at trial in relation to a plot by Pascal Nkusi against him, his family, and his property and by failing to draw all necessary inferences from his alleged relationship with certain witnesses. For the reasons explained in the Judgement, the Appeals Chamber concludes that there is no merit in the Appellant's contention that the Trial Chamber did not consider his arguments in relation to the alleged plot and finds that the Appellant has failed to demonstrate any

error of law or fact on the part of the Trial Chamber in this regard. Accordingly, this ground of appeal is dismissed

Ground 7: Alleged Error relating to the attacks at Nyarutovu hill and the neighbouring areas of Kiziba, Nyarutovu, and Ngendombi

9. Under ground 7, the Appellant submits that the Trial Chamber erred in fact when it found that the attacks at Nyarutovu Hill and the neighbouring areas of Kiziba, Nyarutovu, and Ngendombi between 8 and 11 April 1994 had been established, whereas certain prosecution evidence shows that the violence in the area began later. For reasons given in the Judgement, the Appeals Chamber finds that the Appellant has not demonstrated that this evidence contradicted the Trial Chamber's findings about these attacks. Accordingly, this ground of appeal is dismissed.

Ground 8: Alleged Errors relating to the Rapes of Languida Kamukina and Goretti Mukashyaka

10. In the eighth Ground of Appeal, the Appellant challenges his conviction for rape as a crime against humanity based in part on the finding that on 7 April 1994, the Appellant raped two Tutsi women, Languida Kamukina and Goretti Mukashyaka, in his home. The Trial Chamber's finding that the Appellant raped Languida Kamukina and Goretti Mukashyaka is based solely on the testimony of Prosecution Witness AP, who was not an eyewitness to the rapes. Rather, the Trial Chamber inferred that the Appellant raped the two women based on several factors, including: the witness saw him take the victims into his house; she heard them scream, mentioning the Appellant's name and stating that they "did not expect him to do that" to them; finally the witness saw the Appellant lead the victims out of his house, stark naked, and walking "with their legs apart".

11. The Appeals Chamber can identify no factual error on the part of the Trial Chamber in concluding that these two women were raped in the Appellant's home.

However, it is apparent from Witness AP's testimony that the Appellant was not alone with the young women in the house at the relevant time. Witness AP testified that "[a]mongst the voices coming from inside the house, the witness also recognised the voice of *Bourgmestre* Sikubwabo, telling the girls to 'shut up'." Consequently, the Appeals Chamber is not persuaded that the Trial Chamber acted reasonably in determining that it was the Appellant who raped the two women, rather than another person present in the house, such as Sikubwabo.

12. Accordingly, the Appeals Chamber finds, Judge Shahabuddeen and Judge Schomburg dissenting, that the Trial Chamber erred in fact in convicting the Appellant for committing rape based on this event and reverses this factual finding. Even if Witness AP's evidence, as accepted by the Trial Chamber, demonstrated that the Appellant could bear criminal responsibility for the rapes of these women as an aider and abettor, the Prosecution did not charge this form of criminal responsibility in connection with these rapes, and, therefore, it would not be appropriate for the Appeals Chamber to uphold the conviction on that basis.

13. The Trial Chamber's error of fact, however, did not occasion a miscarriage of justice because no conviction on any count of the Indictment rested solely on these rapes. Accordingly, the Appeals Chamber is not satisfied that its finding of error on the part of the Trial Chamber is sufficient to impugn his conviction or sentence for rape as a crime against humanity.

Ground 9: Alleged errors relating to the attacks against Tutsis On Nyarutovu Hill and Ngendombi Hill and relating to the rape of Esperance Mukagasana

14. Under Ground 9, the Appellant challenges his conviction for genocide based on his role in attacks against Tutsi refugees at Nyarutovu and Ngendombi Hills between 8 and 11 April 1994. In addition, the Appellant also challenges the Trial

Chamber's finding that he raped Esperance Mukagasana at his residence, resulting in part in his conviction of rape as a crime against humanity.

15. With respect to the attacks on Nyarutovu Hill, the Appellant submits that the Trial Chamber erred in law and in fact in its assessment of Witnesses AW and W and in its failure to consider Defence evidence. For the reasons set out in the Judgement, the Appeals Chamber finds that the Appellant has failed to demonstrate that no reasonable trier of fact could have made the Trial Chamber's findings as to the events at Nyarutovu Hill. This sub-ground of appeal is dismissed.

