



Original: English

No. ICC-01/05-01/13 A5 A9

Date: 17 May 2017

THE APPEALS CHAMBER

Before: Judge Silvia Fernández de Gurmendi, Presiding Judge
Judge Sanji Mmasenono Monageng
Judge Howard Morrison
Judge Geoffrey A. Henderson
Judge Piotr Hofmański

SITUATION IN THE CENTRAL AFRICAN REPUBLIC

**IN THE CASE OF THE PROSECUTOR v. JEAN-PIERRE BEMBA GOMBO,
AIMÉ KILOLO MUSAMBA, JEAN-JACQUES MANGENDA KABONGO,
FIDÈLE BABALA WANDU AND NARCISSE ARIDO**

Public document

Decision on request for leave to withdraw

Decision to be notified in accordance with regulation 31 of the Regulations of the Court to:

The Office of the Prosecutor

Ms Fatou Bensouda, Prosecutor
Ms Helen Brady

Counsel for Jean-Pierre Bemba Gombo

Ms Melinda Taylor
Ms Sarah Codde

Counsel for Aimé Kilolo Musamba

Mr Michael G. Karnavas
Mr Steven Powles

Counsel for Jean-Jacques Mangenda Kabongo

Mr Christopher Gosnell
Mr Peter Robinson

Counsel for Fidèle Babala Wandu

Mr Jean-Pierre Kilenda Kakengi Basila

Counsel for Narcisse Arido

Mr Charles Achaleke Taku
Ms Beth Lyons

REGISTRY

Registrar

Mr Herman von Hebel

The Appeals Chamber of the International Criminal Court,

In the appeal of Mr Aimé Kilolo Musamba against the decision of Trial Chamber VII entitled “Judgment pursuant to Article 74 of the Statute” of 19 October 2016 (ICC-01/05-01/13-1989-Red),

In the appeal of the Prosecutor against the decision of Trial Chamber VII entitled “Decision on Sentence pursuant to Article 76 of the Statute” of 22 March 2017 (ICC-01/05-01/13-2123-Corr),

Having before it the “Request for Leave to Withdraw” of 4 May 2017 (ICC-01/05-01/13-2153-Conf (A5)),

Pursuant to regulation 78 (1) of the Regulations of the Court,

Renders the following

DECISION

1. Mr Steven Powles’s request for leave to withdraw from the present case as Co-Counsel for Mr Aimé Kilolo Musamba is granted.
2. The Registrar is directed to reclassify as public filing ICC-01/05-01/13-2153-Conf.

REASONS

1. On 19 October 2016, Trial Chamber VII (“Trial Chamber”) delivered the “Judgment pursuant to Article 74 of the Statute”¹ (“Conviction Decision”), in which Mr Aimé Kilolo Musamba (“Mr Kilolo”) was convicted of various offences against the administration of justice.² On 8 November 2016, Mr Kilolo filed an appeal against

¹ ICC-01/05-01/13-1989-Conf; a public redacted version was registered on the same date ([ICC-01/05-01/13-1989-Red](#)).

² [Conviction Decision](#), p. 457.

the Conviction Decision³ and on 25 April 2017, he filed his document in support of the appeal.⁴

2. On 22 March 2017, the Trial Chamber rendered its “Decision on Sentence pursuant to Article 76 of the Statute”⁵ (“Sentencing Decision”). On 24 April 2017, the Prosecutor filed an appeal against the Sentencing Decision.⁶

3. On 4 May 2017, Mr Steven Powles (“Co-Counsel”) filed a request for leave to withdraw as Co-Counsel for Mr Kilolo in the present case with immediate effect⁷ (“Request”).

4. The Appeals Chamber observes that Mr Kilolo and his Lead Counsel have agreed to the withdrawal of the Co-Counsel and that Mr Kilolo understands and accepts that the Co-Counsel’s withdrawal cannot be a ground for seeking postponement of any deadlines in relation to the appeal proceedings in the present case.⁸ The Appeals Chamber notes further that no issue arises with regard to the continued legal representation of Mr Kilolo since the Lead Counsel will remain his principal advocate. The Appeals Chamber also takes note of the Co-Counsel’s undertaking to fulfil his continuing obligations under the Code of Professional Conduct for counsel.⁹ In view of the foregoing and noting that no prejudice or inconvenience is caused from accepting this withdrawal, the Appeals Chamber considers it appropriate to grant the Request.

5. Finally, while the Request was filed as a confidential document, the Appeals Chamber notes that the Co-Counsel does not provide any reasons why the Request should be classified as such. The Appeals Chamber finds that no reason exists for the

³ “Acte d’appel de la Défense de Maître Aimé Kilolo Musamba à l’encontre du «*Judgment pursuant to Article 74 of the Statute*» (ICC-01/05-01/13-1989-Conf) rendu par la Chambre de première instance VII le 19 octobre 2016.”, dated 7 November 2016 and registered on 8 November 2016, [ICC-01/05-01/13-2015 \(A5\)](#).

⁴ “Corrected version of Aimé Kilolo Musamba’s Appeal Brief (ICC-01/05-01/13-2148-Conf)”, original version registered on 25 April 2017 and corrigendum registered on 28 April 2017, ICC-01/05-01/13-2148-Conf-Corr (A5), with annexes A and B (ICC-01/05-01/13-2148-Conf-Corr-AnxA (A5), ICC-01/05-01/13-2148-Conf-Corr-AnxB (A5)).

⁵ [ICC-01/05-01/13-2123-Corr](#).

⁶ “Prosecution’s Notice of Appeal against Trial Chamber VII’s ‘Decision on Sentence pursuant to Article 76 of the Statute’”, [ICC-01/05-01/13-2146 \(A9\)](#).

⁷ “Request for Leave to Withdraw”, ICC-01/05-01/13-2153-Conf (A5).

⁸ Request, p. 3.

⁹ Request, p. 3.

Request to remain confidential and pursuant to regulation 23 *bis* (3) of the Regulations of the Court, it directs, on its own motion, the Registrar to reclassify as public the Request.

Done in both English and French, the English version being authoritative.



Judge Silvia Fernández de Gurmendi
Presiding Judge

Dated this 17th day of May 2017

At The Hague, The Netherlands