

Doreen CHEN

From: Victor Koppe [REDACTED]
Sent: Wednesday, October 28, 2015 2:16 PM
To: Volker NERLICH
Subject: Inquiry regarding Case 002/01 appeal

Dear Mr. Nerlich,

I am writing you in your capacity as Senior Legal Officer of the Supreme Court Chamber.

On 21 October 2015, the Supreme Court Chamber rendered its Disposition Decision on Pending Requests for Additional Evidence on Appeal and Related Matters ("Decision").

In this Decision, the Chamber ruled *inter alia* that it will not summons Heng Samrin as a witness and will not admit into evidence the majority of the transcripts of film footage made by renowned British filmmaker Robert Lemkin and Cambodian journalist Thet Sambath, including the notes that Robert Lemkin has made based on that same footage. The Chamber provided no reasoning for its Decision.

As a result of the Decision, the outcome of the appeal proceedings that Nuon Chea initiated on 29 September 2014 has now become irrelevant to him. Nuon Chea has accordingly instructed us that he is considering his options as to the way forward, including the possibility of withdrawing his appeal altogether.

The Internal Rules are silent as to the possibility for an accused to withdraw his appeal. Accordingly, I write on Nuon Chea's behalf to request clarification as to whether it is legally possible for an accused to withdraw an appeal at this stage of the proceedings. If yes, please advise when and in which manner Nuon Chea has to notify the Chamber of such withdrawal.

If it is not legally possible for an accused to withdraw his appeal at this stage, please clarify whether Nuon Chea and his international co-lawyer are obliged to participate in the oral hearings that the Chamber has planned between 16 and 18 November 2015. If no such obligation exists, please be informed that Nuon Chea and/or his international co-lawyer may elect not to participate in these hearings.

I also take this opportunity to advise that I am now considering to formally withdraw as appeal defence counsel. I plan to speak to the Chief of the Defence Support Section, Mr. Isaac Endeley, as soon as possible, about the legal and practical possibilities for me to withdraw. I will inform you of the outcome of that discussion as soon as possible.

Yours sincerely,

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