

Judges Maintain Ieng Sary Fit to Stand Trial
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December 5, 2012

Over vigorous objections from the Ieng Sary defence team, the Khmer Rouge tribunal judges yesterday reasserted last week's ruling that ailing Khmer Rouge foreign minister Ieng Sary was fit to stand trial from his holding cell.

The judges stated yesterday that accommodations in Sary's holding cell would better allow him to follow the proceedings than would the courtroom, rejecting the Sary team's argument that the court could not effectively assess Ieng Sary's ability to follow proceedings unless he were present in the trial chamber or were recorded in his holding cell by video.

The defence argued that the court was keeping Ieng Sary from being seen in order to obscure the fact that Ieng Sary's physical weakness was impeding his ability to participate in his own defence.

"We understand the Trial Chamber's dilemma – finishing the trial while Mr Ieng Sary is still alive," said defence counsel Michael Karnavas. "But my job is to make sure he gets a fair trial."

"By dispatching Mr Ieng Sary to the holding cell, the Trial Chamber would be purposely concealing from itself Mr Ieng Sary's true state of being," wrote Karnavas and co-counselor Ang Udom in a notification filed on Monday maintaining Sary's right to be present in the courtroom during all testimony.

The notification reversed the Sary team's previous waivers of his right to be present during the testimony of 40 witnesses and civil parties.

The defence issued these waivers in September and October due to Sary's hospitalisation for weakness and dizziness.

While Karnavas had previously requested Ieng Sary be monitored by video in his holding cell, he yesterday proposed that the Sary team itself shoulder the responsibility for the video.

That way it "won't cost anything to anyone – especially the donors," he said.

However, the prosecution questioned the ability of video recordings to clarify whether Sary was unable or simply unwilling to follow proceedings.

“If he chooses to fall asleep, that’s really a matter for him, and he’s waived his right to follow the proceedings,” said international co-prosecutor William Smith.

“His presence in the holding cell is a virtual presence in the proceedings,” he added. “That’s the international standard.”

The judges ruled that monitoring by the treating doctor made recording unnecessary.

They added that Ieng Sary could communicate with his counsel from the holding cell by telephone – an idea Karnavas rejected, saying, “He can’t reach the telephone.”

The court then moved to the testimony of civil party Ting Sokha, who said she lost over a dozen family members and close friends during the Khmer Rouge regime, including a daughter who died of malnutrition and a husband who committed suicide after they were forcibly relocated from Phnom Penh to Takeo and then to Battambang.

“We went without food and had to eat worms,” Sokha said. “We were reduced to no human beings, but monkeys.”

Proceedings continue today with testimony from a new party.