16. With respect to the attack on Ngendombi Hill, the Appellant submits that the Trial Chamber erred in law and in fact by failing to address his arguments pertaining to the vagueness of paragraph 5(d)(iv) of the Indictment and in assessing the evidence of Witnesses BC, BB, and W. Concerning allegations of vagueness in the Indictment, the Appeals Chamber finds that the Indictment was defective because the Appellant could not have known, on the basis of the Indictment alone, that he was being charged as part of this attack with personally killing Tutsis with a grenade, seriously wounding Witness BC, and killing her children. The Pre-Trial Brief, however, provided the Appellant with timely, clear, and consistent information sufficient to put him on notice that he was being charged with committing genocide by these acts. In addition, the Appeals Chamber is not convinced that the Appellant has demonstrated any other error in the Trial Chamber's assessment of the evidence relating to this attack. This sub-ground of appeal is therefore dismissed.

17. With respect to the rape of Esperance Mukagasana, the Appellant submits that the Trial Chamber erred in law and in fact in its assessment of Witness AQ. His submission is supported by arguments related to a credibility finding on Witness AQ in relation to another event, allegations of bias, internal inconsistencies in the witness's account, lack of corroboration, and implausibility in light of Defence

evidence. For the reasons given in the Judgement, the Appeals Chamber finds that the Appellant has failed to demonstrate that no reasonable trier of fact could have made the Trial Chamber's findings on the rape of Esperance Mukagasana. Accordingly, the Appeals Chamber dismisses ground 9 of the Appellant's appeal in its entirety.

Ground 10: Alleged Errors relating to the Events at Mubuga Church from 11 to 15 April 1994

18. Under Ground 10, the Appellant challenges his convictions for genocide and murder as a crime against humanity related to the Trial Chamber's findings on the attack against Mubuga Church on 15 April 1994. The Appellant raises three challenges with respect to these findings relating to the assessment of Defence Witness DC, his alibi, and the burden of proof. For the reasons given in the Judgement, the Appeals Chamber is not convinced that the Appellant has called into question the Trial Chamber's findings on his role in the attack against Tutsis at Mubuga Church. Accordingly, Ground 10 is dismissed.

Ground 11: Alleged Errors relating to the Rape of Agnes Mukagatare at Mubuga Cemetery on 15 April 1994

19. In his Eleventh Ground of Appeal, the Appellant challenges his conviction for rape as a crime against humanity related to the Trial Chamber's finding that, on 15 April 1994 after the attack on Mubuga Church, he and a group of *Interahamwe* brought six young Tutsi women to a cemetery where the Appellant raped Agnes Mukagatare. The Appellant submits that the Trial Chamber erred in fact in finding that he raped Agnes Mukagatare on the basis of Witness AV's testimony because her evidence was internally inconsistent, lacked corroboration, and was inconsistent with the testimonies of other Prosecution and Defence witnesses, in particular with respect to when the event occurred. The Appellant further contends that the Trial

Chamber erred in fact in rejecting his alibi for this period based on the evidence of Witness DC. For the reasons stated in the Judgement, the Appeals Chamber is not convinced that the Appellant's arguments demonstrate any error in the Trial Chamber's findings on this event. Accordingly, Ground 11 is dismissed.

Ground 12: Alleged Errors relating to the Attack against Tutsi Refugees at Mugonero Complex on 16 April 1994

20. Under Ground 12, the Appellant challenges his convictions for genocide, rape as a crime against humanity, and murder as a crime against humanity based on the Trial Chamber's findings relating to the attack on Mugonero Complex on 16 April 1994. The Appellant raises several challenges to the Trial Chamber's assessment of the evidence and the credibility of Prosecution witnesses which the Trial Chamber relied upon in making findings relating to his participation in this attack as well as to the attack in general. For the reasons given in the Judgement, the Appeals Chamber is not convinced that the Appellant's arguments demonstrate any error in the Trial Chamber's findings on this event. Accordingly, Ground 12 is dismissed.

Ground 13: Alleged Errors Relating to the Rapes and Murders Committed at Mugonero Complex and the Rape of Witness BG

21. Ground 13 relates to the specific role played by the Appellant during the attack on Mugonero Complex in the rape and murder of several women in three separate incidents occurring in the basement of Mugonero Hospital. This ground also challenges another event on 22 April 1994, which is not related to the attack on the complex, relating to the rape of Prosecution Witness BG.

