

**BAIL APPLICATION IN THE CASE OF THOMAS KWOYELO
BEFORE THE INTERNATIONAL CRIMES DIVISION
OF THE HIGH COURT IN KAMPALA**
18.01.2019



During the last session of the High Court in Gulu, the hearing of the bail application of Thomas Kwoyelo alias Latoni was scheduled for Friday 18th January 2019. The hearing however was again adjourned to the 4th of February, though it was later on postponed to 18th of February in Gulu.

The Accused conferring with his lawyer, Counsel Dalton Opwonya before commencement of the Bail Application hearing in Gulu on 15th November 2018.

Place: International Crimes Division - Kampala
Date: 18 th January 2019, 09:30 a.m. – 11:50 a.m.
Case Number : Case No 20 of 2018
Accused: Thomas Kwoyelo alias Latoni, former LRA commander
Civil parties: Victims from Amuru District in Northern Uganda
Summary of the case; Thomas Kwoyelo is a former commander in the LRA. He is facing charges before the ICD. The charges brought against the former war Lord include; crimes against humanity and violations of Article 3 common to the Geneva conventions under Customary International Law and other offences under the Penal Code Act of Uganda. It is alleged that these crimes were committed in Northern Uganda during the conflict between the LRA and the Uganda Peoples' Defence Force (UPDF). The accused has been facing trial before the division since July 2011. The defence team have filed for bail under Article 23(6)(a) of the Constitution of Uganda.

SUMMARY OF HEARING

The proceedings of the Bail Application commenced in Chambers and not in open court, before the Presiding Judge, Hon. Justice Jane Kiggundu of the ICD of the High Court of Uganda. There was no substantial hearing however on the merits of the application from any of the parties before the court as both the defence counsel and victims counsel sought an adjournment.

The Defence argued that the sureties were not present in the Court premises at the ICD in Kampala, but at the High Court in Gulu where they believed the trial to be. As for the Victims Counsel, it was submitted that although funds were released for consulting the victims on their opinion about whether bail should be granted to the accused, Victims counsel had been unable to conduct the consultations as it was during the Christmas holiday and therefore mobilization was a challenge. They therefore argued that they needed a more suitable time to go back to consult the victims.

This hearing was unique in that the Accused was absent. By 11.00 a.m., he had not been presented at the Court premises by the Prisons authorities. He was later brought but only received a briefing on the proceedings from one of his defence lawyers on state brief.

Due to these considerations, the hearing was adjourned by the court to the 4th of February 2019 at the High Court Premises in Gulu. In between, the hearing was further postponed to **18th of February 2019** at 3.00 p.m. It will be heard alongside the substantial trial which will commence with opening statements on the same date at 9.00 a.m.

It is important to note that this is the third time the bail application is not taking off for reasons associated with the absence of sureties as well as victims' counsels not having consulted the victims on this application. It is incumbent on the defence to ensure the presence in court of sureties, i.e. persons offering guarantees that the accused will attend court sessions and not abscond or violate any conditions set under bail, should his demand for the same be granted. The defence has so far failed to present such sureties. We wait to see how the Court will abide any further requests for adjournments that may arise, for whatever reason if at all.