

Defence's Words to be Scrubbed from Record

Joe Freeman

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Judges at the Khmer Rouge tribunal have ordered comments by one of the defence lawyers scrubbed from the record of the trial, citing the fact that the words were technically uttered seconds after the court adjourned.

As the morning session drew to a close on Wednesday, Andrew Ianuzzi, the counsel for co-accused Nuon Chea, was driving home a point on why he viewed a confession obtained through torture inadmissible.

“Duke Ellington has famously said: ‘There are two kinds of music; good and bad.’ I think there are two kinds of evidence, and this is clearly bad evidence and it should not be used before this Chamber,” Ianuzzi said.

Trial Chamber President Nil Nonn cut in, acknowledging Ianuzzi’s “oral application” challenging the confession. He then abruptly adjourned the proceedings.

The soon-to-be unacceptable remarks from Ianuzzi followed.

“This is an oral application that I’ve made. I think, in fairness, we need to hear from my colleagues on this side of the stage, from the prosecution, and that you need to make an oral ruling,” he began, while the judges ignored him and filed out of the courtroom for the lunch break.

“Now, I see you’re all getting up and walking out of here, but you’re judges and you need to be able to deal with this matter when it comes up in court. Walking away doesn’t solve the problem,” he concluded.

Two days later, the Chamber ordered the “removal from the audio visual recording, transcript or written record of the proceedings, as necessary, the words spoken by Defence Counsel for Nuon Chea after the adjournment of the morning session of the hearing. As the hearing was adjourned, these words were improperly recorded.”

It is not uncommon for judges to stop defence attorneys short by cutting off their microphones – something that has happened more than once in Ianuzzi’s case – but erasing their words is somewhat rare.

Court spokesman Lars Olsen said in an email that records contain what is being said when court is in session.

“As the Chamber had adjourned, the statements made by Mr. Ianuzzi [were] not made during trial, and will consequently not be included in the record from the trial,” he said.

“The Chamber gave due consideration to submissions made by Mr. Ianuzzi both before the Chamber adjourned for lunch and when the trial reconvened in the afternoon.”