22. I will first discuss the three events at Mugonero Complex. The Trial Chamber found that on 16 April 1994 the Appellant raped Mukasine Kajongi and abetted two

other assailants to rape two daughters of Amos Karera and then instigated the assailants to kill the three women. In addition, the Trial Chamber found that on the same date and at the same location the Appellant also raped Prosecution Witnesses BJ and AU and abetted two assailants to rape Mukasine and Murekatete.

23. With respect to the rape and murder of Mukasine Kajongi and Amos Karera's two daughters, the Appellant alleges a number of inconsistencies between Witness AT's evidence and his previous statements, the lack of clarity in his evidence concerning the location of the crime, and the lack of corroboration. For the reasons stated in the Judgement, the Appeals Chamber is not convinced that the Appellant's arguments demonstrate any error in the Trial Chamber's findings on this event. This sub-ground of appeal is dismissed.

24. With respect to the rapes of Witness BJ, Mukasine, and Murekatete, the Appellant raises three principal legal and factual challenges related to an alleged defect in the form of the Indictment, the ethnicity of the victims, and the credibility of Witness BJ. The Appellant first submits that the Indictment failed to provide him with sufficient notice of the place of the crimes. The Appeals Chamber considers that from the Indictment alone, the Appellant would have known that he was being charged with these rapes at Mugonero Complex. The Appeals Chamber recalls that in the *Ntakirutimana* Appeal Judgement it concluded that referring to events taking place at Mugonero Complex was sufficient to put the accused on notice that he was charged with acts committed at the Mugonero Hospital. The Appellant has not advanced any argument indicating why further specificity was required in this particular case.

25. The Appellant next submits that the Trial Chamber erred in fact in finding that Mukasine and Murekatete were Tutsi when Witness BJ testified that she did not know their ethnicity. Moreover, the Appellant submits that, in failing to establish the ethnic identity of these women, the Trial Chamber erred in law in convicting him for

genocide on the basis of this event. Contrary to the Appellant's assertion, the Trial Chamber observed in its factual findings on this incident that the ethnicity of Mukasine and Murekatete was unknown. Moreover, the Trial Chamber stated in its legal findings that the Appellant's conviction for genocide, insofar as it related to acts of rape at Mugonero Complex, encompassed only the rapes of Tutsi women. It therefore convicted the Appellant for the rapes of Mukasine and Murekatete as a crime against humanity. Finally, the Appeals Chamber finds no merit in the Appellant's submissions concerning the Trial Chamber's assessment of Witness BJ. This sub-ground of appeal is therefore dismissed.

26. With respect to the rape of Witness AU, the Appellant challenges the notice given to him in the Indictment for this event and the assessment of Witness AU's testimony. First, the Appellant contends that the Indictment alleges that the rape took place at "Mugonero School of Medicine", which does not exist, and that it therefore does not give notice that the event occurred in the basement of Mugonero Hospital. However, on the basis of the Indictment alone, the Appellant would have known that he was being charged with the rape of Witness AU at the Mugonero Complex. As the Appeals Chamber noted above in this ground of appeal, this is sufficient notice of the location of this crime in the context of these events. Accordingly, the Appellant has failed to demonstrate that the Indictment was defective with respect to the location of this crime. The Appeals Chamber finds no merit in the Appellant's submissions concerning the Trial Chamber's assessment of the testimony of Witness AU. This sub-ground of appeal is therefore dismissed.

27. Turning to the rape of Witness BG, the Trial Chamber found that on 22 April 1994 the Appellant "permitted" an *Interahamwe* named Mugonero to "take away" Prosecution Witness BG with knowledge that Mugonero intended to rape her. The Appellant argues that he was convicted for "authorising" Mugonero to abduct and rape Witness BG, which is not a mode of participation under Article 6(1) of the Statute. The Appellant further argues that the Trial Chamber was required to

establish his position of authority in order to show that he used his authority to “persuade or force another person to commit a crime.” The Trial Chamber convicted the Appellant for abetting the rape of Witness BG. Abetting is one of the modes of participation under Article 6(1) of the Statute. For an accused to be convicted of abetting an offence, it is not necessary to prove that he had authority over the principal perpetrator. In addition, the Appeals Chamber considers that a reasonable trier of fact could find that the Appellant’s actions in such circumstances amounted to encouragement which had a substantial affect on Mugonero’s subsequent rape of Witness BG. This sub-ground of appeal is therefore dismissed.

