Case No. 2015-864

Siri

(Respondent)

v.

Secretary-General of the United Nations

(Appellant)

ORDER No. 246 (2015)

1. On 8 December 2015, Respondent Guy Siri filed a Motion for Recusal in the case of Siri v. Secretary-General of the United Nations (pending appeal). He seeks to recuse Judge Inés Weinberg de Roca from hearing the pending appeal of Order No. 306 (NBI/2015), Corr. At my direction, as President, the Motion for Recusal was not served on the Secretary-General by the Appeals Tribunal's Registry.

2. On 4 December 2015, Judge Weinberg de Roca, as Presiding Judge in the pending appeal, issued Order No. 245 (2015) granting the Secretary-General's motion to hear the pending appeal on an expedited basis. In that Order, Judge Weinberg explained in detail the factual background and procedural history of the pending appeal and there is no need to repeat those details again.

3. Mr. Siri contends that Judge Weinberg should be recused from hearing the pending appeal because, by granting the Secretary-General's request for an expedited appeal, she "pre-determin[ed] a legal issue that should have been left to be decided by a panel of three when considering the appeal on the merits", thereby acting ultra petita .

4. Article 3(9) of the Appeals Tribunal's Statute provides that "[a] judge of the Appeals Tribunal who has, or appears to have, a conflict of interest shall recuse himself or herself from the case. Where a party requests such recusal, the decision shall be taken by the President of the Appeals Tribunal". Similarly, Article 23(1) of the Appeals Tribunal's Rules of Procedure (Rules) requires that a judge "who has or appears

to have a conflict of interest as defined in article 22 of the rules of procedure shall recuse himself or herself from the case and shall so inform the President".

5. Article 22(1) of the Rules defines the term "conflict of interest" as meaning "any factor that may impair or reasonably give the appearance of impairing the ability of a judge to independently and impartially adjudicate a case assigned to him or her". Article 22(2) explains:

> A conflict of interest arises where a case assigned to a judge involves any of the following:
>
> (a) A person with whom the judge has a personal, familiar or professional relationship;
>
> (b) A matter in which the judge has previously served in another capacity, including as an adviser, counsel, expert or witness; [and]
>
> (c) Any other circumstances that would make it appear to a reasonable and impartial observer that the judge's participation in the adjudication of the matter would be inappropriate.

6. As President of the Appeals Tribunal I do not find that Judge Weinberg has, or appears to have, a conflict of interest preventing her from independently and impartially adjudicating the pending appeal. Judge Weinberg's Order granting the motion for an expedited appeal does not predetermine the merits of the pending appeal, which will be determined by a panel of judges based upon a review of the record and the parties' submissions. Thus, there is no merit to Mr. Siri's motion to recuse Judge Weinberg.

IT IS HEREBY ORDERED that Mr. Siri's Motion for Recusal IS DENIED.

Original and Authoritative Version: English

(Signed)
Judge Rosalyn Chapman,
President

Dated this 21st day of December 2015
in Los Angeles.