28. Accordingly, the Appeals Chamber dismisses Ground 13 of the appeal in its entirety.

Ground 14: Alleged Errors relating to the Attack at Kanyinya Hill in May 1994

29. Under Ground 14, the Appellant challenges his conviction for genocide based on his role in the attack in mid-May 1994 against Tutsi refugees on Kanyinya Hill. The Trial Chamber found that the Appellant came to the hill with busloads of armed assailants and unleashed a devastating attack in which he actively participated by shooting and wounding a Tutsi man named Nyagihigi. The Appellant raises three principal factual and legal challenges with respect to the Trial Chamber’s assessment of the notice provided by the Indictment, the Prosecution evidence, and the standard applied in assessing Defence evidence.

30. With respect to the notice argument, the Appellant submits that paragraph 5(d)(v) of the Indictment, lacks precision and fails to plead any physical act of genocide. The Appeals Chamber finds that the Indictment was defective because, on the basis of the Indictment alone, the Appellant could not have known that he was being charged with personally shooting and wounding Nyagihigi during this

attack. Nonetheless, the Appeals Chamber observes that the Appellant conceded in his motion to strike this evidence at the close of trial that he received more detailed notice of this incident in the Pre-Trial Brief. Having reviewed the summary of Witness AP's anticipated testimony in an annex to the Pre-Trial Brief, the Appeals Chamber finds that the Pre-Trial Brief provided the Appellant with timely, clear, and consistent information sufficient to put him on notice that he was being charged with committing genocide by shooting Nyagihigi at Kanyinya Hill.

31. The Appeals Chamber is not convinced by the Appellant's other arguments under this ground challenging the Trial Chamber's assessment of evidence. Accordingly, the Appeals Chamber dismisses this ground of appeal.

Ground 15: Alleged Errors relating to the Murder of Pascasie Mukaremera

32. In Ground 15, the Appellant challenges his conviction for murder as a crime against humanity based on the killing of Pascasie Mukaremera. On appeal, the Appellant submits that the Trial Chamber erred in law in convicting him of this murder because the Indictment failed to give him proper notice of the time and place of the crime and his role in it. Paragraph 7(d)(i) of the Indictment reads: "Towards the end of May 1994, at Nyakiyabo hill in the Bisesero area an *Interahamwe* named Gisambo killed Pascasie Mukarema, on instructions of Mikaeli Muhimana." However, the Trial Chamber found that the Appellant personally killed Mukaremera on Rugona Hill in mid-May 1994.

33. The Appeals Chamber finds that the Indictment is defective because it fails to allege the correct time and location of the murder and that the Appellant physically committed it. Although the Prosecution submits that the Appellant failed to make a contemporaneous objection to the evidence of Witness AW, whose uncorroborated testimony supports this conviction, at trial, the Trial Chamber did not describe the

Appellant's objection based on lack of notice in its closing brief as untimely. The Appeals Chamber has held that, where a Trial Chamber has treated a challenge to an indictment as being adequately raised, the Appeals Chamber should not invoke the waiver doctrine. Moreover, contrary to the Prosecution's submissions, the Appeals Chamber considers that the Appellant raised a timely objection to all defective aspects of this paragraph of the Indictment at trial. It therefore falls to the Prosecution to prove that the Appellant's defence was not materially impaired by these defects.

34. The Prosecution submits that the Appellant had sufficient notice of the time and location of the murder of Pascasie Mukaremera and his role in it through the Pre-Trial Brief and through the disclosure of the statement of Witness AW.

35. The summary of Witness AW's anticipated testimony in the annex to the Pre-Trial Brief refers to the Appellant killing Pascasie Mukaremera on Rugona Hill in Mid-May 1994 and relates it to the relevant paragraph of the Indictment. The Appeals Chamber has previously held that a summary of an anticipated testimony in an annex to the Prosecution's pre-trial brief could, in certain circumstances, cure a defect in an indictment. The circumstances presented in this instance, however, are different.

36. The summary of Witness AW's anticipated testimony does not simply add greater detail in a consistent manner with a more general allegation already pleaded in the Indictment. Rather, the summary modifies the time, location, and physical perpetrator, matters that were already specifically pleaded in the Indictment, albeit in a materially different manner. In such circumstances, the summary of Witness AW's anticipated testimony in the annex of the Pre-Trial Brief and the disclosure of his witness statement do not provide clear and consistent information. The summary of Witness AW's testimony materially alters key facets of this paragraph. This discrepancy should have been immediately apparent to the Prosecution as it

prepared its Pre-Trial Brief and listed the anticipated testimony of Witness AW in support of a paragraph of the Indictment that materially conflicted with it, in particular given that the Prosecution had shortly prior to that added this allegation to the Indictment for the purpose of providing specificity to the Accused.

37. In sum, the failure to properly plead Pascasie Mukaremera's murder in the Indictment was not cured, and the Prosecution has failed to rebut the presumption of material impairment of the defence. Accordingly, the Appeals Chamber finds, Judge Schomburg dissenting, that the Trial Chamber erred in law in relying on this evidence in convicting the Appellant for this murder. His conviction for murder as a crime against humanity on this count is therefore invalidated.

38. This error of law, however, does not invalidate the conviction of the Appellant for murder because this conviction did not rest solely on this murder. The Appeals Chamber is also not satisfied that this error invalidates the Appellant's sentence of imprisonment for the remainder of his life in view of the other crimes as well as the other aggravating factors considered by the Trial Chamber. Accordingly, the Appeals Chamber finds no basis for disturbing the Appellant's convictions for murder as a crime against humanity despite its finding that the Trial Chamber erred in finding this incident established.

Ground 16: Alleged Error Relating to the Sentence

39. Under Ground 16, the Appellant challenges his three sentences of imprisonment for the remainder of his life, respectively on each of the three counts for which he was convicted. The Appellant submits that the Trial Chamber failed to consider any mitigating circumstances and imposed an excessive and disproportionate sentence. Mindful of the gravity of the Appellant's crimes, the Appeals Chamber does not find, even if it accepted the Appellant's submissions as to mitigating factors, any discernible error in sentencing that has resulted in a miscarriage of justice. Accordingly, this ground of appeal is dismissed.

VI. DISPOSITION

40. I will now read out in full the operative paragraphs of the Appeals Chamber's Disposition. Mr. Muhimana, will you please stand.

For the foregoing reasons, **THE APPEALS CHAMBER,**

PURSUANT to Article 24 of the Statute and Rule 118 of the Rules;

NOTING the written submissions of the parties and their oral arguments presented at the hearing on 15 January 2007;

SITTING in open session;

AFFIRMS unanimously the Appellant's conviction for genocide (Count 1); and **AFFIRMS** unanimously his sentence of imprisonment for the remainder of his life entered for that conviction;

ALLOWS, in part, Judge Shahabuddeen and Judge Schomburg dissenting, the Appellant's eighth ground of appeal; **REVERSES**, Judge Shahabuddeen and Judge Schomburg dissenting, the Trial Chamber's finding that he bears criminal responsibility for the rapes of Gorette Mukashyaka and Languida Kamukina; **AFFIRMS** unanimously his conviction for rape as a crime against humanity (Count 3) in all other respects; and **AFFIRMS** unanimously his sentence of imprisonment for the remainder of his life entered for that conviction;

ALLOWS, in part, Judge Schomburg dissenting, the Appellant's fifteenth ground of appeal; **REVERSES**, Judge Schomburg dissenting, the Trial Chamber's finding that he bears criminal responsibility for the murder of Pascasie Mukaremera; **AFFIRMS** unanimously his conviction for murder as a crime against humanity (Count 4) in all other respects; and **AFFIRMS** unanimously his sentence of imprisonment for the remainder of his life entered for that conviction;

DISMISSES unanimously the Appellant's appeal of his convictions and sentences in all other respects;

RULES that this Judgement shall be enforced immediately pursuant to Rule 119 of the Rules;

ORDERS, in accordance with Rule 103(B) and Rule 107 of the Rules, that Mikaeli (also known as Mika) Muhimana is to remain in the custody of the Tribunal pending his transfer to the State in which his sentence will be served.

41. Mr. Muhimana, you may be seated.

42. I now request the Registrar to please deliver copies of the Judgement to the parties in this case. This hearing of the Appeals Chamber of the International Criminal Tribunal for the Rwanda stands adjourned.